

**DECLARATION OF RESTRICTIONS
OF
SUMMERFIELD
JOHNSTON COUNTY, NORTH CAROLINA**

This Declaration, made this 13th day of May, 2020, by **Xcessive Risk Development, Inc.**, a North Carolina corporation, herein referred to as "Declarant", and **ALL PROSPECTIVE PURCHASERS OR OWNERS of the Lots in Summerfield Subdivision** as shown on a map recorded in Plat Book 91, Page 15, of the Johnston County Registry.

W I T N E S S E T H:

WHEREAS Xcessive Risk Development, Inc., is owner of real property in O'Neals Township, Johnston County, North Carolina, it being the land shown on the map entitled, "SUBDIVISION PLAT OF SUMMERFIELD SUBDIVISION", as prepared by John Lowdermilk, PLS which is recorded in **Plat Book 91, Page 15**, Johnston County Registry, herein referred to as "the Map", consisting of 20 residential lots; and,

WHEREAS Declarant intends to sell and convey certain of the lots shown on said subdivision map for residential purposes and to develop the entire property into an integrated community enjoying pleasant residential living conditions, but before selling and conveying the residential lots, Declarant, for the benefit and complement of all of the residential lots in the subdivision and in light of its general plan or scheme of improvement, desires to subject them to and impose upon them mutual and beneficial restrictions, covenants, conditions and charges, hereinafter collectively referred to as "Restrictions";

NOW, THEREFORE, Declarant hereby declares that all of the numbered lots shown on the map hereinabove referred to, are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following Restrictions, all of which are declared and agreed to be in furtherance of the general plan for the subdivision,

Prepared by:
Julie A. Parker
Stanley & Parker
Attorneys at Law
8754 Reed Drive Unit 16
Emerald Isle, NC 28594

Submitted electronically by "Stanley & Parker Attorneys, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Johnston County Register of Deeds.

improvement and sale of said lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. All of the Restrictions shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in and to the Property or any part or parts thereof subject to such Restrictions. Each lot owner shall have the right to enforce each Restriction:

1. DEFINITIONS AS USED HEREIN:

a. "Articles" means the Articles of Incorporation of Summerfield Homeowners Association of Middlesex, Inc., and any amendments thereto.

b. "Bylaws" means the Bylaws of Summerfield Homeowners Association of Middlesex, Inc., and any amendments thereto.

c. "Common Areas" means all real property (including the improvements thereto) and interests in real property now owned or hereafter acquired by the Corporation for the common use and enjoyment of the Owners. The Common Areas are subject to those easements set forth in this instrument and on the Map.

d. "Corporation" means Summerfield Homeowners Association of Middlesex, Inc., its successors and assigns.

e. "Declarant" means Xcessive Risk Development, Inc., and anyone designated by Xcessive Risk Development, Inc., or its assigns.

f. "Dwelling" means a structure located on a Lot built in accordance with the requirements of this Declaration.

g. "Lot" means a separately numbered tract of land shown on the aforesaid plat. "Lot" shall not include any portion of the Common Areas as defined herein.

h. "Owner" means the record Owner, whether one or more persons, of fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

i. "Person" or "Persons" means any individual, group of individuals, corporation, partnership or any other entity, including any combination thereof.

j. "Subdivision" means all of the property defined herein as Lots and Common Area.

k. "Board of Directors" means the Board of Directors of Summerfield Homeowners Association of Middlesex, Inc.

l. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and

Easements of Summerfield.

m. "Committee" means Summerfield Architectural Control Committee constituted and having the powers as provided in this Declaration.

2. TERM: These restrictions shall affect and run with the land and shall exist and be binding upon all persons claiming them until January 1, 2049. By accepting a deed to residential property subject to these Restrictions, the residential owners agree that after January 1, 2049, these Restrictions shall be extended for successive periods of ten (10) years each, unless an instrument signed by a majority of the then owners of the lots subject thereto has been recorded, agreeing to change the covenants in whole or in part, provided, however, that at any time after January 1, 2049, these Restrictions may be amended by the vote of the then record owners of two-thirds (2/3) of such residential lots to make variations in the Restrictions as to details to suit varying circumstances or changed conditions, but not to make changes that would annul any material part hereof.

3. MUTUALITY OF BENEFIT AND OBLIGATION: The Restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the Subdivision and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all of the other lots therein; to create reciprocal rights between the respective owners of all of said lots; to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owner of each such lot, his heirs, successors and assigns, operate as covenants running with the land for the benefit of each and all other lots in the Subdivision and their respective owners.

4. LAND USE AND BUILDING TYPE: The only type of major structure which shall be constructed, altered, erected, placed or permitted to remain on any lot or portion of the above - described tract shall be one structure designed and used exclusively as a single-family dwelling which are incidental to and in keeping with the residential structure. A private garage may be constructed which may have an overhead story for servants' quarters or guest quarters, which shall not used for lease or rental separate from the main residence. One owner may combine any number of contiguous parts, lots or portions of the tracts of land owned by the Declarant and place one dwelling on any such combination, provided the area of such combined lot shall be at least 20,000 square feet.

5. BUILDING LINES: No structure may be placed, erected or constructed, altered or permitted to remain on any of said lots in violation of the minimum building setback lines shown on the map.

6. DWELLING SIZE: Any single-family residential structure erected or placed on any lot shall contain not less than 1,400 square feet of heated area.

7. DWELLING QUALITY: All dwellings, garages and incidental outbuildings, erected upon any lot shall be constructed of material of good grade, quality and appearance and all

construction shall be performed in a good and workmanlike manner and must at least meet the then current minimum requirements of the housing codes being enforced by the Johnston County Building Inspector. No used structures shall be relocated or placed on any such lot.

8. NO TEMPORARY STRUCTURES: No structure of a temporary character, trailer, basement, tent, shack, barn or other outbuilding shall be used on any lot, part or portion of Lots at any time as a residence, either temporarily or permanently.

9. STORM WATER MANAGEMENT: The allowable built-upon area shall not exceed 4,200 square feet of any Lot, including the right-of-way between the edge of pavement and the front Lot line, and shall be covered by impervious structures, including asphalt, gravel, concrete, brick, stone, slate or similar material, not including wood decking or the water surface of a swimming pool. The provisions may not be changed or deleted without concurrence of the State. Further, filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is strictly prohibited by any person. This covenant is intended to ensure compliance with the Storm Water Permit Number 19-047-P issued by the State of North Carolina.

10. LIVESTOCK, POULTRY AND OTHER ANIMALS: No wild animals, livestock or poultry shall be raised, bred or kept on any lot, but dogs, cats and other household pets may be kept thereon, so long as dogs not generally kept indoors are not allowed to run free and are not allowed to bark excessively and are kept indoors nights.

11. DRIVEWAY: No driveway shall be permitted to be used or to remain on any lot unless the same shall be paved with concrete or asphalt.

12. MOBILE HOMES: No mobile home, double-wide home or modular unit-type structure shall be placed or permitted to remain on said lot nor any home manufactured or delivered to the Lot on wheels which wheels are either temporarily or permanently attached to the frame of the home.

13. BOAT STORAGE, CAMPERS AND TRAVEL TRAILERS: No boat, camper or travel trailer shall remain on any lot unless said trailer is currently registered. A boat on its trailer and recreational vehicles may not be parked or stored on that part of any Lot nearer to the street than the front face of the dwelling located on such Lot. A junk boat, camper or travel trailer may be removed from a Lot at the discretion of Declarant in the event that a nuisance is created. If no swelling is located on such Lot, then no boat, camper or travel trailer may be parked on such vacant Lot.

14. OUTBUILDINGS: All outbuildings placed on any lot will be of the same materials as the residential structure and will be of design to blend with said residence.

15. EASEMENTS: Declarant reserves over the Lots subject to these Restrictions, a 10-foot wide easement along the edge of the subdivision streets and the cul-de-sac for electrical, water,

telephone, sewer, cable TV and all other utilities, and the installation and maintenance thereof, including sewer lines if public sewer is made available in the future.

16. STREET LIGHTS: The Declarant reserves the right to subject the Lots within the Subdivision to a contract with Duke-Progress, or other utility company providing street lighting within the Subdivision, for the installation of underground electric cables, utility poles and street lights. Such contract may require an initial contributions for the installment of street lighting, and may also require a continuing monthly payment to Duke-Progress, or other utility company, by the owner of each lot.

17. NUISANCES: No noxious or offensive trade or activity shall be carried on or conducted upon any Lot, nor shall anything be done thereon which may become a nuisance or any annoyance to the neighborhood.

18. MISCELLANEOUS RESTRICTIONS AND CONDITIONS:

a. No sign, billboard, or any other advertising or propaganda structure of any kind may be erected or maintained upon any lot, except for "For Sale" or "For Rent" signs of durations of a temporary nature.

b. No stripped, partially wrecked, or junk motor vehicle, or part thereof, shall be permitted to be parked or kept on any street or lot.

c. Every fuel storage tank shall be buried below the surface of the ground or screened by fencing or shrubbery. Every outdoor receptacle for ashes, trash, rubbish, or garbage shall be installed underground, screened or so placed and kept as not to be visible from any street, river, canal or recreation area.

d. All outdoor poles and similar equipment shall be so placed or screened by shrubbery as not to be visible from any street, river, canal, creek or common area. No outdoor clotheslines shall be permitted.

e. All lots, whether occupied or unoccupied, shall be well-maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted.

f. Any dwelling or outbuilding on any lot which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God, must be rebuilt or all debris removed and the lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than three (3) months.

g. No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on any lot or upon any area in the Subdivision. No outside burning of trash, garbage or household refuse shall be permitted.

h. Except during the construction of a residence, no truck or other vehicle in excess of three-quarter ton capacity shall be parked or permitted to remain on any Lot.

i. No residence shall be occupied until the same has been substantially completed and Certificate of Occupancy has been issued by the appropriate government authority.

j. Fences may be erected along any side Lot line or rear Lot line. No fence shall be erected or permitted to remain nearer to the front line than the rear of the dwelling located on said Lot. No fence shall be higher than six (6) feet from the ground level. No chain link fence, metal pipe fence or any fence constructed primarily of metal shall be erected or permitted to remain on any Lot. All fences must be constructed of natural wood or vinyl and must be stained or painted a color to on form to the residence. Any fences damaged or deteriorated so as not to resemble original construction must be replace or removed within 30 days of notification by a representative of the Declarant.

19. MEMBERSHIP:

a. A corporation named, "Summerfield Homeowners Association of Middlesex, Inc.," will or has been formed at the direction of the Declarant pursuant to the rules and requirements of the Non-profit Corporation Act (Chapter 55A of the North Carolina General Statutes) as an association of the Owners of Lots. Its purposes are to own, manage, maintain, and operate the Common Areas and facilities located upon the Common Areas; to enforce the Restrictions contained herein; and, to make and enforce rules and regulations governing the Owners' use and occupation of Lots.

b. Each Owner of each Lot within the Subdivision shall be a member of the Corporation. The Declaration, by this Declaration, and the Owners of individual Lots by their acceptance of individual deeds thereto, covenant and agree with respect to the Corporation: (A) that for so long as each is an Owner of a Lot within the Subdivision, each will perform all acts necessary to remain in good and current standing as a member of the Corporation; and (B) that any unpaid assessment, whether general or special, levied by the Corporation in accordance with these restrictions, the Articles or the Bylaws shall be a lien upon the Lot upon which such assessment was levied and shall be the personal obligation of the person who was the Owner of the Lot at the time the assessment fell due.

c. Each membership in the Corporation shall relate to and have a unity of interest with an individual Lot which may not be separated from ownership of said Lot. The books and all supporting documentation, the Declaration, the Articles, the Bylaws, and all amendments thereto shall be available for examination by all Lot Owners, and their lenders or their lenders Agents during normal business hours at the principal office of the Corporation.

d. The Corporation shall have two classes of members:

i. CLASS A Class A member (s) shall be all Owners, with the exception of

any Owners who qualify as Class B members, and they shall be entitled to one vote for each Lot owned; provided, however, when more than one Person holds an interest in any Lot, all such Persons shall be members; however, the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote or any fraction of a vote be cast with respect to any Lot.

ii. CLASS B Class B member(s) shall be the Declarant. Class B members shall be entitled to four votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

1. On January 1, 2030; or,
2. When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership.

20. MANAGEMENT AND ADMINISTRATION: The management and administration of the affairs of the Common Areas of the Subdivision shall be the sole right and responsibility of the Corporation. The management shall be carried out in accordance with the terms and conditions of these Restrictions, the Articles and the Bylaws of the Corporation.

21. COMMUNITY EXPENSES: The Community Expenses of the Subdivision include:

a. All amounts expended by the Corporation in operating, administering, managing, repairing, replacing and improving the Common Areas of the Subdivision; all amounts expended by the Corporation in insuring the Common Areas of the Subdivision; all amounts expended by the Corporation in legal, engineering, or architectural fees; and all similar fees which may be incurred by the Corporation from time to time in performing the functions delegated to the corporation by these Restrictions.

b. All amounts expended by the Corporation in carrying out any duty or discretion as may be required or allowed by these Restrictions, the Articles or the Bylaws.

c. All amounts declared to be Community Expenses in the Bylaws or in these Restrictions.

d. All taxes and special assessments which may be levied from time to time by any governmental authority upon then Common Areas in the Subdivision.

22. ANNUAL GENERAL ASSESSMENTS:

a. The Declarant for each Lot owned, hereby covenants and each Owner of any Lot by acceptance of a deed for same (whether or not it shall be so expressed in such deed) is deemed to covenant and agrees to pay to the Corporation annual general assessments or charges as hereinafter provided. The annual general assessments, together with interest, costs and

reasonable attorneys' fee, shall be a charge and lien on the land and, subject to the provisions of Paragraph 8 of this Article, shall be continuing lien upon the property against which each such assessment is made. Furthermore, each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a successor in title to a Lot unless expressly assumed by them but, subject to the provisions of this Declaration, delinquent assessments shall continue to be a lien upon such Lot.

- i. Until May 1, 2022, the annual general assessment shall be \$200.00 per year, payable on or before May 1st, of each year
- ii. From and after May 1, 2022, the annual general assessment may be increased each year not more than ten percent (10%) above the assessment for the previous year without any vote of the membership.
- iii. From and after May 1, 2023, the annual general assessment may be increased by an amount greater than ten percent (10%) of the assessment for the previous year provided the proposed increase is approved by a vote of two-thirds (2/3) of the Board of Directors, at a meeting duly called for this purpose.

b. The Board of Directors may fix the annual general assessments which come due after May 1, 2024, at an amount not in excess of the ceiling established herein.

c. Once the annual general assessment has been set, notice of the annual general assessment shall be given to all Lot Owners. It is provided, however, that no Owner is relieved from the obligation to pay the assessment because of failure to give such notice. After the initial notice of the assessment, no bills for such assessment will be forwarded to any Owner but such assessment thereafter shall become due and payable as provided by the Board of Directors.

d. As provided in the Bylaws and subject to the restrictions and limitations provided herein, the Board of Directors shall establish an Annual Budget in advance for each forthcoming fiscal year which may be required for the proper operation, management and maintenance of the Corporation and the Common Area, including a reasonable allowance for contingencies and reserves. The budget shall take into account any projected or anticipated income. The Board of Directors shall keep separate, in accordance with Paragraph (e) hereof, items relating to the daily operation, management and maintenance of the Corporation and Common Areas from items relating to capital improvements. Upon adoption of such Annual Budget by the Board of Directors, copies of said Budget shall be delivered to each owner and the assessment for said year shall be established, subject to the restrictions and limitation provided herein, based upon such budget; however, the non-delivery of a copy of said Budget to each Owner shall not affect the liability of any Owner for such assessment. The Annual Budget shall be divided by the number of Lots subject to the annual general assessment at the time of the annual meeting of the members and the quotient shall be the annual general assessment per Lot for the succeeding fiscal year. In determining the number of Lots subject to the annual general assessments, any

Lot which is owned by a Class B member shall only be considered one-fourth (1/4) of a Lot.

e. The Board of Directors, in establishing the Annual Budget for operation, management and maintenance of the Corporation and Common Areas, shall designate therein a sum to be collected and maintained as a reserve fund for the periodic maintenance, repair and replacement of capital improvements to the Common Areas, which capital improvement and replacement fund (Capital Improvement Fund) shall be for the purpose of enabling the Corporation to maintain, repair or replace structural elements and mechanical equipment constituting a part of the Common Areas, as well as tree planting and removal and the replacement of personal property which may constitute a portion of the Common Areas held for the joint use and benefit of the Owners. The amount to be allocated to the Capital Improvement Fund may be established by said Board of Directors so as to collect and maintain a sum reasonably necessary to anticipate the need for repair, maintenance and replacement of capital improvements to the Common Areas. The amount collected for the Capital Improvement Fund shall be maintained in a separate account by the Corporation and such monies shall be used only for periodic maintenance, repair and replacement of Capital Improvements to the Common Areas. The Capital Improvement Fund shall be maintained out of the annual general assessments. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Board of Directors, be expended for daily operation, management and maintenance of the Corporation and Common Areas.

f. All monies collected by the corporation shall be treated as the separate property of the Corporation and such monies may be applied by the Corporation to the payment of any expense of operating and managing the Corporation, or the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles and the Bylaws, except that monies placed in the Capital Improvement Fund shall be used only for the specified purposes of said fund. As monies for any assessment are paid into the Corporation by any Owner, the same may be commingled with monies paid to the Corporation by the owner Owners. Although all funds, including other assets of the Corporation, and any increments thereto or profits derived therefrom or from the leasing or use of Common Areas, shall be held for the benefit of the members of the Corporation, no member of the Corporation shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When the Owner of a Lot shall cease to be a member of the Corporation by reason of his divestment of ownership of such Lot, by whatever means, the Corporation shall not be required to account to such Owner for any share of the fund or assets of the Corporation, including any monies which Owner may have paid to the Corporation, as all monies which any Owner has paid to the Corporation shall be and constitute an asset of the Corporation which may be used in the operation and management of the Corporation.

g. Written notice of any meeting called for the purpose of taking any action authorized hereunder shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast forty percent (40%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting

may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-fourth (1/4) of the required quorum at the preceding meeting. No Such subsequent meeting shall be held more than sixty (60) days following the preceding meeting

h. Annual and special assessments shall, except as otherwise provided herein, be fixed at a uniform rate for all Lots. However, for so long as there is a Class B member of the Corporation, the Lots owned by the Class B member shall be liable for and the Class B member shall pay on each Lot as an annual general assessment only twenty-five percent (25%) of the amount of the annual general assessment then being levied by the Corporation on each Lot. This reduction in the amount of annual general assessments due on Lots owned by the Class B member shall terminate as to a particular Lot upon the Lot being conveyed by the Class B member by deed, lease or rental agreement (excluding mortgage or deed of trust) to any person other than Declarant; further, this reduction in the amount of annual general assessments due by the Class B member shall cease upon the termination of Class B membership as herein provided.

i. The annual general assessments provided for herein shall commence as to all Lots on June 1 of the year following the conveyance of the Common Areas to the Corporation. The annual general assessments shall be payable annually on or before the 1st day of May of each year. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Corporation within ten (10) days of the due date for such payment. When in default, the delinquent assessment shall bear interest at the rate of ten percent (10%) per annum until paid in full.

j. The annual general assessments levied by the Corporation shall be used exclusively to improve, maintain and repair the Common Areas to pay the expenses of the Corporation, to pay the cost of tree planting and removal, to pay the costs of mowing and lighting the Common Areas, to pay the cost of any insurance the Corporation determines to purchase and to promote the recreation, health, safety and welfare of the members. Taxes, hazard insurance and maintenance on Dwellings and Lots shall not be a purpose of said assessment; but rather, shall be an individual cost to be borne by each Lot Owner.

k. The Corporation shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Corporation setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Corporation as to the status of assessments on a Lot is binding upon the Corporation as of the date of its issuance.

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

23. SPECIAL ASSESSMENTS: Special Assessments may be levied against Lots for such reasons as are provided in these Restrictions, the Articles or the Bylaws, and on such terms as provided by the directors and the members. Upon a two-thirds (2/3) vote of the Directors and a two-thirds (2/3) vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, the Corporation may levy and impose special assessments. The purposes for which special assessments may be levied include, but are not limited to, providing funds to pay Community Expense which exceed the general assessment fund then on hand to pay same (specifically including the cost of any construction, reconstruction or repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto) and providing a contingency fund for capital improvements and extraordinary expenses. Furthermore, special assessments may be assessed against specific lots. Special Assessments, together with interest, costs and reasonable attorneys fees, shall be a charge and lien on the land and subject to the provisions of Paragraph 25, shall be a continuing lien upon the property against which each such assessment is made. Furthermore, each such assessment, together with interest, costs and reasonable attorneys fees, shall be the personal obligation of the person who was the owner of the Lot at the time when the assessment fell due. The personal obligation for delinquent special assessments shall not pass to a successor in title to a lot unless expressly assumed by them but, subject to the provisions of this Declaration, delinquent assessments shall continue to be a lien upon such Lot. Written notice of any meeting of the members called for the purpose of levying and imposing special assessments shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

24. LIEN FOR ASSESSMENTS: Any general or special assessment, if not paid without thirty (30) days after the date of such assessment is due, together with interest at the rate of ten percent (10%) per annum, costs of collection court costs, and reasonable attorneys fees shall constitute a lien against the Lot upon which such assessment is levied. The corporation may record notice of the same in the Office of the Clerk of Superior Court of Johnston County or file a suit to collect such delinquent assessments and charges. The Corporation may file Notice of Lis Pendens, bring an action at law against the Owner personally obligated to pay the same and/or being an action to foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein.

25. COMPLIANCE WITH THIS DECLARATION, THE ARTICLES AND THE BYLAWS OF THE CORPORATION: In case of failure of a Lot Owner to comply with the terms and provisions contained in these Restrictions, the Articles or the Bylaws of the Corporation, the following relief shall be available:

- a. An aggrieved Lot Owner or Owners within the Subdivision or any Lot Owner on

behalf of all the Lot Owners within the Subdivision shall have the right to bring an action and recover sums due, damages, injunctive relief, and/or such other and further relief as may be just and appropriate.

b. If the violation is the nonpayment of any general or special assessment, the Corporation shall have the right to suspend the offending Owner's voting rights for any period during which an assessment against the Lot remains unpaid.

c. The remedies provided by this Article are cumulative, and are in addition to any other remedies provided by law.

d. The failure of the Corporation or any Person to enforce any restriction contained in these Restrictions, the Articles or the Bylaws shall not be deemed to waive the right to enforce such restrictions thereafter as to the same violation or subsequent violation of similar character

26. PROPERTY RIGHTS OF LOT OWNERS, CROSS-EASEMENTS, AND EXCEPTIONS AND RESERVATIONS BY DECLARANT:

a. Every Owner of a Lot within the Subdivision as an appurtenance to such Lot shall have a perpetual easement over and upon the Common Areas within the Subdivision for each and every purpose or use to which such Common Areas were intended as determined by their type, or for which such Common Areas generally are used. Such easements shall be appurtenant to and shall pass with the title to every Lot located within the Subdivision, whether or not specifically included in a deed thereto, subject to the following provisions:

- i. The Corporation shall have the right to make reasonable rules and regulations respecting the use of same.
- ii. The Corporation may make reasonable rules respecting parking on the streets of the Subdivision.
- iii. The Corporation shall have the right to dedicate or transfer fee simple title to all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication, sale, or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded.
- iv. The Corporation shall have the right to mortgage, pledge, deed in trust, hypothecate, sell, or convey all or any part of the Common Areas; provided, however, no such action may occur until an instrument agreeing to such action signed by two-thirds (2/3) of each class of members has been recorded.

b. The Corporation hereinafter may grant easements for utility purposes for the benefit of the Subdivision and the Lots now or hereafter located herein, over, under, along and through any Common Areas located within the Subdivision.

c. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

d. Easements for the installation and maintenance of utilities and drainage facilities are as shown on the recorded plat. Those easements are reserved by Declarant for the purposes of benefiting this subdivision and its other property in the area. Except as otherwise provided herein, no structure, planting, or other material shall be placed or permitted to remain within these easements which may interfere with the installation and maintenance of utilities, which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Declarant specifically reserves the right to grant any public utility, municipality or other property owner similar nonexclusive easement rights in said utility and drainage easements shown on the aforesaid plat and reserved herein.

e. Each Owner of any Lot within the subdivision, as an appurtenance to such Lot, has and is hereby conveyed a perpetual, nonexclusive right of way and easement for the purposes of ingress, egress and regress to and from said Lot over, through and across the streets and roads shown on the Subdivision plat and/or described herein.

f. Each Owner of any Lot, by acceptance of a deed thereto, and the Corporation by acceptance of a deed for the Common Areas, grants to the Declarant, its successors and assigns, and Declarant hereby reserves perpetual nonexclusive general access and utility easements located over, along and through the streets and roads, utility lines, water lines presently existing, shown on the aforesaid plat or hereafter constructed. Such easements are nonexclusive and are for the purposes of providing utilities, water service and ingress, egress, regress and access to such additional areas as may be later developed and subdivided by Declarant. In its sole, unfettered discretion, Declarant may grant similar nonexclusive easement rights to various parties as they deem necessary and proper.

27. ARCHITECTURAL CONTROL AND ARCHITECTURAL RESTRICTIONS:

a. The Architectural Control Committee (“Committee”) shall be comprised of three (3) persons. Any natural person may serve as a member of the Committee. Until January 1, 2039, Declarant shall have the right to appoint and remove the three (3) Committee members with or without cause. After such date, the Board of Directors of Corporation shall have the right to appoint and remove members of the Committee with or without cause.

b. Except as provided in Paragraph (g) of this Paragraph 28 shall be any structure, fence, building, wall or addition to any of same shall be commenced, erected, or maintained upon any Lot and before any alteration (including painting) of the exterior portion of any structure located upon any Lot in the Subdivision shall be commenced (except as shall be undertaken by the Corporation itself), the party desiring to make such changes or erections shall

submit and have approved by the Committee (hereinafter called "Committee"), plans and specifications detailing the changes and erections. The plans and specifications must show the structure, kind, shape, height, materials, color and locations of the change or erection. Two (2) complete sets of Committee Application Forms, final plans, and specifications for any and all proposed improvements, shall be (1) hand delivered to the Committee, or (2) mailed certified or registered mail with return receipt requested to the Committee. The Committee shall approve or disapprove such plans within thirty (30) days of receipt thereof. One set of plans and specifications and details with the approval or disapproval of the Committee shall be returned to the party submitting them and the other copy shall be retained by the Committee for its permanent files. Until December 31, 2020, the address of the Committee is PO Box 4580 Emerald Isle, NC 28594. After such date, the address is the address of the Corporation.

c. The Committee shall make its decision approving or disapproving the plans by taking into consideration the nature of the Subdivision, the aesthetics of the proposed changes or alterations, the harmony of the proposed change or erection with the architectural style of neighboring buildings, color schemes, durability of construction, relative costs, and protection of the investment of the Owners of the other Lots in the Subdivision. Submission of incomplete or inaccurate plans and specifications may result in disapproval. The decisions of the Committee shall be final and not subject to appeal or review.

d. If the Committee fails either to approve or disapprove any plans so submitted within thirty (30) days of their submission, the plans will be deemed approved. If a court action challenging the lack of approval is not brought before a certificate of occupancy has been issued for the improvement, the plans will be deemed approved.

e. Neither the Committee nor any agent of the Declarant shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions nor any structural or other defect in any work done according to such plans and specifications.

f. The requirements of this Article shall not constitute a lien or encumbrance on any Lot on which construction is complete, and any subsequent purchaser thereof for value without notice thereof is in no way affected by the failure of his predecessors in title to comply with the terms hereof.

g. The provisions of this Article shall not apply to the original construction on a Lot by Declarant and no such approval shall be required for original construction by Declarant.

h. The initial members of the Committee shall be:

Athan M. Parker PO Box 4580 Emerald Isle, NC 28594

28. INSURANCE:

a. The Corporation shall purchase and maintain at all times a comprehensive general liability insurance policy covering all Common Areas, public ways and any other areas that are under its supervision. The liability insurance shall insure against liability to the public or to other lot owners, their tenants, guests or invitees, relating in any way to the ownership, operation, maintenance and/or use of the Common Areas and any part thereof, and any other areas under the Corporation's supervision including public ways, if the Corporation supervises any such public ways. Such insurance policy shall contain a "severability of interest endorsement" or equivalent coverage which precludes the insurer from denying the claim of a Lot Owner because of the negligent acts of the Corporation or other Lot Owners. Limits of liability shall be at least One Million Dollars (\$1,000,000.00) covering all claims for personal injury and/or property damage arising out of a single occurrence. The policy shall require the insurer to notify in writing the Corporation at least ten (10) days before the insurer cancels or substantially changes the coverage.

b. It is the responsibility of each Owner to purchase and maintain hazard insurance on such Owner's Dwelling, personal property, fixtures and appliances. Each owner shall be responsible for purchasing the maintaining of any desired liability insurance covering his Lot and Dwelling.

29. REMEDIES:

a. The Declarant or any property owner or any party to whose benefit these Restrictions inure may proceed at law or in equity to prevent the occurrence, continuation or violation of any of these Restrictions and the court in any such action may award the successful party reasonable expenses in prosecuting such action, including attorneys' fees.

b. The remedies hereby specified are cumulative, and this specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law, in equity, or under any statute. No delay or failure on the part of Declarant or any property owner or an aggrieved party to invoke an available remedy in respect of a violation of any of these Restrictions shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

30. SEVERABILITY: Every one of the Restrictions is hereby Declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability, or "running" quality of any other of the Restrictions.

31. CAPTIONS: The captions preceding the various paragraphs and subparagraphs of these

Restrictions are for convenience of reference only, and none of them shall be used as an aid to the contraction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed in such form as to be binding, the day and year first above written.

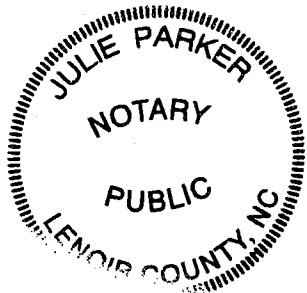
XCESSIVE RISK DEVELOPMENT, INC., a North Carolina corporation

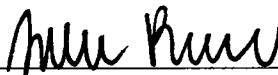
By: 
Athan M. Parker, Vice President

NORTH CAROLINA
CARTERET COUNTY

I, a Notary Public of Lenoir County, North Carolina, certify that on this day before me personally appeared **Athan M. Parker, Vice President of Xcessive Risk Development, Inc.**, a North Carolina corporation, personally known to me or who produced satisfactory evidence of identification and voluntarily signed the foregoing or attached instrument for the purposes therein expressed *and in the capacity indicated.*

WITNESS my hand and official stamp or seal this the 13 day of May, 2020.




Notary Public
My Commission Expires: September 27, 2022