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**DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS
FOR
GAULEY RIVER ESTATES**

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<p>Lots and dwellings shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on any Lot other than one used as a dwelling, except that a home-based business may be maintained within a dwelling, provided that (i) such maintenance and use is limited to the person actually residing in the dwelling; (ii) no employees or staff other than a person actually residing in the dwelling are utilized; (iii) no clients or customers of such business visit the dwelling; (iv) the number of persons, other than clients or customers, that shall visit such business and the frequency of such visits shall be kept to a reasonable minimum, as determined in the sole discretion of the Board of Directors; (v) such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation; (vi) the person utilizing such office maintains a principal place of business other than the dwelling; (vii) such business uses no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference detectable by neighbors and does not cause an increase of common expenses that can be solely and directly attributable to the business; (viii) such business does not involve the use, storage or disposal of any materials that the United States Secretary of Transportation or the State of West Virginia or any local governing body designates as hazardous material. Nothing contained in this Community Code, or elsewhere in the Governing Documents, shall be construed to prohibit the Declarant and its respective designees from the use of any Lot, Community Property, or improvement thereon, for promotional or display purposes, or as</p>	

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“model homes,” a sales, leasing, management and/or construction office, or the like. The right of the Declarant and its designees to maintain and carry on such activities shall include specifically the right to utilize the Community Property and any facilities situated thereon as model and sales offices for the duration of the Declarant’s Rights and Obligations Period. Nothing contained herein, or elsewhere in the Governing Documents, shall be construed to prohibit the Declarant from the use of any Lot or the improvements thereon, for promotional or display purposes, or as “model homes”, a sales and/or construction office, or for any other lawful purpose..... 26

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**DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND
RESTRICTIONS**

FOR

GAULEY RIVER ESTATES

This Declaration is made on the date hereinafter set forth by Clearcreek Holdings, LLC, a West Virginia limited liability company (referred to herein as “Declarant”).

Subject to and in accordance with Article 1 of this Declaration, Declarant hereby affirms, adopts and subscribes to the purposes and provisions of this Declaration and declares that the covenants, conditions, easements and restrictions contained herein, as well as any subsequent covenants, conditions, easements, restrictions and Community Codes which are promulgated or adopted in accordance with, or which become a part of, the Governing Documents shall be binding upon and applicable to all real property subjected to this Declaration. Declarant intends by the recordation of this Declaration to create a general plan and scheme of development for a planned community known as Gauley River Estates. This Declaration provides a framework for an orderly and reasonable development and operation of Gauley River Estates. The Governing Documents for Gauley River Estates provide various rights and privileges to the Declarant to permit it to achieve its development goals in a reasonable manner, including implementation of the Community Plan. This Declaration also confers powers and authority to Gauley River Estates Property Owners Association, Inc., a West Virginia nonstock corporation comprised of all Homeowners, including Declarant, within Gauley River Estates, to permit the reasonable administration and operation of the Association and to permit the Association to maintain and preserve the Community Areas.

**ARTICLE 1
PREAMBLE**

WHEREAS, the Declarant desires to provide for the preservation and enhancement of property values within the Community; and

WHEREAS, the Declarant desires to adopt and implement a common scheme of development intended to provide for and maintain a quality of life for the Owners within the Community; and

WHEREAS, to accomplish these objectives the Declarant believes that it is in the best interests of the Community for the Declarant to maintain a significant and influential role in the implementation of the Community Plan and the Declarant has therefore retained numerous rights and will exercise significant control and influence over the Property until the development process has been completed.

NOW, THEREFORE, in consideration of the foregoing, the provisions of which are a substantive part of this Declaration, and other good and valuable consideration, the Declarant hereby declares and affirms that the real property described on Exhibit “A” attached hereto and

incorporated by reference herein and as further shown on that plat of Gauley River Estates Phase 1, of record in the Office of the Clerk of the county Commission of Nicholas County, West Virginia in Map Rack 2, Page 125, shall be subject to this Declaration and shall be conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, conditions, easements and restrictions set forth in the Governing Documents, as modified and amended from time to time, all of which shall run with the real property subjected to the Governing Documents and which shall be binding on all parties having any right, title or interest in all or any portion of the Community, their respective heirs, personal representatives, successors, transferees and assigns, as well as occupants, guests and invitees, and shall inure to the benefit of each Owner thereof.

ARTICLE 2
PROPERTY SUBJECT TO GOVERNING DOCUMENTS

Section 2.1. Property to be Subjected to the Governing Documents; Percentage Interest. (a) The real property described in Exhibit “A” attached hereto and incorporated herein by reference and as further shown on that plat of Gauley River Estates Phase 1, of record in the Office of the Clerk of the county Commission of Nicholas County, West Virginia in Map Rack 2, Page 125, is and shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to the Governing Documents. The Governing Documents establish a general plan of development for Gauley River Estates and this general plan of development may be amended from time to time by supplemental or additional covenants, conditions, easements, restrictions, rules, or guidelines applicable to all or portions of the Property. Such supplemental and additional covenants, conditions, easements, restrictions, rules, Community Codes or guidelines may be more or less restrictive than the provisions of this Declaration.

(b) The Percentage Interests for each Lot described in Exhibit “A” and as further shown on that plat of Gauley River Estates Phase 1, of record in the Office of the Clerk of the county Commission of Nicholas County, West Virginia in Map Rack 2, Page 125 is set forth on Exhibit “B” hereto. As additional phases of Lots are annexed within the Association the Percentage Interest of each Lot will be adjusted for each Lot by determining the percentage equivalent of a fraction, the numerator of which is the one and the denominator of which is the total number of Lots within the Association. The practical effect of adding additional Lots is that the Percentage Interest appurtenant to each Lot is reduced, while the number of Lots within the Association gets proportionately larger.

Section 2.2. Community Property. All Community Property and completed facilities is hereby annexed within the Association by the Declarant in accordance with the terms and conditions of the approved Community Plans, as such plans may be amended from time to time. The Declarant reserves the right to seek an amendment to the Community Plans for the purpose of modifying the location or amount of real property comprising the Community Property and for the purpose of modifying the improvements to be constructed on the Community Property. The Association shall maintain and keep in good repair all Community Areas, such maintenance to be funded as herein provided. This maintenance shall include, but need not be limited to,

maintenance, repair, and replacement of roadways, pathways, water features, landscaping, flora, fauna, entrance features, gate houses (if any), lighting, structures and improvements which form the Community Areas, and such portions of any additional property as may be designated by this Declaration, a resolution of the Board, or by an agreement for maintenance by the Association.

ARTICLE 3
PROPERTY RIGHTS

Section 3.1. Owner's Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of use, access and enjoyment in and to the Community Property, including an easement for the use and enjoyment of the private streets, roadways, parking areas, trails and walkways within the Community Property. Each Owner's right to use and enjoy the Community Property shall extend to members of the Owner's family, lessees and invitees, subject to applicable Community Codes. Any Owner who leases his/her Lot shall be deemed to have assigned his/her right to utilize the Community Property to the lessee of the Lot. The Owner's easement of enjoyment shall be appurtenant to and shall pass with the title to every Lots, subject to:

(a) The rights and obligations set forth in the Governing Documents, as amended from time to time, and any other covenants and easements relating to the Community Property;

(b) Any covenants, conditions, easements, restrictions or reserved rights contained in any deed conveying Community Property to the Association;

(c) The right of the Association to charge reasonable admission or other fees for the use of the Community Property or any facilities situated upon the Community Property;

(d) The right of the Association to suspend an Owner's right to use the Community Property and/or any facilities situated thereon for (i) any period during which any assessment against such Owner's Lot remains delinquent, and (ii) for a period not to exceed sixty (60) days for each infraction of the Governing Documents, provided that such Owner is given reasonable notice of the violation and an opportunity for a hearing in accordance with the Governing Documents;

(e) The right of the Association to dedicate or transfer all or any part of the Community Property to any public agency, authority, or utility for such purposes as are consistent with the purposes of the Governing Documents and subject to such approval requirements as may be set forth in the Governing Documents. No such dedication or transfer shall be effective without the consent of two-thirds (2/3) of the Members and the consent of the Declarant (until the expiration of the Declarant's Rights and Obligations Period);

(f) The right of the Association to limit the number of guests of Owners that may utilize the Community Property and any facilities situated thereon;

(g) The right of the Association to establish Community Codes pertaining to the use of the Community Property and any facilities situated thereon including, without limitation, the right of the Association to designate portions of the Community Property as Exclusive Community Property;

(h) The rights of the Association, the Declarant, utility companies and Owners with respect to the easements established by or created pursuant to the Governing Documents;

(i) The right of the Association, in accordance with the Governing Documents, to borrow money for the purpose of improving the Community Property and any facilities situated thereon in a manner designed to promote the enjoyment and welfare of the Owners and in aid thereof to mortgage any of the Community Property and facilities situated thereon;

(j) The right of designated Owners to the exclusive use of any portions of the Community Property designated as Exclusive Community Property;

(k) The rights of the Declarant to grant easements, to utilize reserved rights and easements, and to otherwise utilize the Community Property as it deems appropriate in connection with the development of the Community;

(l) The right of the Association to grant easements, licenses or other rights of use of the Community Property and any facilities situated thereon to Owners and to persons or entities who are not Owners for such consideration and on such terms and conditions as the Association may from time to time consider appropriate;

(m) The right of the Association, through the Executive Board, to provide for the exclusive use by specified Owners of designated parking spaces within the Community Property; and

(n) Such other rights of the Declarant and the Association as are not inconsistent with the Governing Documents.

Section 3.2. Limitations. Any other provision of this Declaration to the contrary notwithstanding, the Association shall have no right to suspend the right of any Owner to use any private streets, roadways, or parking areas within the Community Property for both vehicular and pedestrian ingress and egress to and from such Owner's Lot and for parking; provided, however, that the Association shall have the right to designate the use of parking spaces within the Community Property.

ARTICLE 4 THE ASSOCIATION AND ITS MEMBERS

Section 4.1. Purpose and Role of the Association. The Association shall be responsible for the management, operation and control of the Community Areas. The Association is

empowered to enforce the Governing Documents. The Association shall exercise its responsibilities in accordance with the Governing Documents.

Section 4.2. Membership in the Association. Every Owner shall be a Member of the Association. No Owner, whether one or more persons or entities, shall have more than one (1) membership for each Lot owned. However, all Owners shall be subject to the Governing Documents. Membership in the Association shall be appurtenant to and may not be severed from ownership of any Lot. Membership rights and obligations are more fully described in the Bylaws.

Section 4.3. Voting Rights; Common Expense Allocation. (a) Every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who is an Owner of any Lot which has been annexed into the Community shall be a Member of the Association; provided, however, that any such person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof, who holds such interest solely as security for the performance of an obligation shall not be a Member solely on account of such interest. Ownership of a Lot shall entitle each Owner holding the interest required for membership to cast one (1) vote; provided, however, that if more than one (1) person or entity are the Owners of a Lot, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the secretary of the Association, but in no event shall more than one (1) vote be cast with respect to any Lot owned by a Member. No Owner, other than the Declarant, shall have more than ten (10) votes, regardless of the number of memberships held by such Owner. Any Owner who leases a Lot may, in the lease or other written instrument, assign the voting right appurtenant to such Lot to the Owner's lessee, provided that a copy of such instrument is furnished to the Association.

(b) Common Expenses shall be allocated equally among all of the Lots, at the time that Assessments for Common Expenses are charged by the Association. Consequently, each Lot's share of all Assessments for Common Expenses shall be allocated according to the Percentage Interest for that Lot, which is a percentage equivalent of a fraction, the numerator of which is the one and the denominator of which is the total number of Lots within the Association at the time of such Assessments for Common Expenses. The identifying number for each Lot and its share of Common Expense liability expressed as a percentage is set forth on Exhibit "B" hereto. As additional phases of Lots are annexed within the Association, the Percentage Interest of each Lot will be adjusted for each Lot by determining the percentage equivalent of a fraction, the numerator of which is the one and the denominator of which is the total number of Lots within the Association.

ARTICLE 5 COVENANT FOR ASSESSMENTS

Section 5.1. Creation of Lien and Personal Obligation for Assessments. Except as Assessments of the Declarant are limited herein, each Owner of a Lot by acceptance of a deed therefor, whether or not expressly stated in such deed, shall be deemed to covenant and agree to pay the Association all Annual Assessments and Special Assessments as may be levied by the Association in accordance with the Governing Documents. Each Assessment, together with

interest, costs, late fees and reasonable attorneys' fees and other legal and collection costs, shall be a charge on the Lot (including all improvements thereon), and shall be a continuing lien upon the property against which each such Assessment is made. Each Assessment, together with interest, costs, late fees and reasonable attorneys' fees and other legal and collection costs shall also be the personal obligation of the Owner of the Lot at the time the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to a prior Owner's successors in title unless expressly assumed by such successors; however, any lien established prior to the transfer of any Lot shall continue until paid and satisfied in full. No Owner shall be exempt from liability for Assessments by abandonment of such Owner's Lot or by the abandonment of such Owner's right to the use and enjoyment of the Community Property, or by any other means. No Owner shall be entitled to any diminution, abatement or set-off of Assessments for any alleged failure of the Association to perform its duties or for any reduction in services or benefits by the Association.

Section 5.2. Purpose of Assessments. Assessments levied by the Association may be used to promote the recreation, health, safety and welfare of the Owners within the Community and for any lawful purpose relating to the proper conduct of Association activities, including, without limitation, the following:

(a) Improvement, maintenance, repair and replacement of the Community Areas including, without limitation, some or all of the rights-of-way, entry strips, signs and entrance features or improvements located within the Community, or which are appurtenant to and serve or benefit the Community;

(b) Improvement, maintenance, repair and replacement of any and all storm water management facilities (including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets, oil/grit separators and underground facilities) and sewage treatment plants whether such facilities are located within the Property or not, as long as such facilities are designed to benefit or serve any portion of the Property or are required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental or quasi-governmental authority or agency. The Association shall not refuse to accept the conveyance of any such facilities from the Declarant;

(c) Payment of charges or expenses accruing with respect to off-site facilities that serve or benefit the Community, which the Association elects to maintain or which are otherwise required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental authority or agency;

(d) Payment of all taxes, charges and assessments levied against the Community Property and any facilities situated thereon;

(e) Payment for services provided to the Association for the benefit of the Community Property, any facilities situated thereon, as well as for the Lots and Owners, to the extent the Association agrees to provide such services;

(f) Payment of management fees, utility charges and operating expenses relating to the Community Areas and any facilities situated thereon;

(g) Payment of insurance premiums for liability and property insurance on the Community Areas and any facilities situated thereon, for directors and officers liability insurance, and for such other insurance as the Association may obtain with respect to its officers and directors or the Community Property, any facilities situated thereon and/or the Lots within the Community;

(h) Funding all reserves established by the Association, including, without limitation, general operating reserves and reserves for replacements and/or contingencies; and

(i) Payment of all other costs and expenses incurred by the Association in the proper conduct of its activities or as may be deemed by the Executive Board to be in any reasonable way related to the wellbeing of the Community and the Owners.

Section 5.3. Adoption of Common Expense Budget. At least sixty (60) days before the beginning of each fiscal year, the Executive Board shall make a reasonable effort to prepare a budget setting forth the estimated Common Expenses during the coming year, including a reasonable amount to establish a reserve fund in accordance with this Article 5.

The Association is hereby authorized to levy Annual Assessments against all Lots subject to assessment to fund the Common Expenses. The Annual Assessment shall be set at a level which is reasonably expected to produce revenue for the Association equal to the total budgeted Common Expenses, including reserves.

The Executive Board shall make a reasonable effort to cause a copy of the budget, and the amount of the assessments to be levied against each Lot for the following year, to be delivered to each Owner at least thirty (30) days prior to the commencement date of the new assessments. The budget shall be approved by majority vote of the Executive Board; provided, however, that (after the expiration of the Declarant's right to appoint and remove the officers of the executive board as provided in Section 15.3(a) of this Declaration) any budget under consideration by the Board pursuant to this Section 5.3 that (i) would result in an increase in the Common Expenses of the Association in excess of fifteen percent (15%) of the budgeted amount for Common Expenses set forth in the budget for the immediately preceding fiscal year, or (ii) would result in an increase in the Annual Assessments payable by the Members in excess of fifteen percent (15%) of the budgeted amount for Annual Assessments set forth in the budget for the immediately preceding fiscal year, shall be approved by the affirmative vote of Members entitled to cast not less than sixty-seven percent (67%) of the votes of the Members present, in person or by proxy, and voting at any meeting of the Association duly called for this purpose. Subject to the foregoing, all budgets approved by the Board shall become effective unless a special meeting of the Association is duly held and at such special meeting the budget is disapproved by a vote of Members entitled to cast not less than sixty-seven percent (67%) of the votes of the Members present, in person or by proxy, and voting at such meeting. Notwithstanding the foregoing, however, in the event that the membership disapproves the budget or the Executive Board fails for any reason to determine the budget for any fiscal year of the Association, then and until such

time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding fiscal year shall continue for the succeeding fiscal year.

Section 5.4. Special Assessments; Budget Amendments. In addition to the Annual Assessments authorized by this Article, the Association may levy, in any assessment year, a Special Assessment or Special Assessments applicable to that year only for such purposes as the Executive Board may deem appropriate, including, without limitation, for purposes of funding, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement located upon the Community Areas, including fixtures and personal property related thereto, and to meet unforeseen or special expenditures as well as any budget deficit; provided, however, that (after the expiration of the Declarant's right to appoint and remove the officers of the executive board as provided in Section 15.3(a) of this Declaration) any such assessment shall be approved by Members entitled to cast not less than sixty-seven percent (67%) of the votes of the Members present, in person or by proxy, and voting at any meeting of the Association duly called for this purpose; provided, further, that any special assessment required because of conditions which, if not corrected, could reasonably result in a threat to the health, safety or welfare of the Members or a significant risk of damage to the Community Areas may be approved by the Executive Board without the foregoing vote of the Members.

A Special Assessment may be levied against all Owners, Lots if it relates to Common Expenses. The Association may also levy a Special Assessment against any Owner to reimburse the Association for costs incurred in bringing the Owner and/or such Owner's Lot into compliance with the Governing Documents; provided, that such Special Assessment may only be levied upon the affirmative vote of the Executive Board, after notice and an opportunity for a hearing has been provided to the Owner.

Any amendment to a previously approved budget shall be approved by majority vote of the Executive Board; provided, however, that (after the expiration of the Declarant's right to appoint and remove the officers of the executive board as provided in Section 15.3(a) of this Declaration) any amendment to a budget for the then current fiscal year previously approved in accordance with Section 5.3 hereof that (i) would result in an increase in the Common Expenses of the Association in excess of fifteen percent (15%) of the budgeted amount for Common Expenses set forth in the budget for the immediately preceding fiscal year (including any increase in Common Expenses adopted in the budget for the then current fiscal year previously approved in accordance with Section 5.3 hereof), or (ii) would result in an increase in the Annual Assessments payable by the Members in excess of fifteen percent (15%) of the budgeted amount for Annual Assessments set forth in the budget for the immediately preceding fiscal year (including any increase in assessments adopted in the budget for the then current fiscal year previously approved in accordance with Section 5.3 hereof), shall be approved by the affirmative vote of Members entitled to cast not less than sixty-seven percent (67%) of the votes of the Members present, in person or by proxy, and voting at any meeting of the Association duly called for this purpose.

Section 5.5. Commencement and Applicability of Assessments. Unless an earlier commencement date is established by the Executive Board, Assessments shall commence as to Lots upon commencement of construction on such Lot. In the event a purchaser purchases more than one (1) Lot and only constructs a single residence, Annual Assessment shall commence for all Lots upon commencement of the initial construction. Annual Assessments shall be adjusted based upon the number of months remaining in the fiscal year in which the Assessments commence. No Lot shall be subject to assessments until annexed within the association as set forth in Article 2 and Section 15.1 of this Declaration.

Section 5.6. Exempt Property No portion of the Community Property or the facilities situated thereon shall be subject to assessment of any kind by the Association.

Section 5.7. Initial Contribution. A one-time assessment (the "Initial Contribution") of Five Hundred Dollars (\$500.00) shall be paid by the initial purchaser of each Lot upon settlement of the completed Lot. The Initial Contribution is established to assist with the funding of the initial operation of the Association and shall be in addition to other Assessments and shall not be considered an advance payment of Assessments. In addition, a one-time road bond fee of One Thousand (\$1,000.00) Dollars must be paid prior to commencement of construction. The road bond will be held by the Association for future road repairs and maintenance.

Section 5.8. Reserves. The Association shall establish and maintain a reasonable reserve fund for the repair and replacement of the Community Areas and the Exclusive Community Property and any facilities situated thereon. Such reserve fund may also be established for the repair and replacement of any property, improvements or facilities otherwise required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental authority or agency. The Executive Board shall set the required reserve fund contribution in an amount sufficient to meet the projected reserve needs of the Association. The reserve fund contribution shall be included as part of the Association's annual budget, and shall be payable as part of the Annual Assessment applicable to all Lots to the extent such reserve fund will be utilized to replace assets which are determined by the Executive Board to benefit substantially all Owners. The Association may establish such other reserve funds as the Executive Board may from time to time consider necessary or desirable, including, without limitation, a general operating reserve. The proportional interest of an Owner in any reserve fund established by the Association shall be considered an appurtenance of such Owner's Lot and shall not be separately withdrawn, assigned, transferred or otherwise separated from the Lot to which it appertains, and shall be deemed to be transferred with such Lot.

Section 5.9. Special Actions. Any provision of the Governing Documents to the contrary notwithstanding, after the expiration of the Declarant's right to appoint and remove the officers of the executive board as provided in Section 15.3(a) of this Declaration, the Executive Board shall not be authorized to take any "Special Actions" (as defined below) without the affirmative vote of Members entitled to cast not less than sixty-seven percent (67%) of the votes of the Members present, in person or by proxy, and voting at any meeting of the Association duly called for this purpose. As used herein, the term "Special Actions" shall mean any and all actions taken by or on behalf of the Association, including, without limitation, commencing or maintaining any litigation, arbitration or similar proceeding, which would reasonably require the

expenditure of funds in excess of Five thousand dollars (\$5,000.00) in the aggregate during any fiscal year of the Association; provided, however, that the term “Special Actions” shall not be deemed to include (i) routine assessment collection actions under Article 6 of the Declaration, (ii) routine actions required to enforce the architectural controls set forth in Article 7 of the Declaration, use restrictions set forth in any Community Code, or any rules and regulations of the Association adopted by the Executive Board, or (iii) any expenditure made by the Association in accordance with any budget or budget amendment, duly adopted in accordance with Article 5 of this Declaration, or (iv) any special assessment duly adopted in accordance with Article 5 of this Declaration. Each planned expenditure of more than Five thousand dollars (\$5,000.00) shall require the prior approval of the Members in accordance with this Section. Any meeting of the Association held to approve any Special Actions under this Section shall be subject to the notice and quorum requirements set forth in Section 5.11 of this Declaration.

Section 5.10. Notice and Quorum. Written notice of any meeting called for the purpose of establishing a special assessment or budget amendment in accordance with Section 5.5 hereof or to approve a budget increase or Special Action in accordance with Section 5.3, Section 5.4, or Section 5.10 hereof, shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of such meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of the Members 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.

ARTICLE 6

REMEDIES OF ASSOCIATION FOR NON-PAYMENT OF ASSESSMENTS

Section 6.1. Non-Payment of Assessments. Any Assessment levied by the Association pursuant to the Governing Documents which is not paid within fifteen (15) days after the due date established for such Assessment by the Executive Board, may, upon resolution of the Board, bear interest from the due date until paid at the rate of interest established by the Board, not to exceed the maximum, if any, rate of interest permitted under the laws of the State of West Virginia. Subject to applicable law, the Executive Board may also impose a reasonable late fee against any Owner (and such Owner’s Lot) for failure to pay any Assessment within fifteen (15) days after the due date for such Assessment. The Association may bring an action at law against the Owner personally obligated to pay the delinquent Assessment, and/or establish and foreclose the lien against such Owner’s Lot in the manner now or hereafter provided under applicable law.

Section 6.2. Assessment Certificate. The Association shall, upon demand of any Owner, issue such Owner a written certificate signed by an officer of the Association setting forth whether the Assessments applicable to such Owner’s Lot have been paid, and if not paid, the amount of the delinquent Assessments. A properly executed certificate of the Association regarding the status of Assessments on a Lot shall be binding on the Association as of the date of issuance. If not prohibited by applicable law, the Association may charge a reasonable fee for the issuance of each such certificate.

Section 6.3. Acceleration of Installments. Upon default in the payment of any Assessment, the entire balance of all unpaid Assessments for the remainder of the fiscal year may, at the Board's discretion, be accelerated and declared due and payable in full, in the same manner as the delinquent portion of such Assessment.

Section 6.4. Priority of Lien. The lien for Assessments under the Governing Documents is subordinate to all other liens and encumbrances on a Lot except (i) liens and encumbrances recorded before the recordation of the Declaration, (ii) a first security interest on the Lot recorded before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. The lien is also prior to all security interests described in clause (ii) above to the extent of the Assessments based on the periodic budget adopted by the Association pursuant to Article 5 of this Declaration which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for other Assessments made by the Association. The sale or transfer of any Lot shall not affect the Assessment lien; provided, however, that the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such Assessment except for those Assessments which would have become due in the absence of acceleration during the six (6) months immediately preceding institution of such foreclosure action or proceeding in lieu thereof. No sale or transfer of a Lot shall exempt such Lot, or the Owner thereof from liability for any Assessments thereafter coming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on a Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof (or of the indebtedness secured thereby) shall join in the execution of such amendment.

ARTICLE 7

DESIGN REVIEW AND ARCHITECTURAL CONTROL

Section 7.1. Architectural Control. No construction or development activities, including, without limitation, staking, clearing, landscaping, excavation, grading or other site work, shall be commenced within the Property, no building, structure or other improvement of any kind, including, without limitation, fences, walls, mailboxes and decks, shall be commenced, erected or maintained within the Property, and no exterior addition, change or alteration of any nature to the Lots, or other existing improvements within the Property, including, without limitation, changes in color, changes or additions to driveway or walkway surfaces and landscaping modifications (hereinafter, individually and collectively referred to as "Improvements"), shall be made until and unless the requirements of this Article 7 have been fulfilled.

Section 7.2. Initial Construction. To the extent the Declarant has reserved rights of architectural review, approval or control over all or any portion of the Property or Annexable Property pursuant to any contract, deed, covenant or other agreement, then the provisions of such contract, deed, covenant or other agreement shall control and supersede any other matter otherwise within the scope of this Article 7, and the approval by the Declarant, pursuant to such

other contract, deed, covenant or other agreement of any other matter otherwise within the scope of this Article 7 shall be deemed full and complete compliance with this Article 7.

Section 7.3. Architectural Review.

(a) Architectural Review by the Declarant. Each Owner, by a deed or other instrument conveying an interest in any portion of the Property, acknowledges that, as the developer and initial owner of the Property, the Declarant has a significant and substantial interest in ensuring that the Improvements within the Property enhance the Property, are consistent with applicable design standards, as such design standards may be established from time to time, and do not adversely impact the Declarant's ability to market, sell, or lease any portion of the Property. Each Owner of a Lot, by acceptance of a deed or other instrument conveying such Lot, agrees that neither the initial construction of Improvements nor the exterior addition, change or alteration to existing Improvements shall be commenced within a Lot unless and until the Declarant has given its prior written approval for such construction, addition, change or alteration, which approval may be granted or withheld in the sole discretion of the Declarant. Unless delegated by the Declarant, the Declarant shall have the sole authority to review and approve Improvements within the Property. In reviewing and acting upon any request for an approval, the Declarant shall be acting in its own interests and shall owe no duty to any other Person, including, without limitation, the Association or any of its Members. Any right reserved to the Declarant pursuant to this Article 7 may be exercised by the Declarant until finally transferred or terminated by the Declarant.

(b) Architectural Review Board. The Declarant may, but shall not be obligated to, assign all or a portion of its reserved rights under this Article 7 to the Executive Board or to an architectural review committee appointed by the Executive Board. The entity having jurisdiction at any particular time with respect to the matters described in this Article 7, shall be referred to as the "Architectural Review Board." Where the functions of the Architectural Review Board are being performed by an entity other than the Declarant (or its designee) prior to the final transfer or termination of all rights of the Declarant under this Article 7, such Architectural Review Board shall be subject to (i) the right of the Declarant to revoke such assignment at any time and thereafter resume jurisdiction over the matters previously assigned to the Architectural Review Board and (ii) the right of the Declarant to veto any decision of the Architectural Review Board which the Declarant believes, in its sole discretion, to be inappropriate or inadvisable for any reason.

Where the functions of the Architectural Review Board are being performed by an architectural review committee appointed by the Executive Board: (i) such Architectural Review Board shall consist of an uneven number of at least three (3) but not more than five (5) members who shall serve and may be removed and replaced in the discretion of the Executive Board; and (ii) the members of such Architectural Review Board need not be Members of the Association or representatives of Members, and may, but need not, include architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Executive Board.

(c) Architectural Review by the Association. Upon the final transfer or termination of all rights of the Declarant under this Article 7, the Association, through its Architectural Review Board, shall assume responsibility for design matters hereunder and the Association shall be entitled to exercise all those respective powers previously reserved to the Declarant pursuant to this Article 7. In such case, where the functions of the Architectural Review Board are being performed by an architectural review committee appointed by the Executive Board, the Executive Board shall have the right to veto any decision of the Architectural Review Board relating to design review matters over which the Association has exclusive authority.

(d) Application Fees and Reimbursements. The Architectural Review Board may establish and charge reasonable fees for review of applications hereunder, may retain architects, engineers or other design professionals to assist in its review of any application and may require reimbursement by the applicant of fees charged by any architect, engineers or other design professionals.

Section 7.4. Guidelines and Procedures.

(a) Design Guidelines. The Architectural Review Board may, but shall not be required to, establish Design Guidelines to provide guidance to Members regarding matters deemed to be of relevance or importance to the Architectural Review Board in considering applications for design approval. The Design Guidelines shall not be the exclusive basis for decisions hereunder and compliance with the Design Guidelines shall not guarantee approval of an application. The Design Guidelines may contain general provisions applicable to all of the Property, as well as specific provisions which vary from one portion of the Property to another, depending upon the location, type of construction or use, and unique characteristics of the property.

Any Design Guidelines adopted pursuant to this Article 7 shall be subject to modification and amendment from time to time in the sole discretion of the Architectural Review Board. Modifications and amendments to the Design Guidelines shall not apply to or require modifications to or removal of Improvements previously approved once such Improvements have commenced. However, any subsequent replacement, removal or alteration of any such previously approved Improvements shall be subject to the Design Guidelines in existence at the time of such subsequent replacement, removal or alteration. There shall be no limitation on the scope of modifications or amendments to the Design Guidelines. All Design Guidelines and any modifications and amendments thereto may be promulgated as Community Codes or rules and regulations and shall be published in Association newsletters, electronic bulletin boards, by e-mail, or by other means calculated to give reasonable notice to Members of such modifications or amendments.

The Architectural Review Board shall make copies of the Design Guidelines available to Members and may charge a reasonable fee to cover the costs of providing the Design Guidelines.

(b) Application Review. Prior to commencing any Improvements for which review and approval is required under this Article, an application for approval (“Application”) of

such Improvements shall be submitted to the Architectural Review Board in such form as may be required by the Architectural Review Board or by the Design Guidelines. The Application shall include detailed plans showing the site layout, exterior elevations, exterior materials and colors, landscaping, drainage, lighting, irrigation, and other features of the Improvements, as required by the Design Guidelines and the Architectural Review Board. The Architectural Review Board may also require the submission of such additional information as it deems necessary to consider any application.

The Architectural Review Board may consider (but shall not be restricted to consideration of) visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, location in relation to surrounding structures and plant life, compliance with the general intent of the Design Guidelines and architectural merit. In many instances, decisions will be based solely on aesthetic considerations and each applicant acknowledges that determinations as to such matters may be highly subjective and opinions may vary as to the desirability and/or attractiveness of particular Improvements.

The Architectural Review Board shall, within forty-five (45) calendar days after receipt of a complete Application, advise the applicant, in writing, at an address specified by such party at the time of the Application, of (i) the approval of the Application, or (ii) the disapproval of the Application, providing a reasonable explanation of the segments or features of the Application which are objectionable and suggestions, if any, for addressing such objections. In the event the Architectural Review Board fails to advise the applicant by written notice within forty-five (45) calendar days of receipt of a complete Application of either the approval or disapproval of the Application, the applicant shall give the Architectural Review Board written notice of such failure to respond, which notice shall include a statement that unless the Architectural Review Board responds within fifteen (15) calendar days of receipt of such notice, approval shall be deemed granted. Upon such further failure of the Architectural Review Board to grant an approval or disapproval, approval shall be deemed to have been given subject to the Declarant's or the Executive Board' right to veto such approval pursuant to section 7.4(c) below. Notwithstanding the foregoing, no approval, whether expressly granted or deemed granted pursuant to this Section 7.4(b), shall be materially inconsistent with the Design Guidelines unless a variance has been granted in writing as set forth below. The notices from an applicant to the Architectural Review Board required by this Section 7.4(b) shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid is delivered by the U.S. Postal Service by registered or certified mail, return receipt requested. Personal verified delivery of such written notice by any other means shall also be sufficient and shall be deemed to have been given at the time of delivery.

(c) Veto Rights of Declarant and Executive Board. Prior to the final transfer or termination of all of the rights of the Declarant under this Article 7, where the functions of the Architectural Review Board are being performed by an entity other than the Declarant, such Architectural Review Board shall give to the Declarant a written notice no later than three (3) business days after it has approved any application relating to proposed Improvements together with such other information that was required by such Architectural Review Board ("Notice of Approval"). After the final transfer or termination of all of the rights of the Declarant under this

Article 7, where the functions of the Architectural Review Board are being performed by an architectural review committee appointed by the Executive Board, such Architectural Review Board shall give to the Executive Board a Notice of Approval in the form described above no later than three (3) business days after such Architectural Review Board has approved any application relating to proposed Improvements. The Declarant or the Executive Board, as applicable, shall have five (5) calendar days after receipt of such Notice of Approval to veto, in its sole discretion, any such action by written notice to the Architectural Review Board and/or the applicant.

(d) Commencement of Construction. If construction does not commence on any Improvements for which approval has been granted within twelve (12) months of such approval or such time period as indicated in the approval, such approval shall be deemed withdrawn, and it shall be necessary for the applicant to re-submit the Application for reconsideration and approval in accordance with such Design Guidelines as are then in effect. The applicant shall diligently pursue construction to completion and all Improvements shall be completed in a good and workmanlike manner within twelve (12) months of commencement or such other period as may be specified in the notice of approval.

Section 7.5. Non-Precedential Nature of Approvals. Each applicant acknowledges that the composition of the Architectural Review Board will change from time to time and that decisions regarding aesthetic matters and interpretation and application of the Design Guidelines may vary from time to time. In addition, each applicant acknowledges that it may not always be possible to identify objectionable features of proposed Improvements until the Improvements are completed, in which case it may be unreasonable to require changes to the Improvements previously approved, but the Architectural Review Board may refuse to approve similar Improvements in the future. Approval of Improvements for any particular applicant or Lot shall not be deemed a waiver of the right to withhold approval as to any similar Improvements subsequently submitted for approval.

Section 7.6. Waivers and Variances. The Architectural Review Board may, in its sole discretion, but shall not be required to, authorize waivers or variances from compliance with any of the provisions of the Design Guidelines when circumstances such as topography, natural obstructions, aesthetic or environmental considerations, architectural merit, or other reasonable considerations warrant such a waiver or variance. Such variances shall be granted only if and when, in the reasonable judgment of the Architectural Review Board, unique circumstances exist, and no applicant shall have any right to demand or obtain a waiver or variance. Except for a waiver or variance authorized by the Declarant, no waiver or variance may (i) be effective unless in writing, (ii) be contrary to this Declaration, (iii) estop the Architectural Review Board from denying a waiver or variance in other circumstances or (iv) be inconsistent with the goals or objectives of the Declarant.

Section 7.7. Limited Scope of Approval. The standards and procedures established by this Article 7 are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Property. Approval of an Application by the Architectural Review Board shall in no way be construed as to pass judgment on the correctness of the location, structural design, suitability of water flow or drainage, location of utilities, or other qualities of the item being

reviewed. Neither the Architectural Review Board, nor any of its members, officers, directors, employees, agents, or representatives, shall bear any responsibility for ensuring structural integrity, soundness or compliance with building codes and other governmental approvals or requirements, or that any Improvements are located so as to avoid negative impacts on other Lots including, without limitation, impaired views. No representation is made by any Architectural Review Board with respect to the quality, size, value or design of future Improvements. Approval by any Architectural Review Board shall not be construed as a representation or warranty of any type regarding the design or construction of any Improvement and no Architectural Review Board, nor any of its members, officers, directors, employees, agents, or representatives, shall be liable for (i) soil conditions, drainage or other site work problems, (ii) defects or errors in any plans or specifications submitted as part of an Application, (iii) any structural or other defects in Improvements constructed according to an approved Application, or (iv) any injury, damages, or loss arising out of the design, quality or manner of construction of any approved Improvements. Approvals by the Architectural Review Board shall in no way be deemed to constitute a determination as to compliance with local zoning ordinances, governmental guidelines or restrictions, or be substituted in lieu of applicable governmental approvals and permits and no construction may commence until all such approvals and permits have been obtained.

Section 7.8. Enforcement. Any Improvements constructed in violation of this Article 7 or in a manner inconsistent with the approved Application shall be deemed to be nonconforming. Upon written request from the Architectural Review Board, the defaulting Member shall, at its own cost and expense, promptly either remove any nonconforming Improvement and restore the Lot to substantially the same condition that existed prior to the installation of the nonconforming Improvement or bring the nonconforming Improvement into compliance with the approved Application. Should a Member fail to remove and restore its Lot or bring the nonconforming Improvement into compliance with the approved Application, the Architectural Review Board shall have the right to enforce this Article 7 in accordance with Section 16.2 of this Declaration, assess fines in accordance with applicable Community Codes, and remove the violation and restore the Lot to substantially the same condition as previously existed. If the Architectural Review Board undertakes the foregoing self-help remedy, such action shall not be deemed a trespass. Upon demand by the Architectural Review Board, the Member shall promptly reimburse all costs incurred in connection with enforcement of this Section 7.8 and such costs shall be collectable in the same manner as Assessments and may become a lien upon such Lot.

The Declarant or the Association, acting separately or jointly, may preclude any contractor, subcontractor, agent, employee or other invitee of any Member who fails to comply with the terms and provisions of this Article 7 and the Design Guidelines from continuing or performing any further activities in the Property, subject to the notice and hearing procedures contained in the Community Codes. Neither the Declarant, the Association, nor their officers, directors or agents shall be held liable to any Person for exercising the rights granted by this Article 7.

Section 7.9. Appeal. Any decisions made by the Architectural Review Board may be appealed to the Executive Board by the Member whose Application or other request was the subject of the Architectural Review Board's decision. Upon written request, such Member shall be entitled to a hearing before the Executive Board. A vote of two thirds (2/3) of the entire

Executive Board, shall be required to reverse or modify a decision of the Architectural Review Board. When acting as the Architectural Review Board, the decisions of the Declarant or the Executive Board shall be final and shall not be subject to appeal.

Section 7.10. Declarant Exemption. Notwithstanding any provision of this Declaration to the contrary the provisions of this Article 7 shall not be applicable to any Improvements installed or constructed by the Declarant or to any part of the Property owned by the Declarant.

ARTICLE 8 COVENANTS COMMITTEE

Section 8.1. Purpose and Powers of the Covenants Committee. The purpose of the Covenants Committee shall be to ensure compliance with the Governing Documents and to foster harmony within the Community through reasoned and impartial adjudication of disputes within the Community as they arise. To this end, the principal powers of the Covenants Committee shall be as follows:

(a) To make reasonable efforts to resolve conflicts relating to the Governing Documents between and among Owners on an informal and amicable basis.

(b) To investigate and render decisions on alleged violations of the Governing Documents.

(c) Upon petition of any Owner or upon its own initiative, to issue cease and desist requests to any Owner whose actions are deemed to be inconsistent with the provisions of the Governing Documents or otherwise detrimental to the Community.

(d) To provide interpretations of the Governing Documents when requested to do so by a member of the Executive Board or on its own initiative.

(e) To impose reasonable fines for violations of the Governing Documents, subject to the approval of the Executive Board.

(f) To propose Community Codes for hearing alleged violations of the Governing Documents, for adoption by the Executive Board, which shall incorporate reasonable concepts of due process and fundamental fairness. Such Community Codes, and amendments thereto, may also be proposed and approved by the Declarant or by the Executive Board, either acting alone, without action by the Covenants Committee. No such Community Codes shall be construed as a waiver of any provision or requirement of the Governing Documents.

(g) Such additional powers as may be granted by the Executive Board to enable the Covenants Committee to fulfill its duties under the Governing Documents.

Section 8.2. Selection of Covenants Committee. The Declarant or the Executive Board may but shall not be obligated to form a Covenants Committees as set forth in this Section. If formed, the Covenants Committee shall consist of an uneven number of not less than three (3) nor more than seven (7) persons. For so long as the Declarant's Rights and Obligations Period is

in effect, the Declarant may appoint a majority of the members to the Covenants Committee, and the balance of the Covenants Committee shall be appointed by the Executive Board. Members of the Covenants Committee appointed by the Declarant shall serve at the pleasure of and may be removed, without cause, by the Declarant. Members of the Covenants Committee appointed by the Executive Board shall serve at the pleasure of and may be removed, without cause, by the Board. Upon expiration of the Declarant's Rights and Obligations Period, or earlier upon written notice from the Declarant to the Association, the number, qualifications, tenure, and manner of selection of the members of the Covenants Committee shall be as determined from time to time by the Executive Board, in the Board's sole discretion. Covenants Committee members need not be Owners. In the event of any failure to appoint a Covenants Committee, or in the event of the Covenants Committee's absence, resignation or inability or refusal to act, the Executive Board shall have the power and authority of the Covenants Committee and shall otherwise exercise and discharge the Covenants Committee's duties under the Governing Documents.

Section 8.3. Appeal. Subject to such procedures as may be established by the Executive Board, any Owner may appeal an adverse Covenants Committee decision to the Executive Board. The Executive Board may uphold, modify or reverse the decision of the Covenants Committee.

Section 8.4. Jurisdiction of Covenants Committee. Any provision hereof to the contrary notwithstanding, the Covenants Committee shall have no jurisdiction over the Declarant or any matters addressed by the Architectural Review Board pursuant to Article 7 of this Declaration. The Declarant, no later than the expiration of the Declarant's Rights and Obligations Period, and the Executive Board, after the expiration of the Declarant's Rights and Obligations Period, may from time to time, in their sole discretion, restrict the jurisdiction or authority of the Covenants Committee, either generally or on a case-by-case basis.

ARTICLE 9 COMMUNITY CODES; USE RESTRICTIONS

Section 9.1. Objectives and Goals. By recordation of this Declaration, the Declarant intends to create a planned community with the goals of enhancing the quality of life of Owners, protecting the aesthetics and environment within the Community, and promoting a sense of community among Owners. To serve these goals, the Declarant recognizes that the changes in circumstances, conditions, needs, and desires within the Community will require the adoption, modification and amendment of the Community Codes from time to time.

Every provision of the Governing Documents, including the Community Codes, shall apply to all Owners, tenants, occupants, guests and invitees of any Lot. All Owners who lease their Lots shall include a notice provision in the lease informing the tenant and all occupants that the Lot and Community Property are subject to the Governing Documents and the Community Codes. However, the failure to include such a provision in the lease shall not relieve any Person of responsibility for complying with the Governing Documents.

Section 9.2. Promulgation of Community Codes. Community Codes shall be promulgated by the Declarant, or the Executive Board in accordance with this Section and

provided to prospective purchasers of Lots within the Community, in accordance with applicable laws. Community Codes shall have the same force and effect and binding nature against the Property as the covenants, conditions, easements and restrictions contained within this Declaration. Consequently, the Property and the Owners are not only subject to the provisions of this Declaration, but shall also be subject to the Community Codes, as promulgated in accordance with this Article 9. By way of example and not limitation, Community Codes may include permitted and prohibited uses for Lots and procedures for implementing the right of the Association to process cases of alleged violations of the Governing Documents and to levy fines for violations of the Governing Documents. Subject to the terms of this Article 9, Community Codes may be established, modified, repealed or amended as follows:

(a) Subject to the terms of this Article 9, and in accordance with its duty to exercise reasonable judgment on behalf of the Association and its Members, the Declarant, during the Declarant's Rights and Obligations Period, may establish, modify, cancel, limit, create exceptions to, or expand Community Codes, except to the extent such right is expressly assigned in writing, in whole or in part, to the Executive Board. After the termination of the Declarant's Rights and Obligations Period or if such power is earlier assigned in writing by the Declarant to the Executive Board, as applicable, the Executive Board may establish, modify, cancel, limit, create exceptions to, or expand Community Codes. The Declarant, or the Executive Board, as applicable, shall make a good faith effort to provide each Member with at least thirty (30) calendar days prior notice of a proposed Community Code. The Declarant or the Executive Board, as applicable, may provide the notice of the proposed Community Code in a community newsletter, electronic bulletin board, by electronic mail, or by other means which the Declarant or Executive Board, as applicable, determines will be reasonably effective in providing such notice to a majority of Members. Members shall have a reasonable opportunity to express their views on proposed Community Codes at a Board meeting or other forum prior to action on the proposed Community Code.

(b) Any Community Codes adopted by the Declarant or the Board, as applicable, shall become effective thirty (30) days thereafter unless within such thirty (30) day period the proposed Community Code is disapproved at a meeting called for such purpose by a majority of all Members. At any such meeting, Members may vote by proxy, and proxies may be filed by facsimile or other electronic means so long as they meet the requirements of West Virginia law. The Board shall have no obligation to call a meeting to consider disapproval except upon the petition of Members as required by the Bylaws for special meetings.

(c) Notwithstanding the provisions of Sections 9.2 (a) and 9.2 (b) above, the Declarant shall have the right, during the Declarant's Rights and Obligations Period, without the consent of the Members of the Association or any other party, to promulgate Community Codes at any time and from time to time as the Declarant may deem necessary or desirable which modify, amend or change the Governing Documents (i) to correct errors or omissions herein; (ii) to bring any provision of the Governing Documents into compliance with any applicable governmental statute, rule, regulation, or judicial determination which is in conflict therewith; (iii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property; (iv) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example FHA, VA, the Federal National

Mortgage Association, or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; or (v) to satisfy the requirements of any governmental or quasi-governmental agency. Any such Community Codes adopted by the Declarant shall become effective upon such date specified by the Declarant and shall not be subject to the provisions and limitations of Sections 9.2 (a), 9.2(b) or 9.4 of this Declaration.

(d) All additions, modifications and amendments to the Community Codes shall be published in Association newsletters, electronic bulletin boards, by e-mail, or by other means calculated to give reasonable notice to Members of such additions, modifications or amendments.

Section 9.3. Owners' Acknowledgment and Notice to Purchasers. All Owners of Lots are given notice that use of their Lot is subject to all Community Codes as they may be modified from time to time in accordance with this Article 9. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her property may be impacted by the Community Codes and that the Community Codes may change from time to time.

Section 9.4. Community Code Limitations. Except as may be specifically set forth in this Declaration, as amended, neither the Declarant nor the Board may adopt any Community Code in violation of the following provisions:

(a) Equal Treatment. Similarly situated Owners shall be generally treated in a substantially similar manner; provided, the Community Codes may vary from one portion of the Community to another depending upon housing type or similar factors.

(b) Occupancy Limitations. No Community Code shall unreasonably interfere with the ability of Owners to determine the composition of their households, except that the Association shall have the authority to require that all Lot occupants be members of a single household unit and to limit the total number of occupants permitted in each Lot based on the size of the Lot, the facilities within the Lot or the impact on the Community Property.

(c) Activities Within Lot. No Community Code shall unreasonably interfere with activities within the interior confines of Lots, except that the Association may restrict or prohibit the following:

(i) Activities not normally associated with residential or home office use;

(ii) Activities that create monetary costs for the Association or other Owners;

(iii) Activities that create a danger to the health or safety of occupants of other Lots;

(iv) Activities that generate excessive noise or traffic;

and (v) Activities that create unsightly conditions visible outside the Lot;

(vi) Activities that create an unreasonable source of annoyance.

(d) Animals. The Association may adopt Community Codes regarding pets designed to minimize damage and disturbance to other Owners, including reasonable provisions requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on the size of the Lot, the facilities within the Lot and the potential impact on the Community Areas. Nothing shall prevent the Association from requiring removal of any animal that presents an actual or realistic threat to the health or safety of Owners or occupants of Lots or from requiring abatement of any nuisance or unreasonable source of annoyance caused by any animal.

(e) Allocation Usage Rights. Nothing shall prevent the Association from altering the availability or use of Community Property, from adopting rules or Community Codes for use of Community Property, or from denying use privileges to those who abuse the Community Property, violate the Governing Documents, or fail to pay Assessments.

(f) Alienation. No Community Code shall prohibit outright the leasing or transfer of any Lot, or require consent of the Association for transfer of any Lot. However, the Community Code may provide for limitations or conditions on leasing consistent with the terms of this Declaration. In addition, a Unit Owner purchasing from the Declarant will not be permitted to transfer his/her Unit for a period of twelve (12) months.

(g) Altering Existing Uses or Rights. Any Community Code which would (1) require Owners to dispose of personal property which is properly maintained in or on the Lot or (2) require a material alteration of a use permitted prior to the effective date of such Community Code shall not apply to an Owner without his or her written consent unless the Community Code was in effect at the time the Owner acquired his or her interest in the Lot.

(h) Reasonable Rights to Complete the Community Plan. Notwithstanding anything to the contrary contained in this Declaration or in any Community Code, no action by the Association, Board, any committee or the Members shall impede the Declarant's development rights within the Property.

Section 9.5. Permitted Uses

Lots and dwellings shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on any Lot other than one used as a dwelling, except that a home-based business may be maintained within a dwelling, provided that (i) such maintenance and use is limited to the person actually residing in the dwelling; (ii) no employees or staff other than a person actually residing in the dwelling are utilized; (iii) no clients or customers of such business visit the dwelling; (iv) the number of persons, other than clients or customers, that shall visit such business and the frequency of such visits shall be kept to a reasonable minimum, as determined in the sole discretion of the Board of Directors; (v) such

maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation; (vi) the person utilizing such office maintains a principal place of business other than the dwelling; (vii) such business uses no equipment or process that creates noise, vibration, glare, fumes, odors, or electrical or electronic interference detectable by neighbors and does not cause an increase of common expenses that can be solely and directly attributable to the business; (viii) such business does not involve the use, storage or disposal of any materials that the United States Secretary of Transportation or the State of West Virginia or any local governing body designates as hazardous material. Nothing contained in this Community Code, or elsewhere in the Governing Documents, shall be construed to prohibit the Declarant and its respective designees from the use of any Lot, Community Property, or improvement thereon, for promotional or display purposes, or as “model homes,” a sales, leasing, management and/or construction office, or the like. The right of the Declarant and its designees to maintain and carry on such activities shall include specifically the right to utilize the Community Property and any facilities situated thereon as model and sales offices for the duration of the Declarant’s Rights and Obligations Period. Nothing contained herein, or elsewhere in the Governing Documents, shall be construed to prohibit the Declarant from the use of any Lot or the improvements thereon, for promotional or display purposes, or as “model homes”, a sales and/or construction office, or for any other lawful purpose.

Section 9.6. Prohibited Uses.

Except for the activities of the Declarant during the construction and development of the Community, or except with the prior written approval of the Board of Directors of the Association or the Declarant, or as may be necessary in connection with reasonable and necessary repairs or maintenance to any dwelling or upon the Common Area:

(a) Dwellings shall be occupied by no more persons than the maximum permitted by law for the dwelling.

(b) Except for work done by the Declarant in connection with the construction and marketing of dwelling units, nothing shall be built, caused to be built or done in or to any part of the Property which will alter or cause any alteration to the Common Areas without the prior written approval of the Board of Directors and the Declarant. The Declarant’s approval shall be required during the Declarant’s Rights and Obligations Period.

(c) Each Owner or occupant shall maintain his Lot in a safe, clean and sanitary manner and condition, in good order and repair and in accordance with all applicable restrictions, conditions, ordinances, codes and any rules or regulations which may be applicable hereunder or under law.

(d) No Owner or occupant of any Lot shall carry on, or permit to be carried on, any practice on his Lot or on the Property which unreasonably interferes with the quiet enjoyment and proper use of another Lot or the Common Area by the Owner or occupant of any other Lot, or which creates or results in a hazard or nuisance on the Property.

(e) No noxious or offensive trade or activity shall be allowed on or within any Lot or any other part of the Community, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or other residents. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any dwelling or upon the exterior of any other improvements constructed upon any Lot.

(f) No sign, banner, flag, billboard or advertisement of any kind, including, without limitation informational signs, "for sale" or "for rent" signs and those of contractors and subcontractors, shall be erected on any Lot without the prior written consent of the Board of Directors. If permission is granted to any Owner to erect a sign within a Lot, the Board of Directors reserves the right to restrict the size, shape, color, lettering, height, material and location of the sign, or in the alternative, provide the Owner with a sign to be used for such purposes. No sign shall be nailed or otherwise attached to trees. Owners may not erect any sign on a Lot or on any of the Common Areas.

(g) Owners or occupants may not obstruct the Common Areas in any way including, but not limited to, interfering with any storm water drainage. Owners or occupants may not store anything in or on the Common Areas without the prior written approval of the Board of Directors.

(h) No clotheslines and no outdoor clothes drying or hanging shall be permitted in the Community, 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 walls or outside surfaces of doors of any of the Lots, and no awnings, canopies or shutters (except for those heretofore or hereinafter installed by Declarant) shall be affixed or placed upon the exterior walls or roofs of dwelling units, or any part thereof, nor relocated or extended, without the prior written consent of the Board of Directors. Window air conditioners are prohibited.

(i) No commercial, industrial, recreational or professional activity not permitted by the present zoning or other applicable laws or ordinances, shall be pursued on any Lot, at any time. If zoning regulations change to expand the scope of activities that Owners may pursue lawfully within the Lot, an Owner may apply to the Board of Directors for approval to commence the permitted use of his Lot. Each application shall be considered by the Board of Directors on an individual basis. Once the Board of Directors has given its approval to a particular use of a Lot, it may not revoke the approval as long as the nature and scope of the approved use remains unchanged. No Owner shall permit his Lot to be used or occupied for any prohibited purpose.

(j) Owners shall not keep in any Lot animals, wildlife, livestock, reptiles or poultry of any kind, other than domesticated household birds and fish, house dogs or domesticated house cats. All animals shall be leashed (if outdoors) or kept within the Lot and shall not be permitted to roam free. The Association may restrict the walking of pets to certain areas. Owners who walk their pets on Common Areas must clean up after their pets. Commercial activity involving pets, including, without limitation, boarding, breeding, grooming

or training is not allowed. The ability to keep a pet is a privilege, not a right. If, in the opinion of the Board, any pet becomes a source of unreasonable annoyance to others, or the owner of the pet fails or refuses to comply with these restrictions, the owner, upon written notice, may be required to remove the pet from the Property. Pets may not be left unattended or leashed in yards or garages or on porches. Pursuant to rules and regulations, the Board may further regulate pets, including but not limited to number and type of pets.

(k) No burning of any trash and no accumulation or storage of litter, lumber, scrap metals, refuse, bulk materials, waste, new or used building materials, or trash of any other kind shall be permitted on any Lot, or other part of the Community. No portion of the Property shall be used or maintained as a dumping ground for rubbish, trash, new or used lumber or wood, metal scrap, garbage or other waste, except that such material may be kept in the Lot, or in areas of the Property designated for this purpose by the Declarant (in connection with its construction) or by the Board of Directors, provided that these materials are kept in sanitary containers in a clean and sanitary condition. Owners shall place these containers for collection only in the designated areas and only on the day these refuse materials are to be collected. Empty containers shall be removed promptly after collection.

(l) To the extent permitted by law, a DBS antenna, MDS antenna or transmission-only antenna may be erected on a Lot provided it is not greater than eighteen (18) inches in diameter and prior approval of the Board of Directors is obtained. No television broadcast antenna of any size or masts of any size attached to any of the above-listed antennas may be erected. Qualified antennas must be erected on the rear of the Lot, and in accordance with applicable Community Codes or Rules, unless such placement impedes reception in which event such antenna may be erected in another location on the Lot provided that it is screened by landscaping or other material where reasonable.

(m) Except for hoses and the like which are reasonably necessary in connection with normal lawn maintenance, no hose, water pipe, sewer pipe, gas pipe, drainage pipe, television cable or other similar transmission line shall be installed or maintained upon any Lot above the surface of the ground, unless such installation is approved in writing by the Architectural Review Board, or is required by the servicer or provider of any utility, including, without limitation, power, water, sewer, gas and cable television.

(n) Each Owner shall maintain his Lot in a manner satisfactory to the Association and in accordance with the Declaration and rules and regulations of the Association. In the event that a Lot is not so maintained, the Association shall have the right to enter upon the Lot to maintain the same, after giving the Owner at least fifteen (15) days written notice to cure any maintenance problems or deficiencies. In the event that the Association exercises its right of entry for maintenance purposes, the Association shall have the right to assess the particular Owner for the cost of such maintenance. The Association, by its Board of Directors, shall have the right to establish rules and regulations governing the maintenance of any Lot.

(o) Driveways, streets and other exterior parking areas on the Property shall be used by Owners, occupants and guests for fully operable, inspected and registered four wheel passenger vehicles, two wheel motorized bicycles and standard bicycles only. No recreational

vehicles, vans (other than non-commercial passenger vans), mobile homes, trailers, boats, trucks (unless licensed as a passenger vehicle and less than three-quarter ton capacity) or commercial vehicles (whether or not registered as a commercial vehicle with the West Virginia Department of Motor Vehicles) shall be permitted to be parked on the Property, except on a day-to-day temporary basis in connection with repairs, maintenance or construction work on the Lot or if entirely enclosed in an Owner's garage. Parking vehicles of any kind shall not be permitted within any rear accessway or alley serving a Lot.

(p) Motor vehicles including, but not limited to, mini-bikes, snowmobiles and motorcycles, may not be driven on the Common Area by any Owner, occupant or guest.

(q) Except for the Declarant, no Owner may subdivide or partition his Lot. The provisions hereof shall not be construed to (i) prohibit the granting of any easement or right-of-way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, the Declarant, or any other individual or entity for any purpose, or (ii) prohibit minor boundary line adjustments between adjoining Owners if done in accordance with applicable zoning ordinances, governmental guidelines and restrictions. Further, the provisions of this subsection shall not be deemed to preclude any Owner from granting an easement or right-of-way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, to serve necessary public purposes, or from dedicating or conveying a portion of such Owner's Lot for such purposes.

(r) No Owner shall perform or permit to be performed any work to any portion of his Lot, which work may require access to, over or through the Common Area or other Lots without the prior consent of the Board of Directors except in case of an emergency. All such work may only be performed by an individual or entity who shall deliver to the Board of Directors prior to commencement of such work, in form satisfactory to the Board of Directors:

(i) releases of the Board of Directors and the Association for all claims that such individual or entity may assert in connection with such work;

(ii) indemnities of the Board of Directors and the Association, holding each and all of them harmless from and against any claims asserted for loss or damage to persons or property, including, but not limited to, Common Area or other Lots;

(iii) certificates of insurance, including liability and workmen's compensation coverage, in amounts and with companies reasonably acceptable to the Board of Directors; and

(iv) all other information and protections which the Board of Directors may reasonably require.

(s) No Owner may alter the Common Area.

(t) Nothing herein shall give the Board of Directors authority to regulate, control or determine external design, appearance, use or location of portions of the Property

under development, or to be developed, or Lots under construction, or to be constructed, marketed or sold by the Declarant if and when such design, appearance, use and location shall have received any required approvals by the appropriate departments or officials of the municipality with jurisdiction over the Property.

(u) The Board of Directors may prohibit or restrict the use of the Common Area from time to time, on a non-discriminatory basis, if and to the extent required for safety or other valid reasons.

(v) An Owner may not alter the exterior of his Lot (including, without limitation, the dwelling unit located therein) except with the prior written approval of the Board of Directors in accordance with the Declaration.

(w) No Owner shall erect or permit to be erected on any Lot any fence, in-ground pool, tennis court or other outdoor game court, or other exterior building, addition or improvement, without the prior written consent and design approval of Declarant until such time as Declarant no longer owns a Lot in the Property. Under no circumstances may any fences, hedges, fountain or mass plantings of any type be erected or planted in front of the front wall line of the dwelling unit within any Lot nor shall sheds be permitted. No tree, hedge or other landscape feature shall be planted or maintained in a location that obstructs sight-lines for vehicular traffic on public streets or private streets and roadways. No above ground pools may be erected or maintained at any time. Each Owner shall act to insure that the Property and each Lot remain open to light and air. The grading of any Lot shall not be changed in any manner that will cause an adverse effect on any adjacent Lot.

(x) Vegetable gardens shall be maintained only within the rear yard of any Lot, shall be maintained in a neat and attractive manner and shall be screened from public view.

(y) Lawn furniture may be used on front porches or in the rear yards of Lots only, unless otherwise approved by the Architectural Review Board.

(z) Bed sheets, plastic sheets, table cloths, towels, newspapers, or other similar window treatments shall not be hung or placed in or on any window within a Lot.

(aa) No exterior lighting, emanating from a Lot, shall be directed outside the boundaries of the Lot.

(bb) No Lot has an easement for light, air or views over any other Lot, any portion of the Property, or any real property adjacent to or in the vicinity of the Property and no Owner nor any other party shall be permitted to make a claim for any diminution of any light, air or views for any Lot or for any loss or damage related to or arising out of such diminution.

(cc) The foregoing use restrictions are not intended to and do not expand permitted uses under the applicable zoning code of the municipality with jurisdiction over the Property in effect at the time of the final approval of the Project.

Section 9.7. Leasing

(a) Declarant reserves the right to lease any and all of the Lots owned by Declarant subject only to the provisions of this Section 3.

(b) No Owner shall be permitted to lease his lot unless a dwelling has been constructed and is ready for residential occupancy and such Owner has complied with the relevant provisions of the Declaration, the Bylaws, this Community Code and any applicable rules and regulations of the Association. All leases must be in writing for a term not to be less than Two (2) months, shall be to a single unit or group, with one person designated as their representative and approved by the Association, which approval shall not be unreasonably withheld. All leases shall provide that the lessee shall be subject in all respects to the provisions of the Declaration, the Bylaws, the Community Codes and the rules and regulations of the Association, as may from time to time be promulgated by the Board of Directors. The leasing of a lot shall not affect the liability of the Owner with respect to his obligations under the Declaration, the Bylaws, the Community Codes and such rules and regulations. The provisions of the first two sentences of this paragraph shall not apply to the holder of a first mortgage lien on a Lot who acquires title thereto.

(c) In the event an Owner shall fail to pay any Assessment levied by the Board of Directors against its leased dwelling unit, and such failure to pay continues for ten (10) days, the Board of Directors shall so notify the lessee of such dwelling unit in writing of the amount due and, within fifteen (15) days after the date of such notice, the lessee shall pay to the Association the amount of such unpaid Assessment. The amount of such unpaid Assessment paid to the Association by lessee after the nonpayment by the Owner shall be credited against and shall offset the next monthly rental installment due to the Owner following the payment by the lessee of such Assessment to the Association.

(d) In no event shall the lessee be responsible to the Association for any amount of unpaid Assessment during any one month in excess of one monthly rental installment.

(e) The inclusion of Sections (b), (c) and (d) in a lease or addendum to a lease for the rental of a dwelling unit shall be a condition precedent to the approval of such lease by the Board of Directors.

Section 9.8. Exemptions.

The restrictions contained in section 9.6 and 9.7 shall not be applicable to (i) improvements constructed by or to the activities of the Declarant, its officers, employees, agents and assigns, in their development, marketing, leasing and sales activities within the Property and/or (ii) the Association, its officers, employees and agents in connection with the proper maintenance, repair, replacement and improvement of the Community Property or Community Areas.

ARTICLE 10
DECLARATION OF EASEMENTS AND RIGHTS

Section 10.1. Declaration of Easements and Rights.

(a) There is hereby further reserved for the benefit of the Annexable Property a right of any Owner (or such Owner's guests, invitees, licensees or other parties entitled to occupy any dwelling unit within the Annexable Property) of any dwelling unit within the Annexable Property to use any recreational or other similar facilities that may, from time to time, be located within the Community; provided, however, as a condition precedent to the exercise of such rights, the election to allow the use of such facility(ies) is specifically made by the Declarant pursuant to a written instrument recorded among the Land Records of Nicholas County, West Virginia. If the rights contemplated by the provisions above are elected, then the parties benefiting from such rights shall be obligated to pay their pro-rata share of the cost of maintaining, operating and repairing such facilities, which share shall be computed by multiplying the total of such bona-fide costs times a fraction, the numerator of which shall be the number of completed dwelling units owned by the party from whom such contribution is sought and the denominator shall be the total number of completed dwelling units entitled to use such facilities. The computation contemplated by the immediately preceding sentence shall be made at each time a contribution for such costs is sought. It is the intention of this Section 10.1(a) to permit reasonable rights of use over the Property for the benefit of the Annexable Property in the event any portion of the Annexable Property is not annexed into the Community. Upon any such annexation, the provision of this Section 10.1(a) shall no longer be applicable because the right of use will otherwise be established by this Declaration.

(b) The rights and duties with respect to Community Systems, water, electricity, gas, cable television, master television antenna systems, security and surveillance systems, telephone lines and similar utilities (individually and collectively, "Systems") shall be governed by the following: (i) whenever Systems are or have been installed within the Community, the Owner of any Lot and the Association shall have the right, and are hereby granted an easement to the extent necessary therefor, to enter upon or have a utility or repair company enter upon any portion of the Community in which said Systems lie, to repair, replace and generally maintain said installations. Such easement shall include, without limitation, the right to enter upon any portion of the Community, including private streets, for the installation, replacement, repair and maintenance of water and/or utility lines; (ii) The rights granted in subsection (i) above shall be only to the extent necessary to entitle the Owner or Association serviced by said installation to the full and reasonable use and enjoyment of its property, and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

(c) Each Lot which is attached to another Lot, is hereby subject to an easement upon and across such other attached Lot for the drainage and discharge of water from any storm drain or downspout situated on the other attached Lot and the Owner of such Lot may not alter or obstruct such drainage or flow of water to the detriment of the other Lot or the Community Property.

(d) The Association shall have an easement to enter any portion of the Community for the performance of its duties hereunder; provided that such easement shall not entitle entry within the interior portion of any dwelling located within the Community, and provided further such easement in no way interferes with the development related activities of the Declarant.

(e) A mutual right and easement for the Systems is hereby established for the benefit of all Owners, such that no Owner shall take any action which would in any way interfere with the Systems being provided to other Owners within the Community. If a Lot contains any utility pipes, ducts, conduits, wires or other Systems which are for the benefit, in whole or in part, of other Owners within the Community, then the Owner of such Lot shall promptly, at such Owner's expense, repair any damage to such Systems caused by the Owner.

(f) Each Lot shall be subject to a public pedestrian access easement over and upon any sidewalk, alley or pathway (or the replacement thereof) constructed within the Lot by the Declarant, which sidewalk or pathway is reasonably deemed to be for the use of the Community.

(g) The Association and the Declarant are each hereby granted a non-exclusive easement and right of passage on, through, over, under and across those portions of Lot shown on the Development Plan as a community pathway or landscaping easement area (the "Easement Area") for the installation, maintenance, repair, replacement, inspection, operation and use of any pathway or landscaping located within such Lot. The Owner of each such Lot shall make no use of, and shall take no action that would interfere or otherwise be inconsistent with the use Easement Area for the purposes provided for herein. The Owner of each such Lot shall not remove, modify, damage or otherwise disturb the Easement Area or the improvements located therein, and shall make no alteration, improvement, excavation, grading or other material change to those portions of the Lot as are located immediately adjacent to the Easement Area, without the express prior written consent of the Association. If any portion of the Easement Area or the improvements located therein is damaged or destroyed through the act of the Owner of such Lot, or any of such Owner's tenants, lessees, agents, guests, invitees, licensees or family members, then such Owner shall reimburse the Association, promptly on demand, for all costs and expenses incurred by the Association in rebuilding and repairing the Easement Area and the improvements located therein to as good condition as existed prior to such damage or destruction. Any amounts required to be paid by an Owner pursuant to this Section shall be payable and collectible in the same manner as any other assessment required to be paid to the Association under Article 5 of this Declaration. The Declarant or the Executive Board may also elect to provide these landscaping services to all Lots.

(h) Each Lot shall contain a set back and building restriction of five (5) feet from the exterior boundary of the Lot or any easement area and in addition, any Lot that bounds on real property that is not part of the Gauley River Estates Community, shall have setback and building restriction of five (5) feet on any boundary that is adjoining to real property that is not part of the Gauley River Estates Community.

Section 10.2. Association Easements. The Executive Board of the Association shall have the right to grant easements, rights-of-way, licenses and similar interests over any part of the Community Property for any lawful purpose which the Board, in its sole discretion, determines to be in the best interests of the Association, provided that during the Declarant's Rights and Obligations Period, the prior consent of the Declarant is obtained.

Section 10.3. Owner Easements. The Governing documents shall not be deemed to preclude any Owner from granting an easement or right-of-way to any municipality, political subdivision, public utility or other public body or authority, or to the Association, to serve necessary public purposes, or from dedicating or conveying a portion of such Owner's Lot for such purposes.

ARTICLE 11 MAINTENANCE OF LOTS AND COMMUNITY AREAS

Section 11.1. Lot Maintenance.

(a) Except as otherwise specifically provided in the Governing Documents, each Owner of a Lot within the Community shall keep such Lot and all landscaping and improvements therein or thereon, as well as any areas such as right-of-ways adjacent to the Lot in good order and repair and free of debris, including but not limited to the painting (and other appropriate external care) of all buildings and other improvements located within such Lot, all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot shall fail to maintain such Owner's Lot and the improvements situated thereon, the Executive Board or its agent shall have the right to enter upon said Lot to repair, maintain and restore the Lot and the exterior of the dwellings and any other improvements erected thereon. The Association shall also have the right to enter Lots to correct drainage. Except in the case of an emergency, the Executive Board shall provide an Owner at least fifteen (15) days written notice prior to entering a Lot for the purposes set forth in this Section. Notice shall be deemed to be given when mailed by regular or certified mail or hand-delivered to the address of the Owner as it appears in the records of the Association. All costs related to such correction, repair, maintenance or restoration plus a ten percent (10%) service fee shall be collectible by the Association in the same manner as Assessments and may become a lien upon such Lot. Such lien may be enforced in the same manner as the lien for any other Assessment under the Governing Documents.

Section 11.2. Association Maintenance. The Association shall maintain, repair, replace and keep in good order (i) the Community Areas and any improvements, landscaping and facilities situated thereon, (ii) any and all storm water management facilities (including, without limitation, drainage pipes, infiltration trenches, ponds, basins, swales, berms, out-flow control devices, drainage areas, filters, inlets, oil/grit separators and underground facilities) whether such storm water management facilities are located within the Property or not, as long as such storm water management facilities are designed to benefit or serve any portion of the Property or are required or intended to be maintained by the Association pursuant to any easement, agreement or the direction of any governmental or quasi-governmental authority or agency, (iii) rights-of-way, pathways, sidewalks, entry strips, signs and entrance features or improvements located within the

Community, or which are appurtenant to and serve or benefit the Community, and (iv) any other property, facilities or equipment appurtenant to and serving or benefiting the Community (including recreational facilities) which the Association elects or is required to maintain, repair or replace. Such maintenance, repair and replacement shall be funded as provided in the Governing Documents.

Section 11.3. Lot Landscape Maintenance. Either the Declarant or the Executive Board may elect to assume maintenance responsibilities for the lawn and garden areas, or other portions of some or all of the Lots. Lawn and garden area maintenance may include, without limitation, responsibility for mowing, fertilizing, trimming, pruning and/or otherwise maintaining all or any portion of the grass, shrubs, bushes, trees, and other planted materials, and any replacements thereof, as may be located within all or a portion of the Lot. The Association may also elect to assume exterior maintenance responsibilities for some or all of the dwellings and improvements within the Lots. Any such maintenance by the Association shall be with such frequency and in conformity with reasonable standards as may be established by the Executive Board from time to time. In the event the Association assumes such maintenance responsibilities, all costs relating to the same shall generally be assessed only against the Owners of Lots that receive such maintenance services.

An Owner may request that the Association refrain from performing all or a part of the maintenance services described above. Such a request shall be made to the Association at least ninety (90) days prior to the date the Owner desires the Association to refrain from such maintenance, or such other time period as the Association may prescribe. The Association shall not unreasonably withhold approval of such request, provided the Owner has demonstrated to the satisfaction of the Association his or her intention to maintain landscaping in a manner and with such frequency as is acceptable to the Association. In the event an Owner elects to maintain the landscaping situated on his or her Lot pursuant to the terms hereof, such Owner shall not be entitled to any reimbursement from the Association or reduction in Assessments levied against such Lot, unless the Association elects to do so. However, the Association reserves the absolute discretion to refrain from providing such reimbursement.

ARTICLE 12

Party Walls, Party Fences and Shared Improvements Intentionally Left Blank

ARTICLE 13

MORTGAGEE NOTICES

Section 13.1. Rights of Eligible Mortgagees. Any institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association stating its name and address and the street address of the Lot to which its Mortgage relates shall be deemed an "Eligible Mortgagee." Eligible Mortgagees shall be entitled to timely written notice of the following:

(i) Any property loss, condemnation or eminent domain proceeding affecting a material portion of the Community Property or any Lot on which there is a first Mortgage held, insured or guaranteed by such Eligible Mortgagee;

(ii) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Mortgagee, where such delinquency has continued for a period of sixty (60) days;

(iii) Any termination, lapse, or material modification of any insurance policy required to be maintained by the Association;

ARTICLE 14
AMENDMENT OF GOVERNING DOCUMENTS

Section 14.1. Declaration. This Declaration may only be amended by an instrument signed by, or the affirmative vote of, not less than sixty-seven percent (67%) of the total votes of the Members; provided, however, that the percentage of votes necessary to amend a specific clause within the Declaration shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause and provided further that any amendment shall require the consent of the Declarant during the Declarant's Rights and Obligations Period. Any amendment must be recorded in the Land Records of Nicholas County, West Virginia.

Section 14.2. Changes and Modifications by the Declarant. The Declarant shall have the right, until the expiration of the Declarant's Rights and Obligations Period, without the consent of the Members of the Association or any other party, to modify, amend or change the Governing Documents at any time and from time to time as the Declarant may deem necessary or desirable (i) to correct errors or omissions herein; (ii) to bring any provision of the Governing Documents into compliance with any applicable governmental statute, rule, regulation, or judicial determination which is in conflict therewith; (iii) to enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property; (iv) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example FHA, VA, the Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on Lots; or (v) to satisfy the requirements of any governmental or quasi-governmental agency.

Section 14.3. Declarant's Power of Attorney. (a) The Declarant hereby reserves for itself, its successors and assigns, the right to execute on behalf of all contract purchasers, Owners, mortgagees, other lienholders or other parties claiming a legal or equitable interest in the Common Elements, any such agreements, documents, amendments or supplements to the Governing Documents which may be so required by any institutional lender, governmental or quasi-governmental agency, or title insurance company designated by the Declarant to insure title to any portion of the Community Property.

(b) By acceptance of a deed to any Unit or by the acceptance of any other legal or equitable interest in the Common Elements, each and every such contract purchaser, Owner, mortgagee, or other lienholder, or any party having a legal or equitable interest in the Community Property does automatically and irrevocably name, constitute, appoint and confirm Declarant, its successors and assigns, as attorney-in-fact for the purpose of executing such amended Declaration(s) and other instrument(s) necessary to effect the foregoing, subject to the limitations set forth herein.

(c) The power of attorney aforesaid is expressly declared and acknowledged to be coupled with an interest in the subject matter hereof and the same shall run with the title to any and all Units and be binding upon the heirs, personal representatives, successors and assigns, of any of the foregoing parties. Further, said power of attorney shall not be affected by the death or disability of any principal and is intended to deliver all right, title and interest of the principal in and to said powers. Said power of attorney shall be vested in the Declarant, its successors and assigns, for a period of twenty-five (25) years from the date the first Unit is conveyed to an individual purchaser, or until it conveys title to the last Lot within the Community, whichever occurs first. Thereafter, said power of attorney shall automatically vest in the Association and may be exercised by the Board.

Section 14.4. Validity and Effective Date of Amendments to the Declaration. Amendments to this Declaration shall become effective upon recordation in the Land Records of Nicholas County, West Virginia, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within thirty (30) days of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to automatically amend any provisions of this Declaration.

ARTICLE 15 DECLARANT'S RESERVED RIGHTS AND OBLIGATIONS

To secure the Declarant's interests related to the development of the Property, including the pursuit and furtherance of the missions and goals of the Community established and modified from time to time by the Declarant, the Declarant shall have, in addition to the rights set forth elsewhere in the Governing Documents, the benefit of certain rights and be encumbered with certain obligations, as set forth herein.

Section 15.1. Declarant's Reserved Rights.

(a) **Development Rights and Special Declarant Rights:** Notwithstanding any other provision of this Declaration to the contrary, Declarant expressly reserves the right to exercise any and all Development Rights and Special Declarant Rights, including, without limitation, (1) the right to annex real property into the Community, including, without limitation, the right to add into the Community all or part of that property granted and conveyed to Wilderness Land Company, also known as Wilderness Land Company, LLC, by deed recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia Clerk's Office in Deed Book 503, at Page 609, as further shown on that plat of Gauley River Estates Phase 1, of record in the Office of the Clerk of the county Commission of Nicholas County, West Virginia in Map Rack 2, Page 125, identified as Future Development Area and NEED NOT BE BUILT, it being the intent of these provisions that such property is sufficiently described and designated so as to be described in this Declaration for the purpose of avoiding the limitation set forth and contained in West Virginia Code § 36B-2-122, which property, if added to or annexed into the Community, may be added in phases, (2) the right to add or annex real property to the Community that is not referenced in subsection (1) of this section, (3) the right to

use and grant use of those easements and rights of way excepted and reserved in this Article 10, (4) the right to use and grant use of any and all Community Property in connection with the development, use, and enjoyment of the Property and the property referenced in subsections (1) and (2) of this section, (5) the right to use and grant use of the utilities, storm water management systems, and infrastructure servicing and benefiting the common interest community created and established by this Declaration in connection with the development, use, and enjoyment of the property referenced in subsections (1) and (2) of this section, as further described in Section 10.1(c), (h), and increase the size and capacity thereof, (6) the right to additionally burden easements and rights of way with traffic and use, (7) the right to create Lots or Community Property within the Community, (8) the right to subdivide Lots or convert Lots into Community Property, (9) the right to redefine, revise, alter, and/or change the legal description, perimeter, and/or area of Lots, (10) the right to withdraw real property from the Community (11) the right to convert Community Property, or any portion thereof, into Lots, or add the same to Lots, (12) the right to create one (1) or more separate and independent subdivisions or common interest communities out of the property referenced in subsections (1) and (2) of this section, and grant access to the same in, on, over, across, and through the easements and rights of way for streets and roads within the Community, (13) the right to create one (1) or more separate and independent subdivisions or common interest communities out of the property referenced in subsections (1) and (2) of this section, and grant use of the utilities, storm water management systems, and infrastructure servicing and benefiting the Community in connection with the development, use, and enjoyment thereof, and (14) the right to include basements in future Phases. Any and all Development Rights may be exercised with respect to different parcels of real estate at different times and the Declarant makes no assurances regarding the boundaries or order in which such different parcels may be subjected to the Development Rights and if any Development Right is exercised in any portion of the real estate subject to that Development Right, that Development Right need not be exercised in all or any portion of the remainder of that real estate. The Declarant reserves the right to create a maximum of Two Hundred (200) Units in the Association.

(b) **Models and Offices:** Notwithstanding any other provision of this Declaration, Declarant expressly reserves the right to construct, erect, or build, and may at any time construct, erect, or build, models and/or offices for Declarant's use on any Lot owned by Declarant. This right shall apply to each and every Lot owned by Declarant, whether now existing or hereafter created, whether initially owned by Declarant or conveyed to a Purchaser and reacquired by Declarant.

(c) **Streets and Roads:** Declarant expressly reserves the right to (1) extend or enlarge all easements and rights of way for streets and roads within the common interest community created and established by this Declaration into areas outside the common interest community created and established by this Declaration, (2) grant access to one (1) or more separate and independent subdivisions or common interest communities created out of the property referenced in subsections (1) and (2) of Section 15.1(a) in, on, over, across, and through the easements and rights of way for streets and roads within the common interest community created and established by this Declaration, and (3) dedicate any or all easements and rights of way for streets and roads within the common interest community created and established by this

Declaration to public use or grant any or all of the same to a municipality or other political subdivision of the State of West Virginia.

(d) **Easements:** Declarant expressly reserves the right to allow, permit, or license itself or others, particularly public and quasi-public utility entities, and their employees and contractors, to make use of those easements and rights of way set forth and more fully described in Section 15.2 below. Declarant further expressly reserves the right to use and grant use of any and all easements and rights of way described and/or illustrated on the Property description attached hereto as Exhibit "A" and/or as further shown on that plat of Gauley River Estates Phase 1, of record in the Office of the Clerk of the county Commission of Nicholas County, West Virginia in Map Rack 2, Page 125, excepted and reserved in this Declaration, or created in this Declaration, which easements and rights of way, among other things, shall be appurtenant to (1) the remainder of that property granted and conveyed to Declarant by Wilderness Land Company LLC, (2), in the event Declarant acquires the same and so elects, that property referenced in subsections (1) and (2) of Section 15.1(a), and (3) in the event Declarant so elects, any other property subsequently acquired by Declarant, whether or not the same or any part thereof is or shall be added to the common interest community created and established by this Declaration, for the purposes of (1) ingress, egress, and regress to and from such property and any public roads serving such property, (2) installing, constructing, laying, extending, maintaining, operating, inspecting, repairing, removing, replacing, and reconstructing lines, conduits, pipes, wires, drain ways, mains, manholes, and any and all connections, attachments, additions, appurtenances, and instrumentalities thereto, necessary, appropriate, useful, convenient, or incidental to carrying, transmitting, and/or transporting utilities, utility services, sewage, and/or storm water drainage and runoff to and/or from such property, and (3) developing such property in any way or manner.

(e) **Exclusive Right of Construction:** Intentionally omitted.

(f) **Right of First Refusal:** Declarant expressly reserve a right of first refusal to purchase any Unit sold in the future, which right shall remain in force and effect for the duration of Declarant's Reserved Rights and Obligations as set out in this Declaration. Declarant may earlier terminate said right of first refusal in Declarant's sole discretion.

Section 15.2. Declarant's Additional Easements.

The following easements and rights are hereby declared or reserved:

(a) The Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities (including, but not limited to, all State and County governmental authorities and agencies) and utility companies over any part of the Property

(b) There is hereby reserved unto the Declarant (and to such other party(ies) as the Declarant may specifically, and in writing, assign such rights), for the benefit of the Property, a blanket easement upon, across and under the Property for vehicular and pedestrian ingress and

egress, curb cuts, slope, or grading easements, as well as for the installation, replacement, repair and maintenance of all utilities within the ten (10) feet of any Lot boundary line, including but not limited to, any Lot adjacent to any vehicular right of way or neighboring Lot boundary line or Community Property boundary line, including, but not limited to, water, sewer, drainage, storm water detention and/or siltation, gas, cable television, telephones and electricity, and further including the right to connect to and use any such utilities which may exist or be located upon the Property from time to time. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles, pipes, lines and other equipment within the Property, to affix and maintain electrical or telephone wires and conduits, sewer and water drainage lines, on, above, or below any portion of the Property, including any improvements constructed thereon, and to have construction vehicles, equipment and the like exercise the aforesaid right of ingress and egress within the Property. There is further reserved unto the Declarant the right to erect entry features, promotional and sales displays and other similar items within the Property provided they do not unreasonably and materially interfere with the use, operation and enjoyment of Lots within the Property. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this subsection. Further, without limiting the generality of the foregoing, the Declarant reserves the right to unilaterally execute and record such additional easements and agreements as may be necessary to give effect to the foregoing easements and other rights, which additional easements and other agreements need not be consented to or joined in by any party having an interest in the Property; provided, however, that if requested by the Declarant, any party having an interest in the Property shall promptly join in and execute such confirmatory easements and other agreements.

(c) The Declarant reserves the right to enter any portion of the Community for the purpose of carrying out any obligations it may have, or assume, with respect to the curing of any defects in workmanship or materials in the Community or the improvements thereon. There is further reserved unto the Declarant and its agent(s) a non-exclusive easement over, across and through all of the Community Property for the purpose of access, the storage of building supplies, materials and equipment and, without any limitation, for any and all purposes reasonably related to the completion of the development, construction or repair of the Community.

(d) For a period of twenty (20) years or the maximum duration permitted by law, from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to correct drainage of surface or subsurface water in order to maintain reasonable standards of health, safety and appearance; provided, however, that the Declarant shall have no obligation to exercise such right. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which the Declarant shall restore the affected property to its original condition as near as 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. There is further reserved unto the Declarant the right to grant specific easements, both temporary and permanent, to any person or

entity, including all public authorities and utility companies, over any part of the Property in furtherance of the blanket easement created by this subsection.

Section 15.3. Duration of the Declarant's Rights and Obligations

(a) The Declarant's right to appoint and remove the officers and members of the Executive Board shall extend no later than the earlier of (i) sixty (60) days after seventy-five percent (75%) of the total Lots that may be created have been conveyed to purchasers other than the Declarant, (ii) two (2) years after the Declarant has ceased to offer Lots for sale in the ordinary course of business, or (iii) two (2) years after any right to add new Lots was exercised; provided however, that other specific rights and obligations may expire earlier or extend for a longer period of time by virtue of their being tied to the occurrence of certain other events.

(b) The Declarant's Rights and Obligations shall extend until twenty (20) years after the recordation of this Declaration provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid twenty (20)-year period shall be extended by a period of time equal to the length of the delays or an additional five (5) years, whichever is less; and provided further that specific rights and obligations may expire earlier or extend for a longer period of time by virtue of their being tied to the occurrence of certain other events. The Declarant may elect to voluntarily terminate all or any portion of the Declarant's Rights and Obligations by expressing such election in writing to the Association.

Section 15.4. Declarant's Right to Complete the Community Plan

The Declarant shall have the right to conduct all lawful activities required or related to the completion of the Community Plan, as such may be amended from time to time. The Association shall not, as an entity, take any position of opposition against provisions of the Community Plan, as such may be amended from time to time, in a public setting, except that such prohibition shall not apply if the Declarant is seeking an amendment or modification to any existing regulatory approval which has an adverse and material impact on the affairs of the Association. Neither shall the Association utilize any of its material or financial resources to oppose the lawful development activities of the Declarant. Given the evolving nature of the Community Plan that is applicable to the Property, it will be necessary for the Declarant to make changes and modifications to the Community Plan from time to time. This provision is not intended to diminish the right of any individual to express opinions nor of the Association to pursue claims arising out of any actual adverse and material breaches of agreements or representations by the Declarant.

Section 15.5. Amendments and Other Actions Affecting the Declarant.

(a) Governing Documents. The Association shall make no amendments to the Governing Documents nor take any action that may adversely affect the Declarant's interests, including, without limitation, the Declarant's Rights and Obligations, without the prior written consent of the Declarant.

(b) Easements. The Association shall take no action seeking to alter easements established in the Governing Documents for the benefit of the Declarant, nor to prevent establishment of easements necessary to complete the Community Plan.

ARTICLE 16
GENERAL PROVISIONS

Section 16.1. Limitation of Liability.

(a) Neither the Association, the Declarant, nor any successor or assign of the Declarant, shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made or implied that any fire protection system, burglar alarm system or other surveillance system or measures, including any mechanism or system for limiting access to the Property, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system was designed or intended. Nothing in this Section shall be deemed in any way to obligate the Association, the Declarant, or any successor or assign of the Declarant, to provide any fire protection system, burglar alarm system or other surveillance system, security access system, or similar measures with respect to any portion of the Community.

(b) Each Owner acknowledges, understands and covenants to inform its tenants, and all occupants, guests and invitees of its Lot that the Association, the Declarant, and any successor or assign of the Declarant are not insurers and that each person using the Property assumes all risks of personal injury and loss or damage to property, by theft or otherwise, including loss or damage to Lots, or personal property (whether maintained on a Lot or on Community Areas). Each person using the Property acknowledges that certain risks are inherent from being on or in the proximity of an outdoor recreational area and agrees to assume all risk of personal injury, including death, resulting from being on or in proximity to the outdoor recreational area.

(c) The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the Common Expense funds, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Community Property, or from any pipe, drain, conduit or the like. The Association shall not be liable to any Owner for loss or damage, by theft or otherwise, of articles which may be stored within the Community Property. No diminution or abatement of Assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Community Property, or from any action taken by the Association.

Section 16.2. Enforcement. Unless otherwise limited, the Association, any Owner and any Mortgagee shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, easements, liens, charges or other obligations or terms now or hereafter imposed by the provisions of the Governing Documents. Failure by the

Association, any Owner or by any Mortgagee to enforce any provision of the Governing Documents, shall in no event be deemed a waiver of the right to do so thereafter. If the Association, or any Owner or Mortgagee, successfully brings an action to extinguish a violation or otherwise enforce the provisions of the Governing Documents, the costs of such action, including legal fees, shall become a binding, personal obligation of the Owner and/or resident committing or responsible for such violation, and such costs shall be collectible in the same manner as any other Assessment under the Governing Documents.

Section 16.3. 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 16.4. Successors of the Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant by an instrument in writing, without notice to the Association.

Section 16.5. Arbitration.

(a) Notwithstanding any provision of this Declaration or other Governing Documents to the contrary, if, after good faith efforts to negotiate a satisfactory solution have failed, any dispute that cannot be resolved between (i) the Declarant (including any of the Declarant's employees, agents, or contractors) and (ii) the Association and/or any Owner or Owners, will be submitted to arbitration in accordance with this Section 16.5, unless an alternative dispute resolution procedure is agreed to by the parties to the dispute. As used in this Section 16.5, the term "dispute" includes any controversy or claim, including, without limitation, any claim based on contract, tort, or statute, arising out of or relating to (1) the rights or obligations of such parties under this Declaration or other Governing Documents, or (2) the design, construction, or warranty of the Community Property. Upon the request of a party to a dispute, the issue shall be referred to arbitration which will be administered in accordance with the rules and procedures of Construction Arbitration Services, Inc. ("CAS"), or its successor or an equivalent organization selected by Declarant, that are in effect at the time of filing of the demand for arbitration, or such other rules and procedures that are agreed to by all parties. If CAS is unable to arbitrate a particular claim, then that claim shall be resolved by binding arbitration pursuant to the Construction Rules of Arbitration of the American Arbitration Association or its successor or an equivalent organization selected by Declarant.

(b) Either party may commence the arbitration process called for in this Section by filing a written demand for arbitration with a copy to the other party. The arbitration shall be conducted at a location determined by the arbitrator in the State of West Virginia. The parties covenant that they will participate in the arbitration in good faith and that they will share equally in the fees and expenses of the arbitrator.

(c) The arbitrator shall determine which is the prevailing party and shall include in the award payment by the non-prevailing party of the prevailing party's reasonable attorneys' fees and expenses. The provisions of this Section 16.5 and any judgment rendered by

the arbitrator may be enforced by any court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorneys' fees, to be paid by the party against whom enforcement is ordered.

(d) EVERY OWNER, MORTGAGEE, AND ALL OTHER PARTIES WITH AN INTEREST IN ANY PORTION OF THE PROPERTY COVENANT AND AGREE TO HAVE ALL DISPUTES DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THIS SECTION 16.5 AND RELINQUISH ANY RIGHTS THAT MAY BE AVAILABLE TO HAVE SUCH MATTERS LITIGATED IN A COURT OR BY JURY TRIAL, INCLUDING JUDICIAL RIGHTS TO DISCOVERY AND APPEAL. THE REFUSAL BY A PARTY TO SUBMIT TO ARBITRATION IN ACCORDANCE WITH THIS SECTION 16.5 MAY RESULT IN THE PARTY BEING COMPELLED TO ARBITRATE UNDER FEDERAL OR STATE LAW.

Section 16.6. Taxes and Assessments. It is the intent of this Declaration that insofar as the interests of each Owner to use and enjoy the Community Property is an interest in real property appurtenant to each Lot, the value of the interest of each Owner in such Community Property shall be included in the assessment for each such Lot and as a result, any assessment directly against such Community Property should be of a nominal nature reflecting that the full value of the same should be included in the several assessments of the various Lots.

Section 16.7. No Dedication to Public Use. Nothing herein shall be construed as a dedication to public use or as an acceptance for maintenance of any Community Property by any public or municipal agency, authority, or utility and no public or municipal agency, authority or utility shall have any responsibility or liability for the maintenance or operation of any of the Community Property.

Section 16.8. Incorporation by Reference on Resale. In the event any Owner sells or otherwise transfers any Lot, any deed purporting to effect such transfer shall contain a provision incorporating by reference the covenants, conditions, restrictions, servitudes, easements, charges and liens set forth in this Declaration; however, the failure to do so shall not (i) affect the validity of any such deed, or (ii) the enforceability of the covenants, restrictions, servitudes, easements, charges and liens set forth in this Declaration.

Section 16.9. Reserved Rights. No supplement or amendment to the Governing Documents may remove, revoke or modify any right, reservation or privilege of the Declarant without the prior written consent of the Declarant.

Section 16.10. Non-Association Disputes. The Association expressly has no right or obligation to intervene in any disputes between or among Owners or in any other matters that do not directly involve Community Property or other issues for which the Association has been conferred responsibility pursuant to the Governing Documents.

Section 16.11. Limitations. As long as the Declarant is the Owner of any portion of the Community, the Association may not use its financial resources to defray the costs of opposing any lawful development activities of the Declarant. Nothing in this Section shall be construed to limit the rights of Owners to act as individuals or in affiliation with other Owners or groups.

Section 16.12. Conveyance by the Declarant. The Declarant may convey unimproved or improved land to the Association to be held as Community Property, or may construct improvements on any Community Property. The consent of the Association shall not be required for such conveyance or construction. The Declarant shall have the right to permit the Association and its Members to enjoy and utilize land which has not been conveyed but which is intended to become Community Property. The Association shall have the right to maintain such property and levy Assessments for maintenance costs, notwithstanding that such property has not yet been conveyed to the Association.

Section 16.13. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

Section 16.14. Perpetuities. If any of the covenants, conditions, easements, restrictions, or other provisions of this Declaration shall be unlawfully void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Declaration to be signed
this 8th day of October, 2025.

WITNESS/ATTEST:

Sabrina Puck

DECLARANT:

CLEARCREEK HOLDINGS, LLC.,
a West Virginia limited liability company

By: Kristopher S. Antoline

Name: Kristopher S. Antoline

Title: Manager

#22185492v5

* * *

STATE OF WEST VIRGINIA

*

COUNTY OF Nicholas

*

to wit:

*

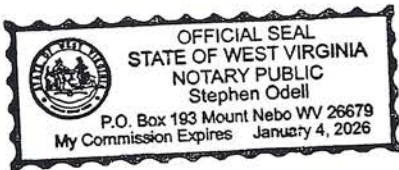
I HEREBY CERTIFY that on this 8th day of October, 2025, before me, a Notary Public in and for the State and County aforesaid, personally appeared Kristopher S. Antoline, known to me (or satisfactorily proven) to be the duly authorized Manager of Clearcreek Holdings, LLC., a West Virginia limited liability company, and that such person, being authorized to do so, executed the foregoing and annexed instrument on behalf of such limited liability company for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Steph O'Dell
Notary Public

My Commission Expires: 1/01/2026

[NOTARIAL SEAL]



**GAULEY RIVER ESTATES
DECLARATION
APPENDIX ONE**

*Definitions of Significant Terms
Used in the Governing Documents*

Act refers to the Uniform Common Interest Ownership Act, as incorporated as Chapter 36B in the West Virginia Code Annotated (2005).

Annexable Property refers to any real property that is permitted to be annexed to this Declaration.

Annual Assessments refer to assessments levied against all Lots within the Community which are subject to assessments to fund Common Expenses which are determined by the Executive Board to be for the general benefit of all Lots.

Architectural Review Board refers to the entity that shall exercise architectural approval and review authority at any particular time pursuant to Article 7 of this Declaration.

Articles of Incorporation or **Articles** refer to the Articles of Incorporation for Gauley River Estates Property Owners Association, Inc., as filed with the State of West Virginia.

Assessments refer to all Annual Assessments, Special Assessments, and other fees and charges, including all installments thereof, as may be levied by the Association in accordance with the Governing Documents.

Association refers to Gauley River Estates Property Owners Association, Inc., a West Virginia nonstock corporation, its successors and assigns, the entity which holds title to the Community Property and the entity responsible for carrying out the objectives of the Governing Documents.

Bylaws refer to the Bylaws Gauley River Estates Property Owners Association, Inc., as adopted by the Executive Board, as amended from time to time.

Common Expenses refer to the actual and estimated expenses of operating the Association incurred for the general benefit of all Lots, including any reasonable reserves, as determined by the Executive Board in accordance with the Governing Documents.

Community and/or **Property** refers to the real property described on Exhibit "A" attached hereto and all additional real property as may be annexed, from time to time, within the jurisdiction of the Association by the recordation of one or more Declarations of Annexation, in accordance with this Declaration. The Community is a planned community pursuant to the Act.

Community Areas refer to the Community Property, together with any other areas shown on the Community Plan, regardless of whether such areas are owned by the Association or are located within the Property, for which, pursuant to the Community Plan, this Declaration, any

Declaration of Annexation, any Community Code, any agreement or otherwise, the Association is intended to assume maintenance or other responsibilities.

Community Codes refer to the rules, regulations, standards and guidelines as may be promulgated from time to time in accordance with this Declaration, and which once promulgated, are as binding and enforceable as the Declaration.

Community Plan refers to the Declarant's plan for the development of the Property including the approved Subdivision Plan for the Property and all amendments, modifications and extension thereof as may be made from time to time. Given its dynamic nature, the Community Plan is subject to change from time to time in the sole discretion of the Declarant in order to address the changing needs of the Community, in response to changes in market conditions or for any other reason deemed necessary or desirable by the Declarant.

Community Property refers to all real property owned or leased by the Association (including the improvements thereto) for the common use and enjoyment of the Owners and includes, as may be applicable, all recreational facilities, storm water management facilities, private roads, and other required features that are to be constructed on the Community Property. Community Property shall include Exclusive Community Property. Community Property may also be referred to as common elements.

Community Systems shall mean and refer to any and all cable television, telecommunication, alarm/monitoring, internet, telephone or other lines, conduits, wires, amplifiers, towers, antennae, satellite dishes, equipment, materials, and installations and fixtures (including those based on, containing and serving future technological advances not now known), if installed by Declarant or pursuant to any grant of easement or authority by Declarant within the Property.

Declarant refers to Clearcreek Holdings, LLC., a West Virginia limited liability company its successors, transferees and assigns, provided, however, that no successor, transferee or assign of the Declarant shall acquire any of the Declarant's Rights and Obligations unless all or some of the Declarant's Rights and Obligations are specifically set forth and described in the instrument of succession, transfer or assignment.

Declarant's Rights and Obligations refers to any and all privileges, powers, easements, exemptions, rights and duties reserved to the Declarant in the Governing Documents, including in Appendix Two of this Declaration but shall not include the Declarant's power to appoint and remove the officers and members of the Executive Board as set forth in Section 15 (a) of this Declaration.

Declarant's Rights and Obligations Period refers to that period of time specified in Section 15.1 during which the Declarant may exercise the Declarant's Rights and Obligations.

Declaration of Annexation refers to any instruments and any amendment or supplement to such instrument, including, without limitation, any supplementary declaration of covenants, conditions and restrictions, recorded by the Declarant which expressly extends the provisions of this Declaration to the Annexable Property in accordance with Article 2 and/or which imposes

supplementary additions or modifications to this Declaration upon all or any portion of the Annexable Property or Property as deemed necessary or desirable by the Declarant.

Design Guidelines refers to the architectural guidelines and procedures as adopted from time to time in accordance with this Declaration.

Development Rights has the meaning set forth in Section 36B-1-103(14).

Executive Board or **Board** refers to the governing body of the Association as more fully described in the Bylaws and Articles of Incorporation of the Association.

Exclusive Community Property refers to any portions of the Community Property intended for the exclusive use or primary benefit of the Owners of more than one, but less than all, Lots. Exclusive Community Property may also be referred to as limited common elements.

Governing Documents refer to the Declaration, the Articles of Incorporation, the Bylaws, the Community Codes and any rules promulgated by the Executive Board, as the same may be promulgated and/or amended from time to time.

Lot refers to any portion of the Property, whether improved or unimproved, which is shown as a separate record lot or parcel on a plat of subdivision, which contains or is intended to contain a dwelling designed for use and occupancy by a single household; provided however, that an accessory structure within a single Lot containing living quarters in addition to the primary dwelling, the ownership of which is held by the same person, shall not be deemed a separate Lot. Each Lot shall be deemed a Unit under the Act.

Member refers to every person, group of persons, corporation, partnership, trust or other legal entity, or any combination thereof that holds any membership in the Association pursuant to this Declaration.

Mortgage refers to a mortgage, deed of trust, a deed to secure debt or any other form of security instrument affecting title to a Lot.

Mortgagee refers to an institutional or governmental holder of a Mortgage.

Owner refers to the record titleholder of any Lot, whether one or more Persons. The term Owner excludes those having an interest in a Lot merely as security for the performance of an obligation.

Percentage Interest shall refer the undivided interest appurtenant to each Lot, as set forth in Exhibit "B", with respect to the Common Expenses of the Association and rights to use the Community Property.

Person shall refer to a natural person, a corporation, a partnership, a limited liability company, a trustee, or any other legal entity.

Special Assessments refer to assessments levied in accordance with Section 5.5 of this Declaration.

Special Declarant Rights has the meaning set forth in Section 36B-1-103(31) of the Act.

Unit shall refer to a Lot and shall have the meaning set forth in the Act. The boundaries of each Unit is shown on the approved Subdivision Plan for the Property recorded in the Land Records of Nicholas County, West Virginia at Map Rack 2, Page 125.

EXHIBIT A

Phase 1:

Parcel 1

All that certain lot or parcel of real estate, with the improvements and appurtenances thereunto belonging, situate, lying and being in the Wilderness District, Nicholas County, West Virginia, located northwest off of County Route 41/5 and on Old Boley Road at Mt. Nebo and more particularly bounded and described as follows:

Beginning at a point; 5/8" rebar called for and found with a 5' metal fence post set; corner with Rivers Edge Development Lot 1, and Brooks M. Hall, JR. etals; thence leaving Hall and with Rivers Edge for two calls North 3 degrees 34 minutes 36 seconds West, a distance of 511.75 feet; to a point; 5/8" rebar called for and found with a 5' metal fence post set; from which a 6" poplar bears N 31 W 7 feet, a 7" cherry bears S 55 E 7 feet, and a 3" birch bears N 50 E 2.4 feet, thence North 34 degrees 45 minutes 57 seconds West, a distance of 324.91 feet; to a point; 5/8" rebar called for and found with a 5' metal fence post set; from which a 3" maple bears N 38 E 3-6 feet, and a 5" poplar bears S 2 W 7.8 feet; thence leaving Rivers Edge and through Wilderness for four calls North 58 degrees 17 minutes 42 seconds East, a distance of 567.25 feet; to a point at the center of Gauley Ridge Road (a 40' right of way); nail set; thence with the center of the road for two calls South 0 degrees 26 minutes 41 seconds East, a distance of 82.55 feet; to a point; nail set; thence South 7 degrees 25 minutes 58 seconds East, a distance of 73.95 feet; to a point; nail set; thence leaving the road North 67 degrees 06 minutes 08 seconds East, a distance of 817.56 feet; to a point; 5/8" rebar with a plastic cap and 5' metal fence post set; in the line of and corner with James F. Kelly, Ira A. Johnson, JR., and Katherine; from which a 12" maple bears S 66 E 2.6 feet; thence with Kelly for two calls South 38 degrees 07 minutes 46 seconds East, a distance of 755.42 feet; to a point; rockpile called for and found with a 5' metal fence post set; from which a 22" gum with three red marks found bears S 18 W 8.8 feet, the center of the creek bears S 60 W 30 feet, and a 16" hemlock bears N 85 W 24 feet; thence South 11 degrees 00 minutes 25 seconds East, a distance of 453.62 feet; to a point; rockpile found with a 5' metal fence post set; corner with Kelly and Theodore E. McClung, JR.; from which a 15" poplar bears N 11 W 5.3 feet, and a 12" hemlock bears N 45 E 3.8 feet; thence leaving Kelly and with McClung, also Bounds Lot 3, and Fred E. Nason, and Brooks M. Hall, JR. etals and crossing Old Boley Road South 82 degrees 49 minutes 59 seconds West, a distance of 1025.50 feet; to a point on the south side of Old Boley Road; thence continuing West along said line, a distance of 268.90 feet; to a point; 5/8" rebar called for and found with a 5' metal fence post set; corner with Hall; thence crossing Old Boley Road again South 82 degrees 54 minutes 20 seconds West, a distance of 299.79 feet to the place of beginning, containing 33.534 acres, more or less, as surveyed in January 2024 by Joseph P. Young, PS and PE; for Abby Technical Services PLLC, 200 Doe Run Road,

Exhibit "A"
(Description of Property)

Summersville, West Virginia 26651, and as shown on a plat of survey attached to that deed of record in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 562, at Page 677.

Parcel 2:

all that certain lot or parcel of real estate, with the improvements and appurtenances thereunto belonging, situate, lying and being in the Wilderness District, Nicholas County, West Virginia, located north off of Old Boley Road on Gauley Ridge Road at Mt. Nebo and more particularly bounded and described as follows:

Beginning at a point; 5/8" rebar called for and found with a 5' metal fence post set; corner with Rivers Edge Lot 1 and Lot 5; from which a 3" maple bears N 38 E 3.6 feet, and a 5" poplar bears S 2 W 7.8 feet; thence leaving Clearcreek Holdings and Rivers Edge Lot 1, and with Rivers Edge Lot 5 for two calls

North 34 degrees 45 minutes 57 seconds West, a distance of 308.39 feet; to a point; 5/8" rebar with a plastic cap called for and found with a 5' metal fence post set; thence

North 57 degrees 13 minutes 04 seconds West, a distance of 96.92 feet; to a point; 5/8" rebar with a plastic cap called for and found with a 5' metal fence post set; corner with Rivers Edge Lot 6; thence leaving Rivers Edge and through Wilderness Land Company, LLC for ten calls

North 50 degrees 21 minutes 27 seconds East, a distance of 830.46 feet; to a point on the southwest side of Arrowhead Drive; 5/8" rebar with a plastic cap and 5' metal fence post set; thence

continuing Northeast along said line, a distance of 20.00 feet; to a point at the center of Arrowhead Drive; thence with the center of Arrowhead Drive for two calls

South 60 degrees 14 minutes 14 seconds East, a distance of 86.44 feet; to a point; thence

South 58 degrees 37 minutes 00 seconds East, a distance of 97.83 feet; to a point at the intersection of Arrowhead Drive and Gauley Ridge Road; thence

North 86 degrees 10 minutes 18 seconds East, a distance of 20.00 feet; to a point on the east side of Gauley Ridge Road; 5/8" rebar with a plastic cap and 5' metal fence post set; thence leaving the road

North 83 degrees 03 minutes 06 seconds East, a distance of 237.29 feet; to a power pole; thence

South 87 degrees 54 minutes 58 seconds East, a distance of 58.45 feet; to a point on the northwest side of Creekside Road; 5/8" rebar with a plastic cap and 5' metal fence post set; thence crossing Creekside Road

North 66 degrees 00 minutes 06 seconds East, a distance of 54.92 feet; to a point on the southeast side of Creekside Road; 5/8" rebar with a plastic cap and 5' metal fence post set; thence leaving the road

South 73 degrees 39 minutes 53 seconds East, a distance of 74.94 feet; to a point in a rock pile; 5/8" rebar with a plastic cap and 5' metal fence post set; corner with John F. Kelly etals; thence with Kelly

South 38 degrees 07 minutes 46 seconds East, a distance of 411.09 feet; to a point; 5/8" rebar with a plastic cap and 5' metal fence post set; in the line of and corner with James F. Kelly, Ira A. Johnson, Jr., and Katherine and corner with Clearcreek Holdings LLC; from which a 12" maple bears S 66 E 2.6 feet; thence leaving Kelly and with Clearcreek for four calls

South 67 degrees 06 minutes 08 seconds West, a distance of 817.56 feet; to a point at the center of Gauley Ridge Road; thence with the center of Gauley Ridge Road for two calls

North 7 degrees 25 minutes 58 seconds West, a distance of 73.95 feet; to a point; thence

North 0 degrees 26 minutes 41 seconds West, a distance of 82.55 feet; to a point; thence leaving the road

South 58 degrees 17 minutes 42 seconds West, a distance of 567.25 feet to the place of beginning, containing 15.070 acres, more or less, as surveyed in September 2025 by Joseph P. Young, PS and PE; for Abby Technical Services PLLC, 200 Doe Run Road, Summersville, West Virginia 26651 and as shown on a plat of survey attached to that deed of record in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 578, at Page 172.

Exhibit B

Percentage Interest Phase 1 - Lots 1-11	
Lot / Unit No.	Percentage Interest
1	9.09%
2	9.09%
3	9.09%
4	9.09%
5	9.09%
6	9.09%
7	9.09%
8	9.09%
9	9.09%
10	9.09%
11	9.09%
	100.00%

Exhibit "B"
(Percentage Interests)

PUBLIC OFFERING STATEMENT

FOR

GAULEY RIVER ESTATES

A PLANNED COMMON INTEREST COMMUNITY

LOCATED AND SITUATE

IN

MOUNT NEBO

WILDERNESS DISTRICT, NICHOLAS COUNTY, WEST VIRGINIA

THIS DOCUMENT CONTAINS IMPORTANT INFORMATION WITH RESPECT TO MATTERS TO BE CONSIDERED IN ACQUIRING A UNIT WITHIN GAULEY RIVER ESTATES. THE PUBLIC OFFERING STATEMENT CONTAINS INFORMATION ON THE ORGANIZATION OF THE COMMON INTEREST COMMUNITY, DESCRIPTION OF THE UNITS AND COMMON ELEMENTS, THE ORGANIZATION OF THE ASSOCIATION, AND THE EXECUTIVE BOARD, WHICH GOVERNS THE COMMON INTEREST COMMUNITY. BUDGET, ASSESSMENT, AND COMMON EXPENSE INFORMATION IS CONTAINED IN THE DOCUMENT AS WELL. IT IS IMPORTANT TO REVIEW THIS INFORMATION TO GAIN AN UNDERSTANDING OF COMMON INTEREST COMMUNITY OWNERSHIP. THE STATEMENTS CONTAINED IN THIS PUBLIC OFFERING STATEMENT ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE PURCHASER SHOULD REFER TO ALL REFERENCES HEREIN, ALL EXHIBITS APPENDED HERETO, THE CONTRACTUAL INSTRUMENTS AND ALL OTHER SALES MATERIAL. ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING AND SETTING FORTH THE REPRESENTATIONS OF DECLARANT.

**PUBLIC OFFERING STATEMENT
FOR
GAULEY RIVER ESTATES
IN
MOUNT NEBO, NICHOLAS COUNTY, WEST VIRGINIA**

This is the Public Offering Statement required by the West Virginia law known as the Uniform Common Interest Ownership Act (Chapter 36B of the Code of West Virginia of 1931, as amended, hereinafter referred to as the "Act"). The Act requires that this offering statement be provided to any prospective purchaser of a common interest community Unit for the purpose of providing information pertinent to the ownership thereof. The information contained herein supersedes any representations previously made by Clearcreek Holdings, LLC., a West Virginia limited liability company (the "Declarant"), or any of their authorized agents or sales representatives. Terms used in this Public Offering Statement which are not defined herein will have the same meaning as in the draft form of Declaration attached hereto and discussed in Section VII to this Public Offering Statement (the "Declaration").

**THIS DOCUMENT CONTAINS IMPORTANT
INFORMATION PROVIDED FOR YOUR
PROTECTION. PLEASE READ IT CAREFULLY.**

NAME AND ADDRESS OF

COMMON INTEREST COMMUNITY: Gauley River Estates
PO Box 311
Mount Lookout, WV 26678

**NAME AND ADDRESS OF
DECLARANT:**

Clearcreek Holdings, LLC
a West Virginia limited liability company
PO Box 2344
Beaver, WV 25813

**EFFECTIVE DATE OF THIS
OFFERING STATEMENT:**

October 22nd, 2025

ARTICLE I
STATUTORY NOTICE

Each prospective purchaser of a Gauley River Estates unit ("Unit") in the development is hereby notified as follows:

1. WITHIN FIFTEEN DAYS AFTER RECEIPT OF THIS PUBLIC OFFERING STATEMENT A PURCHASER, BEFORE CONVEYANCE, MAY CANCEL ANY CONTRACT FOR THE PURCHASE OF A UNIT FROM THE DECLARANT.

2. IF THE DECLARANT FAILS TO PROVIDE A PUBLIC OFFERING STATEMENT TO A PURCHASER BEFORE CONVEYING A UNIT, THAT PURCHASER MAY RECOVER FROM DECLARANT TEN PERCENT OF THE SALES PRICE OF THE UNIT PLUS TEN PERCENT OF THE SHARE, PROPORTIONATE TO HIS OR HER COMMON EXPENSE LIABILITY, OF ANY INDEBTEDNESS OF THE ASSOCIATION SECURED BY SECURITY INTERESTS ENCUMBERING THE COMMON INTEREST COMMUNITY: PROVIDED, THAT PURCHASER IS REQUIRED TO SHOW THAT HE OR SHE HAS BEEN ACTUALLY DAMAGED AS A RESULT OF THE FAILURE TO PROVIDE OFFERING STATEMENT AND THAT HIS OR HER ACTION TO RECOVER SUCH DAMAGE AND THE PENALTY PROVIDED IN THIS PARAGRAPH IS INSTITUTED WITHIN THREE YEARS FROM THE DATE ON WHICH PURCHASER'S RIGHT OF ACTION SHALL HAVE ACCRUED.

3. IF A PURCHASER RECEIVES THIS PUBLIC OFFERING STATEMENT MORE THAN FIFTEEN DAYS BEFORE SIGNING A CONTRACT FOR PURCHASE OF A UNIT FROM DECLARANT, HE/SHE CANNOT CANCEL THAT CONTRACT.

4. ANY DEPOSIT MADE BY A PURCHASER IN CONNECTION WITH THE PURCHASE OF A UNIT IS TO BE HELD IN AN ESCROW ACCOUNT AS HEREINAFTER DESCRIBED UNTIL CLOSING AND WILL BE RETURNED TO THE PURCHASER WITHOUT PAYMENT OF INTEREST IF THE PURCHASER CANCELS THIS CONTRACT AS PROVIDED IN SECTION 4-108 OF THE ACT WITHIN THE APPLICABLE RESCISSION PERIOD.

NOTICE:

THE PURCHASER OF A UNIT ACQUIRES CERTAIN COMPLEX RIGHTS AND OBLIGATIONS. PURCHASERS ARE URGED TO CONSULT WITH THEIR ATTORNEYS OR OTHER ADVISORS AND TO PROVIDE THEM WITH A COPY OF THIS OFFERING STATEMENT BEFORE COMPLETING THE PERFORMANCE OF THEIR AGREEMENT TO PURCHASE.

ARTICLE 2
THE COMMON INTEREST FORM OF OWNERSHIP GENERALLY

Gauley River Estates, which is comprised of lots, known as Units and common elements, is governed by the Act, and is considered, for purposes of law, as a common interest community or common interest form of ownership. It is a planned community, located and situate in Wilderness District, Nicholas County, West Virginia.

A common interest community is a form of property ownership which, in effect, combines two older forms of ownership. The Unit owner is (1) the sole owner of the entire unit for a residential lot and, (2) one of many mutual owners (legally speaking, "tenants in common") of common facilities which service his or her unit and of common areas ("Common Elements") which the unit owner may use and enjoy along with owners of other units. Each individual unit owner has an "interest" in the common elements through their membership in the Homeowner Association, which means that all Unit Owners have a share in the cost and expense of all common elements. Each unit owner, through membership in the Homeowner Association has the right to share in the control of all the common elements (subject to a Declarant's reserved rights, if any, of control as set forth in the legal documents forming and governing the common interest community) and imposes upon the unit owner the obligation to pay a defined share of the expenses (the "common expenses") of operating and maintaining all the common elements. A common interest community may also contain limited common elements ("limited common elements") which consist of those common elements which are designated in the legal documents as reserved for the use of less than all of the units, to the exclusion of all other units.

The Declarant will reserve a right of first refusal to purchase any Unit sold in the future, which right shall remain in force and effect for the duration of Declarant's Reserved Rights and Obligations as set out in the Declaration. Declarant may earlier terminate said right of first refusal in Declarant's sole discretion. In addition, a Unit Owner purchasing from the Declarant will not be permitted to transfer his/her Unit for a period of twelve (12) months. Thereafter, subject to the aforesaid reservation each Unit Owner is free to sell or otherwise transfer his/her Unit. Each Unit Owner is free to mortgage a unit, to have exclusive possession thereof and to be free of any liens arising out of mortgages placed by other Unit Owners on their respective units. The Unit will be taxed as a separate unit for real estate purposes, and the Unit Owner will not be responsible for the failure of his/her neighbors to pay their real estate taxes.

Common interest ownership also has additional characteristics that are not normally associated with home ownership. The administration, maintenance, repair and management of the common elements are the responsibility of the Executive Board ("Executive Board") of the Unit Owners association, known as the Gauley River Estates Property Owners Association, Inc., (the "Association") which consists of individuals who shall be appointed initially by the Declarant and elected subsequently by all of the Unit Owners. A purchaser of a Unit automatically becomes a member of the Association upon his or her purchase. There are certain rules and regulations which may be promulgated by the Declarant or by the Association or through its governing body, the Executive Board, to which all Unit Owners will be subject and required to comply. Such rules include the

regulation of the manner in which the unit owner may use, enjoy and maintain his/her unit so as not to impair the use and enjoyment of other Unit Owners.

All of the above stated provisions are applicable to the Units.

ARTICLE 3
MOUNT NEBO, WEST VIRGINIA

The Units will be located approximately as shown on Attachment I attached hereto and made a part hereof, as more fully shown on that plat of Gauley River Estates Phase 1, of record in the Office of the Clerk of the county Commission of Nicholas County, West Virginia in Map Rack 2, Page 125, and is near Mount Nebo in Nicholas County, West Virginia. Mount Nebo is quiet, safe and far removed from the hustle and bustle of living in a metropolitan area. The surrounding area has a wealth of opportunities for four season recreation, including skiing, white water rafting, hunting, fishing, mountain biking, leisure biking and hiking in the national forests are all within an approximately one hour drive. Adventure, festivals, arts and culture, excursion train rides, are all located in Nicholas County area. New hotels and restaurants are available for visitors and tourists, the towns of Summersville and Fayetteville provide a cultural backdrop with many of their respective resources available to the public.

ARTICLE 4
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ARTICLE 5
DESCRIPTION OF GAULEY RIVER ESTATES

A. Generally.

Gauley River Estates will be constructed in multiple Phases, the first Phase will consist of up to 11 Units upon which single family dwellings will be constructed.

The single-family dwellings on the Units shall begin being constructed, as Units are purchased. The square footage of the single-family dwellings will be at least 1,500 square feet and may include a detached garage.

C. Units. There will be eleven (11) Unit within Phase I of Gauley River Estates, and additional future Phases, **which need not be built** may contain up to two hundred (200) units, which includes Phase I and all future Phases.

D. Boundaries of Units. Generally, each Unit within the Community will consist of the space bounded by its property boundaries, as more fully set forth in the Declaration and shown on the applicable plat depicting the Unit.

E. Appurtenant Easements. The following easements and rights shall be a part of and appurtenant to Gauley River Estates:

1. Any utility easements and all other easements granted and reserved in the Declaration, including without limitation, those described in Article 10 of the Declaration.

2. A non-exclusive easement over and across property of the Community for the purpose of access to and from Old Boley Road and the Community along with a non-exclusive right to connect to the existing electrical distribution lines, telephone distribution lines, storm water drainage system and propane pipeline providing services to Gauley River Estates, all as more fully described in the Declaration.

F. General Common Elements. The General Common Elements of Gauley River Estates consist of all of Gauley River Estates other than the Units and the Limited Common Elements as herein described. This Public Offering Statement will be updated when and to the extent possible with a schedule for commencement and completion of improvements. Without limiting the generality of the foregoing, the General Common Elements include without limitation:

1. Any parcels of real property and improvements and fixtures located thereon owned by the Association and that are used or possessed by the Unit Owners.

2. Any parcels of real property and improvements and fixtures located thereon owned by others, but which the Association has rights of use or possession and that are used or possessed by the Unit Owners.

G. Limited Common Elements. "Limited Common Elements" include, without limitation:

a. Any areas and improvements that are designed to serve fewer than all of the Units;

b. Any physical portion of the Units that is designated on the Map of the Common Interest Community which will be attached to the Declaration as "Limited Common Element" or "LCE".

H. Common Elements. All of the Common Elements shall be owned or controlled by the Association. Each owner of a Unit within the Common Interest Community is responsible for a percentage of the expenses related to the Common Elements which percentage can only be amended by unanimous consent of all Unit Owners except as otherwise provided in the Act. The amount for which each Unit Owner is responsible in General Common Elements expenses will be calculated in accordance with the following formula:

Percentage owed for Expenses related to General Common Elements = 1 divided by the Total Community Units

The **percentage owed for expenses related to** General Common Elements for all Units in Phase I are set forth on Attachment II attached hereto. If any Units are added to or withdrawn from the Common Interest Community, the percentage for all Units within the Common Interest Community after such addition or withdrawal shall be recalculated in accordance with the above formula.

I. Voting Rights. The total number of votes appurtenant to the Units of Phase I will be one vote per Unit.

As Units are added to or withdrawn from Gauley River Estates, the total number of votes allocated to all Units and the allocation thereof after such addition, withdrawal, increase or decrease shall continue to remain, each Unit shall be entitled to one vote.

Cumulative voting shall be used for the purpose of electing directors, but for no other purpose.

J. Declarant Control Period. By statute, the Declarant is permitted to retain control of the Association through the Declarant Control Period. The phrase "Declarant Control Period" means the period commencing on the date on which Declarant forms the Association and ending on the earliest to occur of: (i) sixty (60) days after seventy-five percent (75%) of the total Lots that may be created have been conveyed to purchasers other than the Declarant, (ii) two (2) years after the Declarant has ceased to offer Lots for sale in the ordinary course of business, or (iii) two (2) years after any right to add new Lots was exercised; provided however, that other specific rights and obligations may expire earlier or extend for a longer period of time by virtue of their being tied to the occurrence of certain other events.

K. Use, Maintenance and Repair of Common Elements. The Common Elements may be used by Unit Owners and their guests in accordance with such rules and regulations as are from time to time promulgated by the Association. The maintenance, repair and management of the Common Elements will be the responsibility of the Association which may contract with such persons, firms or corporations as it may choose for the performance thereof. All Owners will share in the expenses incurred by said Association based upon their Share of Common Expenses as indicated in the Declaration.

ARTICLE 6

DEVELOPMENT RIGHTS

In the Declaration, the Declarant reserves certain development rights. The Declarant reserves the right to construct on the Property or on any other real estate owned by Declarant, buildings, structures or improvements. This will not affect any Unit's Interest in Common Elements, Share of Common Expenses or voting rights.

One of these development rights includes the right to build and add Phase II and additional Phases, discussed above. Phase II and any additional Phases will be compatible

with Phase I in terms of architectural style, quality of construction and size. Phase II and any additional Phases will be located at the approximate location shown on Attachment I hereto. If developed, Phase II and any additional Phases, together with Phase I, may include up to two hundred (200) additional Units, although Declarant reserves the absolute right to modify the current plans for Phase II, which may not be incorporated into the common interest community, developed or built and any additional Phases, which may not be incorporated into the common interest community, developed or built. All restrictions in the Declaration effecting use, occupancy, and alienation of Units in Phase I will apply to any Units in Phase II and any additional Phases.

In addition, the Declarant reserves the right to construct on the Property or on any other real estate owned by Declarant additional buildings, structures or improvements. This will not affect any Unit's Interest in Common Elements, Share of Common Expenses or voting rights.

There shall be a maximum of two hundred (200) Units that may be created. There shall not be a maximum number of Units that may be created per acre, except in compliance with the maximum number of Units. All Units created shall be restricted exclusively to single family residential use. However, Declarant has expressly reserved the right to maintain sales offices, management offices and models and conduct those activities reasonable and necessary with respect to renting, leasing, operating and maintaining Units in Gauley River Estates.

Under Article 15 of the Declaration, Declarant expressly reserves the right to exercise any and all Development Rights and Special Declarant Rights. For the purpose of providing a description of such Development Rights and Special Declarant Rights, and any conditions relating to or limitations upon the exercise of the same, reference is made to Article 15 of the Declaration.

No assurances are made with respect to compatibility of any existing building and improvements and any buildings or other improvements that may be created pursuant to any development rights, in terms of architectural style, quality, of construction, and size, within any part of Gauley River Estates pursuant to any Development Right reserved by Declarant.

No assurances are made with respect to other improvements that may be made and limited common elements that may be created within any part of Gauley River Estates pursuant to any Development Right reserved by Declarant.

No assurances are made with respect to the locations of any building, structure or improvements that may be constructed, erected or built within any part of Gauley River Estates pursuant to any Development Right reserved by Declarant.

No assurances are made with respect to any limited common elements created or that may be created pursuant to any Development Right reserved by Declarant and no assurances are made that the same shall be of the same general types and sizes as the limited common elements within the other parts of Gauley River Estates.

No assurances are made as to the proportion of limited common elements to Units created pursuant to any Development Rights reserved by Declarant.

No assurances are made that all the conditions, covenants, restrictions, exceptions, reservations, easements, rights of way and limitations set forth and contained in the Declaration shall apply to all Units created pursuant to any Development Right reserved by Declarant.

In the event any Development Right is not exercised by Declarant, any assurance made within this paragraph which is relative to such Development Right shall not apply.

Although at this time Declarant has no plan to exercise the following special development rights, Declarant has reserved the right to subdivide any Unit owned by the Declarant, to combine any Units owned by the Declarant, to convert any Unit owned by the Declarant into Common Elements, to combine the Association into a Master Association, to withdraw from the Association any real estate owned by the Declarant and located within the property prior to the conveyance of a Unit to a purchaser, along with all other rights granted to the Declarant in section 2-122 of the Act.

ARTICLE 7

GAULEY RIVER ESTATES DOCUMENTS

The following is a brief, narrative description of the significant features of the Declaration and Bylaws by which Gauley River Estates Units are to be formed and operated:

A. The Declaration. Under the provisions of the Act, a common interest community may be created by recording a declaration executed in the same manner as a deed by all persons whose interests in the real estate will be conveyed to Unit Owners. The declaration must be recorded in the county in which the common interest community is located. The declaration is the basic legal document which submits the site of the project to a common interest community form of ownership. The declaration includes the name of the common interest community and the county in which it is located, a legally sufficient description of the real estate to be included in the common interest community, a description of the boundaries of each unit including the unit's identifying number, description of all common elements and limited common elements, the allocation to each unit of an undivided interest in the common elements, a portion of the votes in the Association and a percentage or fraction of the common expenses of the Association, any restrictions on use, occupancy and alienation of the units, descriptions of easements and licenses appurtenant to or included in the common interest community and any other matters the Declarant deems appropriate. The Declaration sets forth the reserved rights of the Declarant, including the right to exercise any and all Development Rights and Special Declarant Rights, as set forth in the Act. The Declaration provides for an Architectural Review Committee which will exercise certain powers over the development and other aspects of Gauley River Estates. A copy of the Declaration (less plats and plans) to be used

in creating the common interest community is attached hereto as Attachment III. The Declarant reserves the right to make changes in the final recorded Declaration provided such changes in no way substantially affect the representations made in the Public Offering Statement.

B. Bylaws. The Act requires that a Unit Owners Association be organized no later than the date the common interest community is created and the first Unit is conveyed. The membership of the Association for this common interest community at all times shall consist exclusively of all Owners and shall be organized as a non-profit corporation. The proposed Articles of Incorporation for the Association are attached as Attachment IV. The Bylaws for the common interest community, a copy of which are attached hereto as Attachment V (the "Bylaws"), contain the rules for the structure, operation and management of the Association. The Bylaws provide for the number of members of the Executive Board and the titles of the officers of the Association; election by the Executive Board of a president, treasurer, secretary and any other officers of the Association provided in the Bylaws; the qualifications, powers, duties, terms of office and manner of electing and removing Executive Board members and officers and filling of vacancies; which if any of its powers of the Executive Board of officers may delegate to other persons or to a managing agent and any other matters the Association deems necessary and appropriate. The Bylaws further provide for the number of meetings and the means of calling said meetings with notice thereof, and what constitutes a quorum, voting by proxy.

NOTICE

THE DECLARATION AND BYLAWS PROVIDE THAT UNTIL THE EARLIER OF ONE OF THE FOLLOWING EVENTS OCCUR, THE DECLARANT WILL HAVE THE RIGHT TO APPOINT AND REMOVE ALL DIRECTORS AND OFFICERS OF THE ASSOCIATION:

(i) 60 DAYS AFTER CONVEYANCE TO PURCHASER OF 75 PERCENT OF THE MAXIMUM NUMBER OF UNITS THAT MAY BE CREATED BY THE DECLARANT IN THIS COMMON INTEREST COMMUNITY;

(ii) TWO YEARS AFTER DECLARANT HAS CEASED TO OFFER UNITS FOR SALE IN THE ORDINARY COURSE OF BUSINESS OR

(iii) TWO YEARS AFTER THE RIGHT TO ADD ANY NEW UNITS WAS LAST EXERCISED.

THE DECLARATION AND BYLAWS FURTHER PROVIDE THAT NOT LATER THAN 60 DAYS AFTER THE CONVEYANCE OF 25 PERCENT OF THE UNITS TO OWNERS OTHER THAN THE DEVELOPER ONE DIRECTOR APPOINTED BY THE DECLARANT SHALL BE REPLACED WITH A DIRECTOR ELECTED BY OWNERS OTHER THAN THE DECLARANT. NOT LATER THAN 60 DAYS AFTER THE CONVEYANCE OF 50 PERCENT OF THE UNITS TO OWNERS OTHER THAN THE DEVELOPER NOT LESS THAN THIRTY-THREE AND ONE THIRD PERCENT OF THE MEMBERS OF THE EXECUTIVE BOARD MUST BE ELECTED BY UNIT

OWNERS OTHER THAN THE DECLARANT NOT LATER THAN 30 DAYS AFTER THE DECLARANT CONTROL PERIOD EXPIRES, OWNERS SHALL ELECT A NEW EXECUTIVE BOARD OF THEIR DIRECTORS, AT LEAST A MAJORITY OF WHOM MUST BE OWNERS OTHER THAN DECLARANT OR DESIGNATED REPRESENTATIVE OF OWNERS OTHER THAN THE DECLARANT.

ADDITIONAL NOTICE

THERE ARE NO CONTRACTS OR LEASES THAT WILL OR MAY BE SUBJECT TO CANCELLATION BY THE ASSOCIATION UNDER THE PROVISIONS OF THE ACT. (§36-B-3-105) OTHER THAN VARIOUS MANAGEMENT CONTRACTS ENTERED INTO BY THE ASSOCIATION DURING THE TIME THE ASSOCIATION IS CONTROLLED BY THE DECLARANT AS PROVIDED IN THE DECLARATION.

ARTICLE 8 CURRENT BALANCE SHEET AND PROJECTED BUDGET FOR THE ASSOCIATION

There is not a current balance sheet for Gauley River Estates. A projected budget for the Association for one year after the date of the first conveyance to a purchaser, which identifies who prepared the budget and a statement of the budget's assumptions concerning occupancy and inflation factors is attached hereto as Attachment VI. The budget includes a list of projected Common Expense assessments by category of expenditures for the Association, the projected monthly Common Expense assessment for each type of Unit, a statement of the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement and a statement of any other reserves.

NOTICE

DECLARANT ASSERTS THAT EXCEPT AS NOTED IN THIS OFFERING STATEMENT THERE ARE NO SERVICES NOT REFLECTED IN THE BUDGET THAT IT WILL PROVIDE OR EXPENSES IT WILL PAY THAT IT EXPECTS MAY BECOME AT ANY SUBSEQUENT TIME A COMMON EXPENSE OF THE ASSOCIATION NOR IS THERE ANY INITIAL OR SPECIAL FEE FROM THE PURCHASER AT CLOSING EXCEPT AS HEREINAFTER PROVIDED.

ARTICLE 9 ENCUMBRANCES ON OR AFFECTING TITLE TO THE GAULEY RIVER ESTATES

1. A non-exclusive easement that may be granted to Declarant or any affiliate of Declarant to permit Declarant or any affiliate of Declarant or their employees, agents, independent contractors, tenants, licensees, invitees and guests to provide access to

and from the Property, and to and from the other properties owned or declared by Declarant or any affiliate of Declarant.

2. Additional Easements Reserved for the Declarant. All easements reserved to the Declarant or any of its affiliates in the Declaration, including the easements described in the Declaration or shown on the Plat or Plats of Gauley River Estates.

3. Lien of Real Estate Taxes. Under the constitution and the statutes of the State of West Virginia, real estate and interests therein are subject to the lien for the payment of real estate taxes as imposed by the County Commission of each County. Property is valued by the County Assessor each year and the statutory lien for the payment of real estate taxes for the forthcoming year becomes a lien on July 1 of each year. The Common interest community site is now subject to a lien for the payment of taxes for the year 2026 which taxes became a lien as of July 1, 2025. As of July 1, 2026, a lien for the payment of 2027 taxes takes effect. Declarant agrees that it will pay all taxes for the year 2026 since the Common interest community will not be separately assessed on the Land Books of Nicholas County until July 1, 2027 at the earliest. Declarant shall apportion taxes for sales of Units in 2025 and 2026 based upon a reasonable formula. Thereafter each Unit will be assessed separately in the name of the recorded owner thereof and the payment of real estate taxes will be the responsibility of said Unit Owner. The constitution and statutes of West Virginia provide that failure to provide real estate taxes within certain prescribed time limits can result in a loss of title to the property through public sale for delinquent taxes.

4. Known Liens or Encumbrances Affecting Title: In addition to any matters as set forth in the Declaration or shown on the Plat or Plats of Gauley River Estates, the following is a list of known liens and/or encumbrances affecting title to Gauley River Estates. A complete title search of or update of title to the common interest community or individual Units may reveal additional encumbrances affecting title. In addition, an ALTA survey of the common interest community or individual Units may reveal additional encumbrances affecting title or render encumbrances inapplicable.

- a. That certain reservation for a period of twenty-five (25) years from November 13, 2006 by MeadWestvaco Corporation of the right to receive any overriding royalty equal to five percent (5%) of the gross sales proceeds received upon the production and sale of any of the minerals within the tract of land hereby conveyed, including, but not limited to, any and all oil, gas, coal, silver, gold, copper, lead, zinc or other minerals or metals, as set out in those certain Deeds dated November 13, 2006 and of record in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book 436, at Page 265 and in Deed Book 436, at Page 279.
- b. Deed dated November 13, 2006, from Mountain State Development L.P., to Wilderness Land Company, LLC, a West Virginia limited liability company, conveying 1,694.248 acres, more or less, Wilderness District, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 450, at Page 379. The Grantor herein retains and

reserves the right for a period of 25 years from the date hereof to receive from the Grantee, its successors and assigns, an overriding royalty equal to 5% of the gross sale proceeds received upon the production and sale of any of the minerals within the tract of land hereby conveyed, including, but not limited to, any and all oil, gas, coal, silver, gold, copper, lead, zinc or other minerals or metals.

- c. Those exceptions numbered 1 thru 10 as set forth in those certain Deeds dated November 13, 2006 and of record in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book 436, at Page 265 and in Deed Book 436, at Page 279.
- d. Memorandum of Paid Up Oil and Gas Lease effective March 30, 3010 [sic], by and between Wilderness Land Company, LLC, by Larry J. Ickes, managing member, to BRC Working Interest Company LLC, a Delaware limited liability company, covering 1,701 acres, more or less, Wilderness District, for the primary term of 5 years, and to continue so long thereafter as oil, condensate or gas is produced from the leased premises or lands unitized therewith, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Lease Book No. 72, at Page 339.
- e. A right-of-way dated August 11, 2010, from Wilderness Land Company LLC, a West Virginia limited liability company, to Appalachian Power Company, a Virginia corporation, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 463, at Page 646.
- f. A right-of-way dated August 11, 2010, from Wilderness Land Company LLC, a West Virginia limited liability company, to Appalachian Power Company, a Virginia corporation, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 463, at Page 648.
- g. A right-of-way dated August 11, 2010, from Wilderness Land Company LLC, a West Virginia limited liability company, to Appalachian Power Company, a Virginia corporation, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 463, at Page 650.
- h. Right-of-Way Agreement dated October 24, 2014, from Wilderness Land Company LLC, a West Virginia Limited Liability Company, to Appalachian Power Company, a Virginia corporation, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 490, at Page 792.
- i. Easement and Right of Way dated June 17, 2024, from Clearcreek Holdings LLC, a West Virginia Limited Liability Company, to Appalachian Power Company, a Virginia corporation and as a unit of American Electric Power,

over 33.53 acres, more or less, Wilderness District, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 569, at Page 492.

- j. Easement and Right-of-Way dated September 10, 2025, from Wilderness Land Company LLC, a West Virginia Limited Liability Company, to Appalachian Power Company, a Virginia corporation and a unit of American Electric Power, over 133.47 acres, more or less, being part of Tax Map 7, Parcel 1, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 578, at Page 63.
- k. Easement and Right of Way dated September 10, 2025, from Clearcreek Holdings LLC, a West Virginia Limited Liability Company, to Appalachian Power Company, a Virginia corporation and a unit of American Electric Power, over 33.53 acres, more or less, Wilderness District, recorded in the Office of the Clerk of the County Commission of Nicholas County, West Virginia, in Deed Book No. 578, at Page 67.

ARTICLE 10
FINANCING OF PURCHASE OF UNITS BY PURCHASERS

Purchasers may obtain financing from any lender or may pay all cash in settlement. Although Declarant has provided prospective purchasers with names of interested lenders, the Declarant has made no arrangements for financing for prospective purchasers.

ARTICLE 11
SETTLEMENT COSTS AND EXPENSES

The Declarant will pay one half of the West Virginia State Excise Tax on the privilege of transferring real estate and for the preparation of the deed to the purchaser for the Unit. All other costs of settlement shall be paid by the purchaser. These costs of settlement may include, but may not be limited to, the following: one half of the West Virginia State Excise Tax on the privilege of transferring real estate, a loan origination fee, private mortgage insurance premium, a combination mortgagee's title insurance and owner's title insurance premiums, clerk's fee for deed recordation, clerk's fee for deed of trust recordation, credit report fee, appraisal fee, title examination fee, loan document preparation fee, and settlement fee.

The purchaser will be required to pay monthly (in advance) to the Association the Share of Common Expenses allocable to his/her Unit, in addition, at closing, the initial purchaser of a Unit shall pay a one-time assessment (the "Initial Contribution") of Five Hundred (\$500.00) Dollars. In addition, a one-time road bond fee of One Thousand (\$1,000.00) Dollars must be paid prior to commencement of construction. The road bond will be held by the Association for future road repairs and maintenance. Common Expenses payable for the month in which settlement occurs shall be adjusted on a per diem basis as of the settlement date. The Share of Common Expenses to be assessed against

each Unit is fixed by the Declaration. The Share of Common Expenses for the first year of operation (based on full occupancy) for each Unit are set forth in the Projected Association Budget attached hereto as Attachment VI.

NOTICE

THE ASSOCIATION HAS THE RIGHT TO MAINTAIN (i) A CAPITAL RESERVE FUND FOR THE REPAIR, REPLACEMENT AND RESTORATION OF COMMON ELEMENTS, AND (ii) A GENERAL OPERATING RESERVE. THE GENERAL OPERATING RESERVE MAY BE USED TO PAY OPERATING EXPENSES AND TO PURCHASE, MAINTAIN AND REPLACE PERSONAL PROPERTY OWNED BY THE ASSOCIATION. IN ADDITION TO THE PRORATED ASSESSMENT, THE PURCHASER SHALL BE REQUIRED TO PAY AT CLOSING, TO THE DECLARANT AS AGENT FOR THE ASSOCIATION, AN AMOUNT EQUAL TO 25 PERCENT OF THE ASSOCIATION'S ESTIMATE OF COMMON EXPENSES FOR THE FISCAL YEAR IN WHICH THE SALE OF THE UNIT OCCURS. PAYMENTS BY PURCHASERS TO THE ASSOCIATION AT CLOSING AS AFORESAID SHALL NOT BE CREDITED AGAINST OR RELIEVE PURCHASERS FROM THEIR OBLIGATION TO PAY ASSESSMENTS LEVIED AGAINST THE UNITS BY THE ASSOCIATION. THIS PAYMENT TO THE RESERVE FUND DOES NOT APPLY TO THE DECLARANT.

ARTICLE 12 **UTILITIES AND SERVICES**

An Owner of a Unit will be responsible for obtaining all utilities and services for their Unit, including but not limited to electric, water, gas, telephone, sanitation, septic, propane or natural gas, cable television, internet access and trash removal services, etc. for its Unit and the Limited Common Elements designed to serve only its Unit and shall pay all costs, expenses, fees, rates and other charges incurred in connection therewith directly to the company providing the same. Common Expenses incurred by the Association for electric services, or other utility services as applicable, necessary for General Common Elements will be allocated among Units in accordance with their proportionate Share of Common Expenses.

The Association shall allocate all Common Expenses for such services among all Units and charge the Owners of the Residential Units in accordance with their Shares of Common Expenses.

ARTICLE 13 **TERMS AND LIMITATIONS OF ANY WARRANTIES** **PROVIDED BY THE DECLARANT**

A. **Statutory Warranties.** The Declarant gives the statutory warranties set forth in Sections 36B-4-113 and 114 of the Act. A Purchaser, prior to becoming a Unit

Owner, shall execute a separate instrument, which may be substantially similar in form to the proforma deed appended as Attachment VII, which, as between Declarant and such Purchaser, shall, among other things, (i) waive such Purchaser's statutory right to commence a judicial proceeding against Declarant for breach of express and implied warranties of quality within six (6) years after such a cause of action accrues; (ii) release Declarant from such six (6) year limitation period; and (iii) impose upon and make such Purchaser subject to a reduced period of limitation of two (2) years from the accrual of such a cause of action.

B. **Warranties of Title.** The Units will be sold by Declarant, in fee simple, to purchasers who may be individuals, partnerships, corporations or fiduciaries. Units will be sold together with their respective undivided interest in the Common Elements. Marketable title to each Unit and its appurtenant interests in the Common Elements will be conveyed by Declarant by general warranty deed, free and clear from all liens and encumbrances other than those described elsewhere in this Public Offering Statement and the Common Interest Community Documents and the Deed to Declarant conveying the Land to Declarant.

NOTICE

DECLARANT MAKES NO UNDERTAKINGS OR WARRANTIES EXCEPT AS DESCRIBED IN THIS OFFERING STATEMENT.

ARTICLE 14 **RESTRAINTS ON ALIENATION**

All Units in the Common interest community shall be used only for residential purposes. The initial owner of a Unit (other than Declarant) may not resale the Unit for a period of one year after purchasing the Unit from the Declarant, unless a home is constructed and ready for occupancy upon the Unit. The Declarant may reserve a right of first refusal for each Unit sold that would terminate upon the expiration of Declarant's Reserved Rights and Obligations as set out in the Declaration. Other restraints on alienation and use of the Units are set forth in the Declaration.

ARTICLE 15 **INSURANCE COVERAGE PROVIDED** **FOR BENEFIT OF UNIT OWNERS**

A. **Insurance Required to be Obtained By the Association.**

The Association shall obtain and maintain all insurance required to be obtained and maintained by the Association under the Insurance Act and any additional insurance that the Executive Board deems necessary.

B. Casualty Insurance for Improvements.

1. The Association shall obtain and maintain casualty insurance for all Improvements located on or forming a part of the Common Elements, including, without limitation, in accordance with the requirements set forth in Section A above.

2. Owners shall be responsible for obtaining and maintaining any casualty insurance that they desire for Improvements located in or forming a part of their Units, and for any fixture, furnishings and equipment, other than fixtures and equipment that are part of the Common Elements, located within their Units.

C. Adjustments. Any loss covered by insurance maintained by the Association shall be adjusted with the Association in accordance with the terms and conditions of the Act. The insurance proceeds for any such loss shall be paid in accordance with the terms and conditions of the Act.

ARTICLE 16
FEES OR CHARGES FOR USE OF COMMON ELEMENTS

Declarant may impose fees or charges upon the Owners for the use of the Common Elements at any time during which it controls the Association and its Executive Board. Once the Association is controlled by the Owners, the Association will have the option to impose or modify such fees and charges if it so desires.

ARTICLE 17
CONSTRUCTION FINANCING

As of the date of this offering statement, the Declarant has capital, which the Declarant deems sufficient to construct and install the infrastructure. The Declarant may accept whatever additional financial commitments in its best judgment it deems necessary and most favorable.

ARTICLE 18
TERMS OF THE OFFERING

Purchase agreements or reservations may not be assigned without the written consent of the Declarant. Except for a period of twelve (12) months after closing (unless a home is constructed and ready for occupancy), and the reservation by Declarant of a right of first refusal to purchase each unit, there are no restrictions on the transfer or resale of a Unit by an Owner. Units, of course, cannot be separated from their undivided interest in the Common Elements. Section 36B-4-109 of the Act requires a Unit seller (other than the Declarant) to obtain from the Association and to furnish his or her purchaser certain statements regarding the Common interest community. Any purchaser who resells the Unit should refer to the foregoing statutory provisions.

ARTICLE 19
DOWN PAYMENTS AND ESCROW REQUIREMENTS

A. Deposits Required. The units shall be sold utilizing a contract. A deposit in an amount agreed upon by the parties to a purchase contract is required of the purchaser at the time of execution and delivery each contract of sale, for the Unit.

B. Reservation deposits. Purchasers who have remitted reservation deposits in the amount agreed upon by the parties to the purchase contract shall have that amount applied to the balance of the purchase price of the Unit.

C. Escrow Requirements. With respect to the disposition of purchaser's deposits, Section 36B-4-110 of the Act provides as follows: Any deposit made in connection with the purchase or reservation of a Unit from a Declarant shall be placed in escrow and held in this state in a non-interest bearing account designated solely for that purpose and institution whose accounts are insured by governmental agency or instrumentality until (i) delivered to the Declarant at closing; (ii) delivered to the Declarant because of the purchaser's default under a contract to purchase the Unit; or (iii) refunded to the purchaser. Declarant shall be entitled to retain any income earned on such deposits.

The Declarant has complied with this requirement by retaining the law firm of Spilman Thomas & Battle, PLLC as counsel and closing agent, who maintains escrow accounts at: Truist Bank in Charleston, West Virginia.

ARTICLE 20
GENERAL INFORMATION

There are no unsatisfied judgments or pending suits against Declarant or the Association material to the common interest community of which Declarant has actual knowledge.

There are no zoning or other land use requirements not described in this document affecting the common interest community.

Additional attachments not referenced herein are included and attached hereto for a complete disclosure of pertinent information. Please review this Public Offering Statement and all attachments in their entirety.

The Declarant reserves the right to change the terms of this Public Offering Statement as it affects potential Unit purchasers not then under contract to purchase a Unit. As to any Unit purchaser, however, any information or data regarding Gauley River Estates not presented in this Public Offering Statement must not be relied upon. No person has been authorized by the Declarant to make any representation not expressly contained herein.

NOTICE

THE DECLARANT SHALL PROMPTLY AMEND THIS PUBLIC OFFERING STATEMENT TO REPORT ANY MATERIAL CHANGE IN THE INFORMATION HEREIN PROVIDED.

IN WITNESS WHEREOF, Clearcreek Holdings, LLC., a West Virginia limited liability company has hereunto set its hand as of the effective date hereinabove set forth.

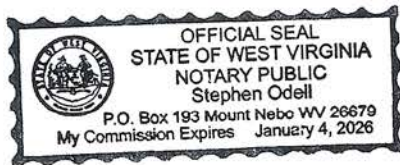
Clearcreek Holdings, LLC., a West Virginia limited liability company

By: Kristopher Antoline
Name: Kristopher S. Antoline
Title: Manager

STATE OF WEST VIRGINIA,
COUNTY OF Nicholas, to-wit:

The foregoing instrument was acknowledged before me this 22nd day of October, 2025, by Kristopher S. Antoline, the duly authorized Manager of Clearcreek Holdings, LLC., a West Virginia limited liability company, on behalf of said company.

My commission expires: 1/4/2026



Stephen O'Dell
Notary Public

#22185497v4

ATTACHMENT I	SITE PLAN
ATTACHMENT II	PERCENTAGE OF INTEREST OF UNIT OWNERS
ATTACHMENT III	DECLARATION
ATTACHMENT IV	ARTICLES OF INCORPORATION
ATTACHMENT V	BYLAWS
ATTACHMENT VI	PROJECTED ASSOCIATION BUDGET
ATTACHMENT VII	COPY OF DEED
ATTACHMENT VIII	COPY OF DEED TO DECLARANT
ATTACHMENT IX	FORM UNIT PURCHASE AGREEMENT
ATTACHMENT X	AGREEMENT AND WAIVER OF WARRANTIES
ATTACHMENT XI	SEPTIC REQUIREMENT ACKNOWLEDGEMENT