

Prepared by and return to: Kennon Craver, PLLC, PO Box 51579, Durham, North Carolina 27707-1579

THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS.

**STATE OF NORTH CAROLINA
COUNTY OF WAKE**

**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
ABBEY RUN**

THIS DECLARATION is made this 5 day of January, 2018,
by LITTLE CROSS, LLC, a North Carolina limited liability company ("**Declarant**").

Recitals:

Declarant is the owner of certain real property hereinafter described located in Wake County, North Carolina.

Declarant desires to impose by recording this Declaration certain easements, covenants, conditions and restrictions upon all of the Property (as hereinafter described).

NOW, THEREFORE, pursuant to Chapter 47F of the North Carolina General Statutes, Declarant hereby declares that all of the Property described hereinafter shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which are for the purpose of enhancing and protecting the value and desirability of, and which shall run with, the Property and be binding upon all parties having any right, title or interest in the Property or any part thereof, their successors and assigns, and shall inure to the benefit of the Owners thereof.

Submitted electronically by "Kennon Craver, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Wake County Register of Deeds.

ARTICLE I
DEFINITIONS

“**Architectural Review Committee**” has the meaning given such term in Section 7.1

“**Articles of Incorporation**” shall mean the Articles of Incorporation filed with the office of the North Carolina Secretary of State which establishes Abbey Run Owners Association as a North Carolina not-for-profit corporation.

“**Assessment**” shall mean any Regular Assessment, Special Assessment, the Initial Working Capital Assessment or any other assessment or charge levied against a Lot in accordance with the terms of this Declaration.

“**Association**” shall mean and refer to Abbey Run Owners Association, a North Carolina non-profit corporation, and its successors and assigns.

“**Board**” or “**Board of Directors**” has the meaning given each term in Section 3.3.

“**Builder**” shall mean Garman Homes, LLC or such other builder of single family homes that purchases a Lot or Lots from Declarant for the purpose of constructing a single family home thereon.

“**Bylaws**” shall mean the Bylaws of the Association which, with this Declaration and the Articles of Incorporation of the Association, describe the powers and functions of the Association, and which from time to time may be amended by the Association.

“**Common Area**” or “**Common Areas**” shall mean all real and personal property owned or controlled by the Declarant or Association for the common use and enjoyment of the Owners, if any, including real estate owned by the Association, if any, and land designated as “Common Area”, “Open Space”, “Common Open Space” or any similar term on any plat of the Community or any portion thereof, and any Sign Easement.

“**Community**” shall mean the Property and such additions to the Property as may be made by Declarant or by the Association pursuant to this Declaration.

“**Cost of Corrective Action**” has the meaning given such term in Section 11.2.

“**Declarant**” shall mean and refer to Little Cross, LLC a North Carolina limited liability company, its successors and assigns, and any agent or agents appointed by Declarant, its successor and/or assigns, to act on its behalf for the purpose of administering or enforcing, in whole or in part, the rights herein reserved to Declarant.

“**Declaration**” shall mean this Declaration of Covenants, Conditions, Restrictions and Easements for Abbey Run, as may be supplemented and amended from time to time.

“**Improvements**” has the meaning given such term in Section 7.1

“Initial Working Capital Assessment” shall have the meaning given to such term in Section 4.7

“Lot” as used herein shall mean and refer to any portion of the Property intended for the construction of a single family home. Declarant hereby reserves the right, at its sole discretion and without the consent of any Owner (except Garman Homes, LLC) or the Association, to recombine, subdivide, or reconfigure the boundaries of any Lot or Lots owned by Declarant or an affiliate of Declarant, as the case may be, to change any Lot boundary, to create additional Lots, to eliminate existing Lots or to create additional Common Areas. If Declarant exercises its right to revise the boundaries of one or more Lots, Declarant shall record a revised plat of the affected Lot or Lots. Upon the recording by Declarant of such a revised plat, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plan, shall cease to be a “Lot” as defined in this Declaration and each newly configured lot shown on the revised plat shall be a “Lot” as defined in this Declaration.

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

“Mortgage” shall mean any mortgage, deed of trust or similar instrument used for the purpose of encumbering any portion of the Property as security for the payment or satisfaction of an obligation.

“Mortgagee” shall mean the holder of any Mortgage.

“Occupant” shall mean any person or entity occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant or the Owner of such property.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding those having such interest merely as security for the performance of an obligation.

“Period of Declarant Control” shall mean that period of time during which Declarant maintains control of the Association by retaining its right to appoint and remove officers and members of the Board of Directors. The Period of Declarant Control shall begin upon the recording of this Declaration and shall expire upon the earlier of (i) the date on which Declarant voluntarily relinquishes in writing its ability to appoint and remove members of the Board of Directors, or (ii) automatically on the date that is one year after Declarant’s conveyance of the last Lot in the Community.

“Planned Community Act” or **“Act”** shall mean the Chapter 47F of the North Carolina General Statutes.

“Property” shall mean and refer to any tract of land or subdivision thereof which has been subjected to the provisions of this Declaration, including without limitation, all that certain

real property more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

“Regular Assessments” has the meaning given such term in Section 4.1.

“Sign Easement” means any area or areas designated as such (or using any similar term) on any recorded plat of the Community (or any portion thereof) for the purpose of allowing Declarant and the Association to install, maintain, repair and replace entry feature signage for the Community, or any area of land outside the Community designated for such purposes by the Association.

“Special Assessments” shall have the meaning given to such term in Section 4.1.

“Stormwater Agreement” means the Wet Pond Operation Agreement & Maintenance Agreement recorded in Book 16961, Page 974, Wake County Registry, as amended.

“Total Association Vote” means collectively the votes attributable to all Members of the Association. If the Total Association Vote is taken during the Period of Declarant Control, a Total Association Vote approving an item or proposition also must have the affirmative vote of Declarant or the item or proposition will be deemed not to have been approved.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

2.1 Property. The Property which is more particularly described on Exhibit A attached hereto and incorporated herein by reference is hereby made subject to this Declaration, and the Property shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges and liens set forth in this Declaration. The Declarant expressly intends that the terms of Chapter 47F of the North Carolina General Statutes, the North Carolina Planned Community Act, be applicable to all the Property by and through the recording of this Declaration.

2.2 Additions to Property. Declarant and its successors and assigns shall have the right at their sole discretion, but not the obligation, without further consent of the Association, to bring additional property within the plan and operation of this Declaration. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. Declarant may make such additions by executing and recording a supplemental declaration with respect to the additional property which shall extend the operation and effect of this Declaration to the additional property. The supplemental declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of Declarant, to reflect the different character, if any, of the added properties as are not inconsistent with the plan of this Declaration. Declarant may subject additional property to the covenants of this Declaration prior to completing the development of the Property.

2.3 Withdrawal from Property. Declarant and its successors and assigns shall have the right at their sole discretion, but not the obligation, without consent of the Association, to withdraw property from the plan and operation of this Declaration by recording a supplemental declaration with respect to the property to be withdrawn.

ARTICLE III

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

3.1. Membership. Every Owner shall be a Member of the Association, and a creditor who acquires title to any portion of the Property pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure shall be a Member of the Association.

3.2. Voting Rights. Each Lot shall be allocated one (1) vote in the Association. In the event any Lot is owned jointly, the joint Owners shall appoint one of the joint Owners to cast the vote allocated to the jointly owned Lot, and that vote shall be presumed to bind the other joint Owners. Upon request, joint Owners shall provide to the Secretary of the Association the name of the Member appointed to cast the vote allocated to the jointly owned Lot.

3.3. Governance. The Association shall be governed by a board of directors (hereinafter the “**Board**” or “**Board of Directors**”), which shall consist of three (3) members during the Period of Declarant Control. Upon and after the expiration of the Period of Declarant Control, the Board of Directors shall consist of three (3) members. Each director shall have the same vote as any other director. The terms of the directors are to be determined in accordance with the provisions of the Articles. The Board may act in all instances on behalf of the Association except where prohibited by the Act, this Declaration, the Articles or the Bylaws.

3.4. Appointment and Election of the Board of Directors. Declarant shall have the right to appoint and remove the directors and officers during the Period of Declarant Control. The directors selected by Declarant need not be Members of the Association. After the expiration of the Period of Declarant Control, all the Members shall elect the directors in accordance with the vote(s) held by each Member. Cumulative voting shall not be allowed.

3.5. Meetings. Meetings of the Members shall be called and held in accordance with the Bylaws.

ARTICLE IV

ASSESSMENTS

4.1. Creation of the Lien and Personal Obligation of Assessments. Declarant hereby covenants, and each Owner (other than the Association) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following: (a) regular assessments or charges for the purposes set forth in Section 4.2 (“**Regular Assessments**”), (b) special assessments for the purposes set forth in Section 4.4 hereof (“**Special Assessments**”), (c) the Initial Working Capital Assessment as provided in Section 4.7, and (d) all other assessments or charges levied against any particular Lot, which are established and levied pursuant to the terms of this Declaration. All such

Assessments shall be established and collected as hereinafter provided. Each Owner shall pay Assessments in proportion to such Owner's total votes in the Association unless otherwise provided herein or in the Act. All Assessments, together with late charges, interest, costs, penalties and reasonable attorneys' fees expended by the Association in enforcement of Section 4.10, shall be a charge on the land and shall be a lien upon the Lot against which each such Assessment is made. All Assessments hereunder are personal obligations of the Owner so assessed, his heirs, devisees, personal representatives and assigns; provided, however, that if the holder of a first Mortgage or other purchaser of a Lot obtains title to the Lot as result of foreclosure of a first Mortgage, such purchaser and his heirs, successors and assigns shall not be liable for the Assessments against such Lot which became due prior to the acquisition of title to the Lot by such purchaser. Such unpaid Assessments shall be deemed to be common expenses collectible by the Association from all the Owners, including such purchaser, his heirs, successors and assigns.

4.2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, welfare and common benefit and enjoyment of the residents of the Community as may be authorized from time to time by the Board, and in particular for the acquisition, improvement and maintenance of Common Areas, including the maintenance, replacement and repair of the landscaping of entry features for the Community, if any, the establishment of adequate reserves for the replacement of capital improvements, if any, located within the Common Areas, the payment of insurance premiums for contracts of hazard and liability insurance on the Common Areas, if any, the payment of local *ad valorem* taxes or governmental charges, if any, on the Common Areas, and the payment of all other costs and expenses incurred by the Association in performing the functions that the Association is authorized or required to perform by the Act, this Declaration or the Bylaws.

4.3. Regular Assessments. The Association shall have the power to levy Regular Assessments against the Lots for the purposes herein described and according to the procedures set forth in this Declaration and the Bylaws. The Regular Assessments shall commence and be due and payable on a Lot by Lot basis upon the purchase of the Lot by an Owner purchasing from a Builder a completed home on the Lot. Each purchaser of a Lot from a Builder shall pay upon the conveyance of the Lot (from a Builder to purchaser) his share of the prorated Regular Assessment based upon the number of days then remaining in the then current billing period. Such Regular Assessment shall be in addition to, and shall not be considered an advance payment of, any portion of any Special Assessment which may be levied. Regular Assessments shall be billed and due as set forth herein and in the Bylaws and otherwise on a schedule as may be determined by the Board of Directors, but no less frequently than annually. The Board of Directors may authorize a billing agent to collect the Assessments provided for herein.

Through and until December 31, 2019, the Regular Assessment for each Lot shall not exceed \$75 per month. Beginning January 1, 2020, the Regular Assessment for each Lot may exceed \$300 per month at the discretion of the Board pursuant to this Declaration.

4.4 Special Assessments. In addition to the Regular Assessments, the Association may levy Special Assessments against all the Lots for the following purposes: (a) to pay for costs of construction, reconstruction, repair or replacement of any capital improvements upon the

Common Areas; (b) to provide for the necessary facilities and equipment to offer services; (c) to repay any loan made to the Association to enable it to perform its duties and functions; (d) to repay any financial liability incurred by the Association in accordance with the Act and the Bylaws; and (e) to meet any other extraordinary obligation of the Association. Such Special Assessment, before being charged, must have received the approval of the Members of the Association by the favorable vote of a majority of the total votes cast at a meeting of the Association duly called in accordance with the Bylaws. Special Assessments shall be paid as determined by the Board, and the Board may permit Special Assessments to be paid in installments extending beyond the fiscal year in which the Special Assessment is imposed.

4.5 Specific Assessments. Any expense incurred by the Association in accordance with the Act or this Declaration that benefits fewer than all of the Lots may be assessed solely against the Lots benefitted, either equally or in proportion to the benefit received, as the Board in its sole discretion may determine.

4.6. Reserve Funds. The Association may establish reserve funds from its Regular Assessments to be held in reserve in an account for the following purposes: (a) major rehabilitation or major repairs; (b) emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss; (c) initial costs of any new service to be performed by the Association; and (d) any cash reserve or deposit necessary to satisfy any obligation imposed on all the Owners and/or the Association by land development regulations, including without limitation any deposit to satisfy any stormwater facility permitting requirements or funds to bond the same.

4.7 Initial Working Capital Assessment. Upon the conveyance of every Lot to an Owner that is a purchaser of a completed home on a Lot, such Owner shall pay to the Association an initial working capital assessment in the amount of **\$225** for the purpose of capitalizing the Association (the “**Initial Working Capital Assessment**”). Amounts paid under this Section 4.7 shall not be considered an advance payment of the next Regular Assessment due.

4.8. Annual Budget. The Board of Directors shall prepare and adopt, at least thirty (30) days prior to the annual meeting of the Association, a proposed budget outlining anticipated receipts and expenses for the upcoming fiscal year. Within thirty (30) days after adoption of the proposed budget, the Board of Directors shall send to all Owners a written summary of the budget and a notice of a meeting to consider ratification of the budget, which notice shall include a statement that the budget may be ratified without a quorum. The annual meeting shall be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. For purposes of the ratification of the budget, there shall be no requirement that a quorum be present at the meeting. The proposed budget shall be ratified unless at that meeting seventy-five percent (75%) of the Total Association Vote rejects the proposed budget. In the event the proposed budget is rejected, the periodic budget last ratified, or otherwise then in effect, shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. In the event the Board's original budget is rejected, the Board shall have the right to make a new budget retroactive to the start of the fiscal year.

4.9. Notice of Assessments. Promptly after the ratification of the annual budget as set forth in Section 4.8, the Board shall fix the amount of the Regular Assessment against each Lot as provided herein, and shall, at that time, direct the preparation of an index of the Assessments applicable to each Lot. The index shall be kept in the office of the Association and shall be open to inspection by any Member. Written notice of Assessments shall thereupon be sent to every Member subject thereto. The Association or the Association's authorized billing agent shall within ten (10) business days of written request furnish to an Owner or an Owner's authorized agent a statement setting forth the amount of unpaid Assessments or other charges against the Owner's Lot, and the statement shall be binding on the Association, the Board of Directors and the Owner.

4.10 Effect of Nonpayment of Assessment: Remedies of Association.

(a) If any Assessment (or any installment thereof) is not paid on or before its due date as established by the Association, such Assessment (or installment thereof) shall be delinquent and past due and shall accrue interest at a rate not to exceed the lesser of the maximum legal rate or eighteen percent (18%) per annum. Additionally the Board of Directors may impose a late charge. If the Board of Directors of the Association elects to use a billing agent to collect Assessments, interest which shall accrue on past due sums will be the maximum interest rate which such agent may lawfully charge.

(b) If any Assessment is not paid on or before that date which is thirty (30) days past due, then such Assessment shall constitute a lien on the property against which the Assessment is levied when a claim of lien is filed in the office of the Clerk of Superior Court of the county in which the Property lies. The Association may foreclose the claim of lien in like manner as a deed of trust on real estate under power of sale under N.C.G.S. § 47F-3-116 and Article 2A of Chapter 45 of the General Statutes; provided, however, that if the lien secures only fines imposed by the Association, interest on unpaid fines or attorneys' fees incurred by the Association solely in connection with such fines, then the Association may foreclose its lien only by judicial foreclosure. The Association shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

(c) If the Assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally, and the costs of preparing the filing of the complaint in such action and reasonable attorneys' fees may be added to the amount of the Assessment past due. If the Association obtains a judgment against the Owner, the judgment shall include, subject to the provisions of N.C.G.S. § 47F-3-116(e) and § 47F-3-116(e1), such interest and reasonable attorneys' fees together with the costs of the action.

(d) If any Assessment due hereunder remains unpaid for thirty (30) days or more, the Association, after giving notice and an opportunity to be heard, may also suspend privileges and services as more specifically set forth in Section 11.1 hereof.

(e) The foregoing remedies of the Association are not exclusive, and the Association's pursuit of one remedy shall not waive its right to pursue any other remedy, nor is the Association required to pursue one remedy before another.

4.11. No Setoff or Deduction. No Owner may waive or otherwise exempt himself from liability for the Assessments provided for in this Declaration. No setoff, diminution, or abatement of any Assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action, any inconvenience or discomfort arising from the making of repairs or Improvements which are the responsibility of the Association or any action taken by the Association to comply with any law, ordinance, order or directive of any municipal or other governmental authority. The obligation to pay Assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.

4.12. Subordination of the Lien. The lien of the Assessments provided for herein shall be subordinate to the lien of any first Mortgage now or hereafter placed upon any portion of the Property.

4.13. Annual Statements; Financial Records. The President, Treasurer or such other officer as may have custody of the funds of the Association shall, within seventy-five (75) days after the close of each fiscal year of the Association, prepare and make available for examination by the Owners an annual income and expense statement and balance sheet for such fiscal year. The statement shall name each creditor of the Association; provided, however, that the statement shall not be required to name any creditor of less than \$500.00. Upon the written request of any Member, such officer shall furnish to the Member by mail or in person, at no charge, a copy of such statement within thirty (30) days after receipt of such request. Any holder of a first Mortgage on a Lot shall be entitled upon written request to a financial statement for the immediately preceding fiscal year. The Board of Directors of the Association shall keep such other financial records as are required by the Act and the Bylaws.

4.14. Lots Owned by Declarant. Notwithstanding anything herein to the contrary, no Assessment shall be levied against any Lot owned by Declarant (or any assignee of Declarant's rights hereunder) without the prior written consent of Declarant, nor shall Declarant (or any assignee of Declarant's rights hereunder) be liable for payment of any Assessments; provided, however, this provision shall not prohibit Declarant (or any assignee of Declarant's rights hereunder) in its sole discretion from making capital contributions or loans upon commercially reasonable terms to the Association from time to time, provided that any such loans are permissible under the Act. This provision shall not alter or impair Declarant's rights hereunder, including Declarant's rights to vote in the Association as a Lot Owner.

ARTICLE V

FUNCTIONS OF ASSOCIATION

The Association shall have all the powers described in N.C.G.S. § 47F-3-102, the terms of which are incorporated herein by reference. The Association shall perform all the functions and services required by this Declaration, the Articles and Bylaws, including, but not limited to the following:

(a) The Association shall provide or procure the administrative services necessary to carry out the Association's obligations and business, including legal, accounting, financial and communications services.

(b) The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

(1) The Association shall set Assessments, levy Assessments, notify the Members of such Assessments and collect such Assessments;

(2) The Association shall prepare accurate indexes of Members, votes and Assessments;

(3) Upon such time as Declarant is no longer authorized to appoint the members of the Architectural Review Committee, the Association shall operate and appoint the members of the Architectural Review Committee as provided herein;

(4) The Association shall provide regular and thorough maintenance and clean up of all Common Areas and repair or replace the Improvements thereon as necessary;

(5) The Association shall hold annual meetings, special meetings and elections for the Board of Directors and give Members proper notice thereof, all as required by the Bylaws and the Act; and

(6) The Association shall prepare annual statements and annual budgets and shall make the financial books of the Association available for inspection by Members at all reasonable times.

(c) Should Declarant appoint the Association as its agent for the administration and enforcement of any of the provisions of this Declaration or any other covenants and restrictions of record, the Association shall assume such responsibility and any obligations which are incident thereto.

(d) The Association shall provide appropriate liability and hazard insurance coverage as provided herein for Improvements and activities on all Common Areas.

(e) The Association shall provide appropriate directors' and officers' legal liability insurance and indemnify persons pursuant to the provisions of the Articles.

(f) The Association shall keep a complete record of all its acts and corporate affairs.

ARTICLE VI **INSURANCE**

6.1. Ownership of Policies. Commencing not later than the time of the first conveyance of a Lot to a person or entity other than Declarant or Garman Homes, LLC, the

Association shall purchase contracts of insurance for the benefit of the Association and its Mortgagees, if any, as their interests may appear all in accordance with, and if required under, N.C.G.S. § 47F-3-113. The Association may re-evaluate its coverage from time to time and may provide, subject to Section 6.2, for such insurance coverage as it deems appropriate.

6.2. Coverage. All Improvements and personal property included in the Common Areas (if any) shall be insured in an amount equal to at least one hundred percent (100%) of their insurable replacement value as determined annually by the Association with the assistance of the insurance company underwriting the coverage. Such coverage shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and such other risks as from time to time shall be customarily covered with respect thereto. In addition, the Association shall acquire and maintain in full force and effect a policy of insurance which insures against any public liability arising out of its interest in the Common Areas and the use and operation thereof with limits of liability therefor of not less than One Million Dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. Such policies shall contain clauses providing for waivers of subrogation if commercially available.

6.3. Fidelity Insurance or Bond. All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association shall first be bonded or insured by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties in an amount equal to at least the annual amount of the total Regular Assessment plus reserves accumulated; provided, however, that the Association may, but is not required to, bond or provide fidelity insurance for Board members or officers appointed or installed by the Declarant during the Period of Declarant Control.

6.4. Premiums. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and charged ratably to the Owners as an Assessment according to the provisions regarding Assessments contained herein.

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

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

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

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

ARTICLE VII ARCHITECTURAL AND APPEARANCE CONTROL

7.1. Approval Required. Notwithstanding anything herein to the contrary, no tree trimming or removal, land clearing or disturbance, grading, site preparation or change in grade or slope of any portion of the Property, or erection of buildings or houses or exterior additions, or alterations to any building situated upon the Property, or erection of, or changes or additions to, fences, hedges, walls or any other structures whatsoever, or construction of any swimming pools or other improvements (collectively "**Improvements**"), shall be commenced, erected or maintained on any portion of the Property until the architectural review committee (the "**Architectural Review Committee**") appointed as hereinafter provided has approved in writing the plans and specifications therefore, including the location of such Improvements.

7.2. Composition. Garman Homes, LLC is hereby irrevocably appointed the sole member of the initial Architectural Review Committee, and Garman Homes, LLC shall serve as the sole member of the Architectural Review Committee until the earlier of its resignation in writing or its sale of the last Lot in the Community. Thereafter, the number of members and the terms of the members shall be as determined by the Board of Directors. Except as set forth in the first sentence of this Section 7.2, during the Period of Declarant Control, Declarant shall appoint the members of the Architectural Review Committee. After the expiration of the Period of Declarant Control, the Board of Directors shall appoint the members of the Architectural Review Committee on an annual basis. Except as set forth in the first sentence of this Section 7.2, at any time prior the expiration of the Period of Declarant Control, Declarant may elect to turn over control of the Architectural Review Committee to the Association and the Association shall accept such control and shall operate the Architectural Review Committee pursuant to this Declaration.

7.3. Procedure. Prior to taking any action requiring the approval of the Architectural Review Committee, the Owner desiring to take such action shall submit to the Architectural Review Committee the plans and specifications for the proposed work. The Architectural Review Committee shall have fifteen (15) days in which to render a written response, either approving or denying the proposal, or requesting more information. If the Architectural Review Committee fails to respond in writing within fifteen (15) days of its receipt of the plans and specifications or any requested additional information, then the plans and specifications submitted shall be deemed approved. Declarant or the Association may publish architectural guidelines to assist the Architectural Review Committee in its review of plans and specifications. The Architectural Review Committee may from time to time establish such additional procedures as may be reasonable necessary to carry out its function.

7.4. Enforcement. Declarant, the Architectural Review Committee and the Association shall have the specific, nonexclusive right (but not obligation) to enforce the provisions contained in this Article and to remedy any violation of the provisions contained in

this Article of this Declaration by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained in this Article. Violation of this Article by a contractor or other contractor or other agent hired by an Owner shall not excuse such Owner from liability hereunder. The Architectural Review Committee shall have an easement over the Property for the purpose of confirming that work is carried out in conformance with approved plans and specifications.

7.5. Limitation of Liability. Neither the Architectural Review Committee nor the members thereof nor Declarant shall be liable for damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications.

7.6. Miscellaneous; Fees. No member of the Architectural Review Committee shall be entitled to compensation for services performed pursuant to this Article. The Association shall reimburse members of the Architectural Review Committee for reasonable out-of-pocket expenses. Subject to the expiration of the Period of Declarant Control, Declarant may reserve control of the Architectural Review Committee in the event that Declarant assigns its rights hereunder to a successor Declarant. The Architectural Review Committee may from time to time in its reasonable discretion hire independent professionals to review and provide recommendations on submissions to the Architectural Review Committee, and the cost shall be borne by the Owner requesting approval.

ARTICLE VIII

COMMON AREA AND LOT MAINTENANCE

8.1. Maintenance by the Association. The Association shall maintain the Common Areas, if any, Sign Easements, and any Improvements, landscaping, utilities and facilities located thereon, if any, in a safe and neat manner. If the need for any maintenance, repair or replacement required hereunder to be performed by the Association is caused by the willful or negligent act of an Owner, Occupant of an Owner's Lot, or the family, guests or invitees of any Owner or Occupant, and the costs of such maintenance, repair or replacement is not covered by or paid for by insurance maintained by or on behalf of the Association, in whole or in part, then the Association, shall perform such maintenance, repair or replacement at such Owner's expense, and all such costs shall be an Assessment against the Owner's Lot. Such Owner may request a hearing by the Board of Directors, or an adjudicatory panel appointed by the Board, to determine responsibility for the damages. The hearing shall afford notice of the charge to the Owner, an opportunity for the Owner to be heard and to present evidence, and a notice of the decision by the Board.

8.2. Maintenance by Owners. Each Owner shall keep his Lot and the Improvements thereon in compliance with the then current zoning laws, building codes and other governmental regulations, maintain all portions of his Lot in a clean, neat, orderly, safe and well kept manner and keep in place adequate measures for insect, reptile, rodent and fire control. Such maintenance shall include, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and wastes;
- (b) Lawn mowing on a regular basis, and keeping other areas neat and clean;
- (c) Tree and shrub pruning of property located at driveway entrances so as to permit safe entry onto roads;
- (d) Keeping Improvements neat, painted and well maintained;
- (e) Repairing exterior damage to Improvements;
- (f) Keeping landscaping and garden areas alive and healthy;
- (g) Complying with all governmental health and police requirements;
- (h) Mitigating any condition which presents a danger to other Owners, their guests or tenants; and
- (i) Completing landscape installation prior to occupancy.

8.3. Erosion Control. During any period of grading and construction of the Improvements upon a Lot and at all times thereafter, each Owner shall exercise and maintain such erosion control measures, including the erection of silt fences, as may be required by Declarant in order to minimize erosion and runoff. Compliance with the applicable municipal erosion control ordinance shall not constitute automatic approval by Declarant, and Declarant reserves the right to impose requirements and standards in excess of those required by law.

8.4 Right to Enter. If any Owner fails to maintain his Lot as required by this Declaration, Declarant and the Association and their respective agents shall have the right, but not the obligation, to enter upon the Lot for the purpose of correcting such conditions, including without limitation, the removal of trash and debris, and the cost of such corrective action shall be paid by the Owner of the Lot so entered. Such entry shall not be made unless the Owner has failed to take corrective action within thirty (30) days after written notice of the violation from the Association; provided, however, that should such condition pose an immediate health or safety hazard, the Association may enter and take corrective action immediately. The Owner of the Lot on which any such corrective work is performed shall be liable for the costs of such work and shall promptly reimburse the Association for such costs within thirty (30) days after receipt of a statement for the work performed by the Association.

8.5 Stormwater Facilities. The Declarant reserves the right to require the Association to post any bond, make any deposit, or take any other action required by the applicable land development obligations and the Stormwater Agreement, and the Association will be responsible for maintaining the stormwater facilities in the Common Area in accordance with the Stormwater Agreement.

ARTICLE IX USE RESTRICTIONS

9.1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Property, including the Common Areas. Such use restrictions and rules shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners until and unless overruled, canceled or modified in a regular or special meeting by a majority of the Total Association Vote.

9.2. Use of Property. All portions of the Property shall be occupied and used as follows:

(a) All Lots and the structures thereon shall be used for residential purposes, recreational purposes incidental thereto and for customary accessory uses. The use of a portion of a dwelling unit or an accessory dwelling as an office by the Owner or other Occupant thereof shall be considered a residential use provided that such use is permitted by applicable local government ordinances, laws and regulations, does not create undue customer or client traffic or parking demands and otherwise conforms to the rules and regulations from time to time promulgated by the Association. This provision or any other provision herein shall not prohibit Declarant or persons authorized by Declarant from using any house, other dwelling units or accessory buildings as models, a construction office or a sales office.

(b) No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on a Lot other than (i) one (1) single family dwelling, and (ii) one small accessory building (which may include small office, guest house, workshop, studio, pool house or similar use ancillary to the main residence on the Lot).

(c) Owners shall make reasonable use of existing garage space to accommodate vehicles to minimize overnight parking on driveways and streets. Garage doors will remain closed when not in use.

(d) Outside clothes lines shall not be permitted upon any Lot at locations where they can be viewed from any road or any other Lot.

(e) No sign or flag of any kind shall be displayed on any Lot (excepting signage for the Community in the Common Areas or Sign Easements) except for the following: flags of the United States or North Carolina which are no greater than four feet by six feet, which are displayed in accordance with or in a manner consistent with the patriotic customs set forth in 4 U.S.C. §§ 5-10 as amended. Notwithstanding this general prohibition against signs, Declarant may erect and maintain signs advertising the Community or portions thereof at its sole discretion. All signs erected and maintained must conform with all applicable governmental requirements, and in the case of political signs, if the above restrictions are more restrictive than any applicable city, town or county ordinance that regulates the size and number of political signs on residential property, then the Owner of a Lot may display political signs as permitted under such ordinance. Further, both the Declarant and the Association shall have the right and easement, wherever there shall have been placed or constructed a sign in violation of the provisions herein contained to enter immediately upon such property and summarily remove such sign at the expense of the Owner of the parcel where the sign is located.

(f) Trucks, buses, boats, trailers, motorhomes, campers, motorcycles, minibikes, farm equipment, boats, other watercraft must be parked entirely within a garage unless otherwise permitted by the Architectural Review Committee. Vehicles will be parked only on all-weather material (cement, brick pavers, asphalt or gravel, and no junk vehicles or inoperable vehicles are

permitted on residential property or in the street. Off-street parking shall be provided for all motorized vehicles and bicycles. No house trailers are permitted on any portion of the Property.

(g) No lumber, brick, stone, cinder block, concrete or any other building materials, scaffolding, mechanical devices or any other thing used for building purposes shall be stored on any portion of the Property in an exposed location except for the purpose of construction on such Property and in that case, only for so long as is reasonably necessary for the construction in which same is to be used.

(h) No exposed above-ground tanks or fuel canisters will be permitted for the storage of fuel or water or any other substance, except that such tanks may be placed above-ground provided they are kept in a screened enclosure that must exceed in height by at least one (1) foot any such tank as may be placed therein.

(i) Trash cans and recycling bins shall be kept in an enclosure and hidden from view from any road or other Lot.

(j) To the extent permitted by law, no tower, exterior antennae, satellite station or dish, microwave dish or other similar improvement may be constructed, placed or maintained on any portion of the Property without the prior written consent of the Architectural Review Committee.

(k) No portion of the Property may be used as a rooming house, hotel, bed and breakfast, or other transient residential purposes.

(l) The pursuit of hobbies or other activities which might tend to cause disorderly, unsightly or unkept conditions, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles, shall not be pursued or undertaken on any part of the Property at locations where they can be viewed from any road or other Lot.

(m) No animal of any kind shall be raised, bred, boarded or kept on any portion of the Property for any commercial purpose. Owners are required to clean up all pet waste from their pets. All animals either owned by an Owner or for which the Owner is legally responsible shall be kept within the boundaries of the Owner's Lot unless accompanied while off the Lot by an Owner. The Board of Directors may, in its discretion, pass rules and regulations requiring the clean-up and/or repair by owners of animals of all injury, damage or waste caused by animals to exterior portions of the Property.

(n) Neither Owners nor Occupants shall make any alteration or construction in or upon any portions of the Common Areas or Sign Easements except at the direction or with the express written consent of the Association.

(o) The Common Areas shall be used only for the purposes for which they are intended and reasonably suited and which are incidental to the use and occupancy of the Improvements constructed thereon, and no waste shall be committed thereon.

(p) No structures, plantings or other materials shall be placed or permitted to remain in storm water drainage easements which may interfere with the drainage or obstruct, retard or alter the direction of the flow of surface water through drainage channels which have been constructed within any easements reserved or granted pursuant to Section 10.2.

(q) No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Architectural Review Committee. Declarant hereby, expressly reserves the right to recombine or subdivide any Lot or Lots owned by Declarant or any affiliate of Declarant. Declarant's right to replat any Lot shall include the right to change the configuration of Common Areas.

(r) Lots may be leased for residential purposes; provided, however, that all leases shall be in writing and have a minimum term of at least twelve (12) months. All leases shall require that the tenant acknowledge receipt of a copy of the use restrictions stated herein and the rules and regulations of the Association and shall also obligate the tenant to comply therewith.

(s) Hunting is prohibited on the Property.

(t) Four wheeling or other riding of all terrain vehicles or off-road motorcycles is prohibited on the Property.

(u) The planting or cultivation of plants classified as noxious or invasive in North Carolina is prohibited. In enforcing this provision, the Association (or Architectural Review Committee if reviewing landscaping plans) shall first make reference to any list of noxious weeds as may be maintained by the United States Department of Agriculture, and any list of invasive weeds as may be maintained by North Carolina State University. In the event these lists are not available, the Association may refer to a comparable list or lists in its reasonable discretion.

9.3. Prohibited Activities Generally. Noxious, offensive or loud activities, or any activity that constitutes a nuisance shall not be carried on upon any portion of the Property, including, without limitation, keeping or storing any material, substance or thing that emits a foul or obnoxious odor or that will cause any noise or other condition that will or might disturb the peace, safety, or comfort of other Owners or Occupants. Each Owner shall refrain from any act or use which could reasonably cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No Owner or Occupant shall release or store any hazardous material or substance in violation of any environmental law. A persistent barking dog will be deemed a nuisance and the Association shall have the right to order the Owner to silence the dog or remove it.

9.4 Applicability of Restrictions. All Occupants and guests of each Owner and Occupant are subject to the restrictions set forth in this Article and the rules and regulations at any time adopted by the Board of Directors concerning the use and enjoyment of the Property, including the Common Areas, and each Owner shall cause the Occupants of its Lot and the Owner's guests to comply with such restrictions, rules and regulations.

9.5. Governmental Regulations. If any provision of a governmental code, regulation or restriction applicable to any Lot or Owner conflicts with this Declaration, the more restrictive provision shall apply.

9.6 Setbacks. All Lots shall be subject to setbacks or building envelopes, if any, as may be shown on any recorded subdivision plat of the Property. The Architectural Review Committee is hereby vested with the authority to establish building envelopes, and grant waivers or variances with respect to violations of such setbacks or building envelopes as are imposed hereby; provided, however, with respect to setbacks imposed by municipal authority, nothing herein shall relieve the requirement to comply therewith, such relief being available solely from the municipal authority imposing the same.

ARTICLE X

COMMON AREAS AND EASEMENTS

10.1 Owners' Easements of Enjoyment. Every Owner, Occupant and each guest of an Owner and Occupant shall have a right and easement of enjoyment in and to, and right of ingress and egress over, the Common Areas which shall be appurtenant to and shall pass with the title to the Property or portion thereof. The easements granted herein are subject to the following rights of the Association to:

(a) dedicate or transfer all or any part of its interest in 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 or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by those Members having at least eighty percent (80%) of the Total Association Vote has been recorded;

(b) formulate, publish, impose and enforce rules, regulations and restrictions relating to the use and enjoyment of the Common Areas, including, without limitation, limitations on the number of guests of Owners and Occupants who may use the Common Areas and restrictions on the times that certain facilities located in Common Areas may be used; and

(c) suspend the right of an Owner to use the recreational facilities available for use by the Community for any period during which any Assessment against such Owner's Lot remains unpaid or for a reasonable period of time for an infraction of the Declaration, Bylaws or the Association's rules and regulations;

10.2 Utilities Easements. Declarant reserves an easement for, and the right at any time in the future to grant a right-of-way and easement for, the purpose of drainage and underground or above ground installation, repair and maintenance of poles, lines, conduits, pipes and other equipment necessary to or useful in furnishing electric power, gas, sewer, telephone service, cable services, stormwater drainage (including, without limitation, general flowage easements for stormwater drainage) and any other utilities over, under and through all portions of the Property; provided, however, that Declarant shall have no right to grant any such easement upon any portion of the Property on which a building is located or is to be constructed if the plans for

such building were approved by the Architectural Review Committee in accordance with this Declaration. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. This reservation shall not create any obligation on the part of the Declarant or the Association to provide or maintain any utility or service.

10.3 Easement for Maintenance. Declarant hereby expressly reserves and establishes a perpetual easement for the benefit of Declarant and the Association across such portions of the Property, as determined in the sole discretion of Declarant and the Association, as are necessary to allow for the maintenance required by this Declaration. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Owners.

10.4 Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his rights of use and enjoyment in and to the Common Areas, to the members of his family, his lawful tenants, or contract purchasers who reside on such Owner's Lot and, to his guests, invitees and licensees.

10.5 Title to Common Area. Declarant may elect at any time to convey by deed to the Association fee simple title to Common Areas, free of all encumbrances and liens except easements, covenants, restrictions and other matters of record, taxes for the year of conveyance, zoning and building laws, ordinances and regulations, matters of survey, and the Association shall accept such deed.

10.6 Sign Easement. Declarant hereby declares for the use and benefit of itself, the Association and all Owners a perpetual, non-exclusive easement over, on, through, across and the Sign Easement(s), if any, for the purpose of allowing Declarant and the Association to install, maintain, repair and replace entry feature signage for the Community. Said easement shall be appurtenant to all Lots and run with the land.

ARTICLE XI

GENERAL PROVISIONS

11.1 Enforcement.

(a) If any Owner violates this Declaration, the Bylaws or the rules and regulations of the Association, the Association, after giving notice an opportunity to be heard as hereinafter set forth, may impose fines or suspend privileges for reasonable periods for such violations. Prior to any such imposition of fines or suspensions, a hearing shall be held before the Board or an adjudicating panel appointed by the Board to determine if the Owners should be fined or privileges should be suspended. Any adjudicating panel appointed by the Board shall be composed of Members who are not officers of the Association or members of the Board. The Owners shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed \$100 may be imposed for the violation, and without further hearing, for each day more than five (5) days after the decision that the violation occurs. Such fine shall be an assessment secured by the

liens under N.C.G.S. §47-3-116. If it is decided that a suspension of privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured. The Owner may appeal the decision of an adjudicating panel to the full Board by delivering written notice of appeal to the Board within fifteen (15) days after the date of the decision. The Board may affirm, vacate or modify the prior decision of the adjudicating body.

(b) The Association, Declarant or any Owner shall also have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the Bylaws or the rules and regulations of the Association. Failure by the Association, Declarant or any Owner to enforce any covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

11.2. Cost of Corrective Action. Whenever the Declarant or the Association or their agent is permitted by this Declaration to correct, repair, enhance, improve, clear, preserve, remove or take any action on any portion of the Property and whenever it is stated in this Declaration that the cost of such action (the “**Cost of Corrective Action**”) shall be paid by the Owner of the Property and the Owner fails to reimburse the Association for the Costs of Corrective Action within thirty (30) days after receipt of a statement for the work performed by the Association, then the Cost of Corrective Action (together with such interest thereon at the maximum annual rate permitted by law and cost of collection therefore, including reasonable attorney’s fees) shall be (a) the personal obligation of the Owner at the time when such Cost of Corrective Action became due and payable and (b) a charge and continuing lien against all portions of the Property owned by said Owner, its heirs, successors and assigns, which is subject to the provisions of this Declaration. Such lien shall have the same attributes as the lien for Regular Assessments as set forth in Section 4.10 of this Declaration and N.C.G.S. § 47F-3-116(e) and N.C.G.S. § 47F-3-116(e1), and the Association shall have the identical rights, remedies and powers established therein, including, but not limited to, the right of foreclosure.

11.3 Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full and effect.

11.4. Amendment of Declaration. The Declarant reserves the right to amend this Declaration unilaterally without the joinder or approval of the Association or any Owner as may be necessary to exercise any of its rights reserved hereunder, conform this Declaration to the requirements of the Act, any municipal development regulation, or any regulation or guideline of any government or governmental agency regulating mortgages. Except for amendments by the Declarant as authorized by the Act or hereunder, this Declaration may be amended by the affirmative vote of, or by an instrument signed by, those Members having at least sixty-seven percent (67%) of the Total Association Vote. The amendment shall be effective upon its recording in the county in which the Property lies. Notwithstanding anything herein to the contrary, (i) no amendment of this Declaration during the Period of Declarant Control shall be valid without the written consent and joinder of Declarant, and (ii) no amendment shall be valid without the consent and joinder of Garman Homes, LLC so long as Garman Homes, LLC owns a

Lot in the Community or has a contractual right to purchase from Declarant a Lot in the Community.

11.5 Termination. This Declaration may be terminated with the vote of at least 80% of the Total Association Vote in accordance with N.C.G.S. § 47F-2-118.

11.6. Declarant's Rights. During the Period of Declarant Control Declarant shall have the authority and the power to exercise any of those special declarant rights enumerated in N.C.G.S. § 47F-1-103(28) in addition to those other rights specifically reserved by and for Declarant in this Declaration.

[signature page follows]

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

Declarant:

Little Cross, LLC

By: 

Name: Hugh Surles

Title: Manager

STATE OF NORTH CAROLINA
COUNTY OF Wake

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Hugh Surles.
(name of person signing in blank)

Date: January 5, 2018


Notary Public

Print Name: John B. Adcock

My commission expires: 1-24-2021

[Official Seal]

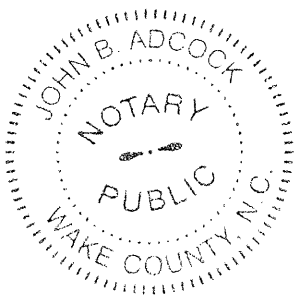


EXHIBIT A
Legal Description of Property

Lying in the Town of Apex, White Oak Township, Wake County, North Carolina and being more particularly described as follows:

BEING all of that real property constituting the Abbey Run Subdivision, including without limitation Lots 1 through 19, and Common Areas 1 and 2, as shown on the plat of Abbey Run Subdivision recorded in Book of Maps 2017, Page 2272, Wake County Registry.