

WARREN COUNTY, VIRGINIA  
LAND RECORDS

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION**

**BLUE RIDGE SHADOWS SUBDIVISION**

Warren County, Virginia

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**BLUE RIDGE SHADOWS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (the "Declaration") is made as of October 25, 2005, by and between **D. R. HORTON, INC.**, a Delaware corporation, its successors and assigns (the "Declarant"), Grantor and Grantee; **BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION**, a Virginia non-stock corporation, its successors and assigns (the "Association"), Grantor and Grantee.

**WITNESSETH:**

WHEREAS, the Declarant is the owner of certain real property located in Warren County, Virginia, known as Lots 1 through 24, both inclusive, Lots 51 through 61, both inclusive, Lots 84 through 97, both inclusive, and Parcels O, R, S, T, U, V, W, X, and Y, PHASE 1, BLUE RIDGE SHADOWS, as the same are duly subdivided, platted and recorded by Instrument Number 050013597 among the land records of Warren County, Virginia; and

WHEREAS, the Declarant is also the owner of other certain real property located in Warren County, Virginia, known as Lots 62 through 83, both inclusive, and Parcels P and Q, PHASE 2, BLUE RIDGE SHADOWS, as the same are duly subdivided, platted and recorded by Instrument Number 050013598 among the land records of Warren County, Virginia; and

WHEREAS, the Declarant desires to create on the Property (as hereinafter defined) a residential community which shall have permanent open spaces and other common facilities for the benefit of the community; and

WHEREAS, the Declarant and the Association desire to provide for the preservation of the values of the community and such other areas as may be subjected to this Declaration, and to provide for the maintenance of the open spaces and other facilities, and, to this end, declare and publish their intent to subject the Property to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, it being intended that they shall run with the Property and shall be binding on all persons or entities having or acquiring any right, title or interest in the Property or any part thereof and shall inure to the benefit of each owner thereof; and

WHEREAS, the Declarant has deemed it desirable for the efficient preservation of the values of said community to create an association to which shall be delegated and assigned the powers of owning, maintaining and administering the common areas and facilities, administering and enforcing the covenants and restrictions made in and pursuant to this Declaration and collecting and disbursing the assessments and charges hereafter created; and

WHEREAS, the Declarant has incorporated or intends to incorporate as a non-stock corporation under the laws of the Commonwealth of Virginia, BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION for the purpose of exercising the functions of the Association.

NOW, THEREFORE, the Declarant, for and in consideration of the premises and the covenants contained herein, grants, establishes and conveys to each owner of a Lot, with the express concurrence of the Association, mutual, non-exclusive rights, privileges and easements of enjoyment on equal terms and in common with all other owners of Lots in and to the use of any Common Area and facilities; and further, the Declarant and the Association declare the Property to be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, reservations, easements, charges and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and shall run with, the Property and be binding on all parties having any right, title or interest in the Property or any part thereof, their respective successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I**  
**DEFINITIONS**

**Section 1.** "Association" shall mean and refer to BLUE RIDGE HOMEOWNERS ASSOCIATION, a Virginia non-stock corporation, its successors and assigns.

**Section 2.** "Common Area" shall mean and refer to all real property (including the improvements thereto) owned or conveyed by the Association for the common use and enjoyment of the Members, and shall include any private streets shown on an approved plat of the Property and located within the Common Area's boundaries.

**Section 3.** "Declarant" shall mean and refer to D. R. Horton, Inc., a Delaware corporation and its successors or assigns (i) to whom D. R. Horton, Inc., a Delaware corporation assigns any or all of its rights as Declarant pursuant to this Declaration by assignment recorded in the appropriate land records, or (ii) who is a purchaser at foreclosure of the Property or a grantee in a deed in lieu of foreclosure from the Declarant. Such an assignment shall only operate as to the land which is owned by such successor or assign. If the Declarant consists of more than one (1) person or entity, the rights and obligations of the Declarants shall be several and shall be based upon and apportioned in accordance with the number of Lots owned by each Declarant.

**Section 4.** "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions applicable to the Property, which Declaration is recorded in the Office of the Clerk of the Circuit Court of Warren County, Virginia.

**Section 5.** "Developer" shall mean and refer to D. R. Horton, Inc., a Delaware corporation and its assignees if such assignees receive a written assignment from the

Developer.

**Section 6.** "Dwelling Unit" shall mean and refer to any improvement to the Property intended for any type of independent ownership for use and occupancy as a residence by a single household and shall, unless otherwise specified, include within its meaning (by way of illustration but not limitation) patio or zero lot line homes, townhouses and detached homes.

**Section 7.** "Golf Course" shall mean and refer to the eighteen (18) hole golf course located on approximately 169.3 acres as more particularly described and set forth in the Revised Rezoning Request Proffer, dated April 30, 2002, File Number R2001-05-01 recorded among the Warren County, Virginia land records on June 6, 2002 as Instrument Number 020004740.

**Section 8.** "Lot" shall mean and refer to any plot of land created by and shown on a lawfully recorded subdivision plat of the Property upon which a Dwelling Unit could be constructed in accordance with applicable zoning ordinances, with the exception of the Common Area and streets dedicated to public use.

**Section 9.** "Member" shall mean and refer to every person or entity who holds a membership in the Association, as more particularly set forth in **Article II** below.

**Section 10.** "Mortgagee" shall mean and refer to any person or entity secured by a first mortgage or first deed of trust on any Lot or the Common Area who has notified the Association of this fact in writing.

**Section 11.** "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot, including a contract seller but excluding those holding such interest in a Lot solely by virtue of a contract to purchase a Lot or as security for the performance of an obligation. If more than one (1) person or entity is the record owner of a Lot, the term "Owner" as used herein shall mean and refer to such owners collectively, so that there shall be only one (1) Owner of each Lot.

**Section 12.** "Proffers" shall mean and refer to the Revised Rezoning Request Proffer, dated April 30, 2002, File Number R2001-05-01 recorded among the Warren County, Virginia land records on June 6, 2002 as Instrument Number 020004740.

**Section 13.** "Property" shall mean and refer to the following real property:

a. Lots 1 through 24, both inclusive, Lots 51 through 61, both inclusive, Lots 84 through 97, both inclusive, and Parcels O, R, S, T, U, V, W, X, and Y, PHASE 1, BLUE RIDGE SHADOWS, as the same are duly subdivided, platted and recorded by Instrument Number 050013597 among the land records of Warren County, Virginia ; and

b. Lots 62 through 83, both inclusive, and Parcels P and Q, PHASE 2,

BLUE RIDGE SHADOWS, as the same are duly subdivided, platted and recorded by Instrument Number 050013598 among the land records of Warren County, Virginia

c. Such additions thereto which, from time to time, may be brought within the jurisdiction of the Association and this Declaration.

ARTICLE II  
MEMBERSHIP

Every Owner of a Lot which is subject by covenants of record to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. No Owner shall have more than one (1) membership in the Association for each Lot it owns.

ARTICLE III  
VOTING RIGHTS

Section 1. Classes. The Association shall have two (2) classes of voting membership:

Class A: Class A Members shall be all Members with the exception of the Class B Member. A Class A Member shall be entitled to one (1) vote for each Lot in which it holds the interest required for membership by the Article entitled "Membership" herein.

Class B: The Class B Member(s) shall be the Declarant. A Class B Member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by the Article entitled "Membership" herein. Class B membership shall cease and a Class A membership with one (1) vote for each Lot in which it holds an interest shall issue on the happening of any of the following events, whichever occurs first:

(a) within four (4) months after the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) seven (7) years from the date of recordation of this Declaration.

Section 2. Annexation. Upon annexation of additional properties pursuant to this Declaration, and in the event that Class B membership shall have ceased as hereinabove provided, Class B membership shall be revived with respect to all Lots owned by the Declarant, which Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs



first:

(a) within four (4) months after the total votes outstanding in Class A membership in the annexed property equal the total votes outstanding in the Class B membership in such annexed property; or

(b) seven (7) years from the date of recordation of the document annexing such property.

Section 3. Multiple ownership interests. If more than one (1) person or entity holds an ownership interest in any Lot, the vote for such Lot shall be exercised as the owners of the Lot among themselves determine and may be exercised by any one (1) of the people or entities holding such ownership interest, unless any objection or protest by any other holder of such ownership interest is made prior to the completion of a vote, in which case the vote for such membership shall not be counted, but the Member whose vote is in dispute shall be counted as present at the meeting for quorum purposes if the protest is lodged at such meeting. In no event shall more than one (1) vote be cast with respect to any Lot.

#### ARTICLE IV PROPERTY RIGHTS

Section 1. Member's Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility located on the Common Area;

(b) the right of the Association to limit the number of guests of Members on the Common Area;

(c) the right of the Association to adopt and enforce rules and regulations governing the use of the Common Area and facilities, including, without limitation, the imposition of fines for the violation thereof;

(d) the right of the Association to suspend the voting rights, the right to run for office within the Association, and rights of a Member to the use of any recreational facilities or nonessential services offered by the Association, to the extent that access to the Lot through the Common Area is not precluded, for any period during which any assessment against such Member's Lot remains unpaid or for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(e) the right of the Association to borrow money for the improvement, maintenance or repair of the Common Area or facilities and in aid thereof, with the assent

of at least two-thirds (2/3) of the votes of each class of Members who are entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, to mortgage the Common Area, subject to this Declaration and the easement of enjoyment created hereby, and to acquire property encumbered by a lien or liens of a mortgage or deed of trust; provided that any such mortgage of the Common Area must state that it is subject to this Declaration and the easement of enjoyment created hereby and shall not be in conflict with its designation as "open space";

(f) the right of the Association at any time, or upon dissolution of the Association, and consistent with the then-existing zoning ordinances of Warren County, Virginia (the "County") and its designation of the Common Area as "open space", to dedicate or transfer all or any part of the Common Area to an organization conceived and organized to own and maintain common open space, or, if such organization will not accept such a transfer, then to the County or other appropriate governmental agency, or, if such a transfer is declined, then to another entity in accordance with the laws governing the same, for such purposes and subject to conditions as may be agreed to by the Members. Except in the case of dissolution, any such dedication or transfer shall have the assent of at least two-thirds (2/3) of each class of Members entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, written notice of which shall be sent to all Members not less than twenty-five (25) days nor more than fifty (50) days in advance of the meeting setting forth the purpose of the meeting. Upon such assent and in accordance therewith, the officers of the Association shall execute the necessary documents. The resubdivision or adjustment of the boundary lines of the Common Area and the granting of easements by the Association shall not be deemed a transfer within the meaning of this Article;

(g) the right of the Association to grant, with or without payment to the Association, licenses, rights-of-way and easements through or over any portion of the Common Area. The foregoing shall not be construed, however, to permit acquisition of or damage to any improvements, structures or installations located upon the Common Area without the payment of damages, including severance or resulting damages, if any, to the Association absent the Association's consent;

(h) the right of the Association to lease the Common Area; and

(i) the right of the Declarant or the Association to resubdivide and/or adjust the boundary lines of the Common Area as either deems necessary for the orderly development of the subdivision.

**Section 2. Delegation of Use.** Any Member may delegate its right of enjoyment to the Common Area and facilities to the members of its immediate household, its tenants or contract purchasers who reside on the Member's Lot. However, by accepting a deed to such Lot, every Owner covenants that should the Owner desire to rent its Lot, the

rental agreement shall contain specific conditions which require the tenant to abide by all Association covenants, rules and regulations, and any Owner desiring to rent a Lot further covenants that the tenant will be provided a complete set of all Association covenants, rules and regulations.

## ARTICLE V ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** The Declarant covenants, for each Lot owned, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other instrument of conveyance, is deemed to covenant and agree to pay to the Association: (a) Annual General Assessments (as hereinafter defined) or charges, (b) Annual Service Assessments (as hereinafter defined), and (c) Special Assessments (as hereinafter defined) for capital improvements or other specified items. Such assessments are to be established and collected as hereinafter provided. The Association's Annual and Special Assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, late fees, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due and shall not be the personal obligation of a successor in interest unless expressly assumed by such successor. The Annual and Special Assessments, when assessed for each year, shall become a lien on the Lot in the amount of the entire Annual or Special Assessment, but shall be payable upon resolution of the Board of Directors, in equal installments collected on a monthly, bi-monthly, quarterly, semi-annual or annual basis.

**Section 2. Purpose of Assessment.** The assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents and Owners of the Property, for the improvement and maintenance of the Common Area, including but not limited to the payment of taxes, construction of improvements and maintenance of services and facilities devoted to these purposes or related to the use and enjoyment of the Common Area or other property which the Association has the obligation to maintain, and for such other purposes as the Board of Directors may determine to be appropriate.

**Section 3. Annual Assessment.**

(a) The Association must levy in each of its fiscal years an annual assessment (the "Annual Assessment"), against each Lot. The amount of such Annual Assessment shall be established by the Board of Directors and written notice of such shall be sent to every Owner at least thirty (30) days in advance of the commencement of each Annual Assessment period. The Annual Assessment shall become applicable as to all Lots within a section of the Property ("Section") as such Section is shown on a

recorded subdivision plat on the first day of the month following the first conveyance of a Lot within that Section to an Owner who is not the Declarant. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year.

(b) The amount of the Annual General Assessment shall be determined by the Board of Directors according to its estimate of the cost of providing services or rights of use which are common to all of the Lots.

(b) In accordance with the Proffers, the Annual General Assessment shall include a Two Hundred and No/100 Dollars (\$200.00) assessment which shall be paid over to Warren County, Virginia which shall be used for the North Warren Fire Station. This assessment shall be included as a part of the Annual General Assessment and shall not be assessed as a separate assessment or fee.

(c) The amount of the Service Assessment shall be determined by the Board of Directors for all of the Lots in each Section according to its estimated cost of providing services, reserves or rights of use to the Lots in such Section, which services or rights are not enjoyed by all of the Members and are primarily for the benefit of the Members owning Lots in such Section. The amount of a Service Assessment shall be the same for each Lot in any Section but need not be uniform with the Service Assessment, if any, imposed upon Lots in other Sections.

Section 4. Special Assessment. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Area, including the fixtures and personal property related thereto, or for any other specified purpose (the "Special Assessment"). The Special Assessment shall be levied against all of the Lots in each Section which benefit from the Special Assessment, pro rata according to each Section's benefit. The amount of the Special Assessment shall be the same for each Lot in any Section but need not be uniform with the Special Assessment imposed on Lots in other Sections. To be effective, any such assessment shall have the assent of more than two-thirds (2/3) of the votes of each class of Members within an affected Section, who are entitled to vote and who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present, written notice of which setting forth the purpose of the meeting shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

Section 5. Quorum for any Action Authorized Under Section 4. At the first calling of a meeting under Section 4 of this Article, the presence at the meeting of Members or proxies entitled to cast sixty percent (60%) of all the votes of each class of Members shall constitute a quorum. If the required quorum does not exist at any such meeting, another meeting may be called subject to the notice requirements set forth in

Section 4 and to applicable law, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 6. Working Capital Assessment.** In addition to the Annual and Special Assessments authorized above, the Association shall establish and maintain a working capital fund. At each settlement on the initial sale by a Declarant of a Lot for which a residential use permit has been issued, the purchaser of such Lot may be required to pay to the Association a one-time working capital assessment in an amount equal to one-sixth (1/6th) of the Annual Assessment for said Lot. Such working capital assessment shall not be considered an advance payment of an Annual Assessment.

**Section 7. Rate of Assessment.** The Annual General Assessment shall be fixed at a uniform rate for all Lots, except for unoccupied Lots owned by the Declarant, and the Annual Service Assessments and Special Assessments shall be fixed at a uniform rate for all Lots within a particular Section, except for unoccupied Lots owned by the Declarant. Any unoccupied Lots owned by the Declarant shall be exempt from assessment.

**Section 8. Notice of Assessment and Certificate.** Written notice of the Annual Assessments shall be sent to every Member. The due dates for payment of the Annual Assessments shall be established by the Board of Directors. The Association shall, upon demand at any time, furnish a certificate in writing signed by an officer or authorized agent of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

**Section 9. Remedies of the Association in the Event of Default.** If any assessment pursuant to this Declaration is not paid within thirty (30) days after its due date, the assessment shall bear interest from the date of delinquency at the judgment rate provided for in the Code of Virginia. In addition, in its discretion, the Association may:

- (a) impose a penalty or late charge as previously established by rule;
- (b) bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the Lot, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. A suit to recover a money judgment for nonpayment of any assessment levied pursuant to this Declaration, or any installment thereof, may be maintained without perfecting, foreclosing or waiving the lien provided for herein to secure the same;
- (c) suspend a Member's voting rights, right to hold an office within the Association, and right to use recreational facilities or nonessential services offered by the

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Association to the extent that access to the Lot through the Common Area is not precluded. No assessment shall be refunded in the event of suspension; and

(d) accelerate the due date of the unpaid assessment so that the entire balance shall become due, payable and collectible.

No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or facilities, abandonment of its Lot, or the failure of the Association or the Board of Directors to perform their duties.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any properly recorded first trust or mortgage if such first trust or mortgage was recorded before the delinquent assessment was due. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a foreclosure of a first trust or mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for or the lien of any assessments which thereafter become due or from the lien thereof.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all property dedicated to and accepted by a local public authority; and (b) the Common Area; however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 12. Reserves for Replacements. The Association shall establish and maintain a reserve fund for the maintenance, repair and replacement for those parts of the Common Area and improvements located thereon which may be replaced or require maintenance on a periodic basis by the allocation and payment to such reserve fund of an amount to be designated from time to time by the Board of Directors, which reserve fund shall be sufficient, in the sole opinion of the Board of Directors, to accommodate such future maintenance, repair and replacement and which shall be a component of the Annual General Assessment. Such reserves shall be payable in regular installments rather than by Special Assessment. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited with any banking institution, the accounts of which are insured by any state or by any agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacement of the Common Area may be expended only for the purpose of effecting the replacement of the Common Area, major repairs to, replacement and maintenance of any improvements within the Common Area, including but not limited to sidewalks, parking areas, streets or roadways developed as a part of the Property, equipment replacement, and for start-up expenses and operating contingencies of a nonrecurring nature relating to the Common Area. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or

appropriate. The proportional interest of any Member in any such reserves shall be considered an appurtenance of the Member's Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

**ARTICLE VI**  
**RESTRICTIVE COVENANTS**

**Section 1. Use.** The Property shall be used exclusively for residential purposes except as provided in Section 19 hereof. The Declarant reserves the right, pursuant to a recorded subdivision or resubdivision plat, to alter, amend, and change any lot line or subdivision plan or plat. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Dwelling Unit and appurtenant structures, approved by the Association and appropriate County authorities, for use solely by the occupant of the Dwelling Unit.

**Section 2. Modifications.** No structure or addition to a structure shall be erected, placed, altered or externally improved on any Lot until the plans and specifications, including design, elevation, material, shape, height, color and texture, and a site plan showing the location of all improvements with grading modifications, shall be filed with and approved in writing by the Architectural Review Board, and, if required, by appropriate County authorities and, where required, appropriate construction permits obtained. "Structure" shall include, but not be limited to, any building or portion thereof, wall, deck, play equipment, greenhouse, skylight, solar panel, fence, pool, pavement, driveway or appurtenances to any of the aforementioned.

**Section 3. Laundry.** No clothing, laundry or wash shall be aired or dried on any portion of the Property within public view.

**Section 4. Sight Lines.** No fence, wall, tree, hedge or shrub shall be maintained in such a manner as to obstruct sight lines for vehicular traffic.

**Section 5. Vegetation.** An Owner shall, at all times, maintain its property and all appurtenances thereto in good repair and in a state of neat appearance. All grassy areas of a lawn shall be kept mowed and shall not be permitted to grow beyond a reasonable height. Except as required for proper sight lines, no tree of a diameter of more than four (4) inches measured two (2) feet above ground level shall be removed or planted without the approval of the Architectural Review Board.

**Section 6. Noxious Activity.** No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done or placed thereon which is or may become an annoyance or nuisance to the neighborhood. No exterior lighting on a Lot shall be directed outside the boundaries of the Lot.

**Section 7. Signs.** The only signs permitted on the Property shall be customary

home and address signs and real estate sale or lease signs which have received the prior written approval of the Architectural Review Board ("**Permitted Signs**"). No more than one (1) Permitted Sign shall be displayed to public view on any Lot and must be less than or equal to two (2) square feet in total surface area and may not be illuminated. All Permitted Signs advertising the property for sale or rent shall be removed within three (3) days from the date of the conveyance of the Lot or of the execution of the lease agreement, as applicable.

**Section 8. Animals.** No domesticated or wild animal shall be kept or maintained on any Lot, except for common household pets such as dogs and cats which may be kept or maintained, provided that they are not kept, bred or maintained for commercial purposes and do not create a nuisance or annoyance to surrounding Lots or the neighborhood and are kept in compliance with applicable County ordinances. Law enforcement and animal control personnel shall have the right to enter the Property to enforce local animal control ordinances.

**Section 9. Trash.** Trash shall be collected and stored in trash receptacles only and not solely in plastic bags. Trash and garbage receptacles shall not be permitted to remain in public view except on days of trash collection, except those receptacles designed for trash accumulation located in the Common Area. No accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on the exterior of any Dwelling Unit.

**Section 10. Antennae.** The following antenna are prohibited on a Lot: exterior antenna for the transmission of radio or television signals, exterior "dish" antenna for the reception of direct broadcast satellite service that are larger than one meter (39") in diameter, and exterior antenna for receiving video programming services via MMDS (wireless cable) that are larger than one meter in diameter or diagonal measurement. The Architectural Review Board may adopt further rules and regulations regarding exterior antenna and satellite "dish" antenna.

**Section 11. Paint.** No person shall paint the exterior of any building, or portion thereof, a color different than the original color of said building or portion thereof without the proposed color having been first approved in writing by the Architectural Review Board.

**Section 12. Exteriors of Structures.** The exteriors of all structures, including, without limitation, walls, doors, windows and roofs, shall be kept in good maintenance and repair. No structure shall be permitted to stand with its exterior in an unfinished condition for longer than six (6) months after the commencement of construction. In the event of fire, windstorm or other damage, the exterior of a structure shall not be permitted to remain in a damaged condition for longer than three (3) months, unless expressly excepted by the Board in writing.

**Section 13. Fences.** No fence or enclosure shall be erected or built on any Lot



until first approved in writing by the Architectural Review Board as to location, height, material and design. Any fence or wall built on any Lot shall be maintained in a proper manner so as not to detract from the value and desirability of surrounding property.

**Section 14. Vehicles.** No inoperable, junk, unregistered, unlicensed or uninspected vehicle shall be kept on the Property. No portion of the Property shall be used for the repair of a vehicle.

**Section 15. Commercial Vehicles.** No commercial or industrial vehicle, such as but not limited to moving vans, trucks, tractors, trailers, vans, wreckers, tow trucks, hearses and buses, shall be regularly or habitually parked or parked overnight on the Property, except upon the prior written approval of the Architectural Review Board.

**Section 16. Recreational Vehicles.** No recreational vehicles or equipment, such as but not limited to boats, boating equipment, travel trailers, camping vehicles or camping equipment shall be parked on the Property without the prior, written approval of the Architectural Review Board, as to location, size, screening and other relevant criteria. The Association shall not be required to provide a storage area for these vehicles.

**Section 17. Towing.** The Board of Directors shall have the right to tow any vehicle parked or kept in violation of the covenants contained within this Article, upon twenty-four (24) hours' notice and at the vehicle owner's sole expense.

**Section 18. Leases.** Any rental agreement for a Dwelling Unit must be for an initial period of at least six (6) months, must be in writing and must be subject to the rules and regulations set forth in this Declaration and in the other Association documents. Every such rental agreement must include a provision stating that any failure by the tenant, its household members or guests, to comply with the terms of such documents shall be a default under the rental agreement, and the Owner shall be responsible for enforcing this provision.

**Section 19. Dwelling Size.** In accordance with the Proffers, all one-story single family detached Dwellings constructed within the Property shall contain a minimum of 2,900 square feet total living space excluding garage space, porches, or spaces in basements that are unfinished or used for storage and all single family detached Dwellings of two or more stories constructed within the Property shall contain a minimum of 3,500 square feet of total living space excluding garage space, porches, or spaces in basements that are unfinished or used for storage. The foundations of all single family detached Dwellings constructed within the Property shall have "brick to grade" foundations as set forth in the Proffers.

**Section 20. Declarant's Activities.** The provisions of this Article shall not apply to the development of or construction of improvements on the Property by the Declarant or its assigns. The Declarant or its assigns may, during its construction and/or sales period, erect, maintain and operate real estate sales and construction offices, model homes,

**Architectural Improvement Request/Architectural Control Committee Application Form**  
**Blue Ridge Shadows Homeowners Association**

**Mail To:** Blue Ridge Shadows Homeowners Association  
c/o Sequoia Management Company  
13998 Parkeast Circle  
Chantilly, VA 20151-2283

**Applicant Name:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Address:** \_\_\_\_\_ **Lot #:** \_\_\_\_\_

**Phone: (H)** \_\_\_\_\_ **(W)** \_\_\_\_\_ **(Fax)** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**Type of Alteration/Change (please check appropriate box):**

- |                          |                   |                          |
|--------------------------|-------------------|--------------------------|
| <input type="checkbox"/> | Second Story Deck | Complete Section A below |
| <input type="checkbox"/> | Ground Level Deck | Complete Section A below |
| <input type="checkbox"/> | Fence             | Complete Section B below |
| <input type="checkbox"/> | Patio             | Complete Section C below |
| <input type="checkbox"/> | Storm Door        | Complete Section D below |
| <input type="checkbox"/> | Other _____       | Complete Section E below |

**Section A: Deck Additions**

Dimensions, across the back of the house: \_\_\_\_\_  
Dimensions, length out from the house: \_\_\_\_\_  
Elevation, from ground level: \_\_\_\_\_  
Railing height, from deck surface: \_\_\_\_\_  
Railing type (describe): \_\_\_\_\_  
Type of materials: \_\_\_\_\_

**Section B: Fence Additions**

Total dimensions of the fence: \_\_\_\_\_  
Fence type: \_\_\_\_\_  
Type of gate: \_\_\_\_\_  
Type of materials: \_\_\_\_\_

**Section C: Patio Additions**

Total dimensions of the patio: \_\_\_\_\_  
Type of materials: \_\_\_\_\_

**Section D: Storm Doors**

Placement of door: \_\_\_\_\_  
Type of door (describe): \_\_\_\_\_  
Describe color of door as it relates to the following:  
Front door, siding (brick) and trim: \_\_\_\_\_

**Section E: Other (includes Addendums to previously approved requests, if applicable)**

Please provide an explanation of the project, providing details on dimensions, materials and colors as applicable.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All applications must be accompanied by the materials listed below. Incomplete applications will not be reviewed and may result in your project being delayed.

- o Attach architectural plans/drawings or photographs of the proposed project. Drawing MUST show elevations, dimensions, height off the ground, relationship to existing structures, railings, footings, color samples if necessary and manufacturer's brochure if available.
- o Attach a copy of the property plat showing size, shape and location of improvement to residence and to adjoining properties (including specific dimensions of improvement and distances to adjoining properties). Grading plan must be included, if applicable.
- o Obtain the signatures of all adjacent or affected property owners. The signatures only indicate their awareness of your proposed plans, not their approval. Signatories having concerns about your proposed plan must notify the Association of specific concerns in writing.

Name:	_____	Phone:	_____
Address:	_____	Lot #:	_____
Name:	_____	Phone:	_____
Address:	_____	Lot #:	_____
Name:	_____	Phone:	_____
Address:	_____	Lot #:	_____
Name:	_____	Phone:	_____
Address:	_____	Lot #:	_____

I understand and agree to the following:

- That this modification may require a County building permit or may be subject to other governmental regulations. I agree to obtain all required city/county approvals. Miss Utility will be contacted prior to the commencement of any construction. Approval of this application satisfies only the requirements of the Association and not any obligations to the County or others as may be required.
- That I assume full responsibility for: all landscaping, grading and/or drainage issues relating to the improvements, including applicable replacing bonds or escrows posted by Developer/Builder currently in place affecting the lot; any damage to adjoining property (including common area); and any injury to third persons associated with the improvement.
- That all work associated with the project will be completed within the property lines.
- That no work on this proposal will commence until I receive written approval of the Association. To do so is a violation of the Covenants of the Association and may result in my being required to remove an unapproved modification and restore my property to its original condition at my own expense if this application is disapproved. I also understand I may be held responsible for any legal fees incurred on behalf of the Association in enforcing this provision.
- That an approval is contingent upon the construction being completed in a timely and a professional and a workmanlike manner as per the specifications as submitted in this application.
- That members of the Association may enter upon my property to make routine inspections.
- That there are architectural requirements addressed in the Design Guidelines and the Declaration and a reviews process as established by the Board of Directors.
- That the approval authority granted by the Association (if so granted) will automatically expire should the proposed project not be commenced within 180 days of the approval or completed within one year of the approval.
- That a variation from the original application must be submitted for approval of the Association.

Owner/Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(For Committee Use Only)

- Approved
  - Disapproved
  - Approved with conditions: \_\_\_\_\_
- Comments: \_\_\_\_\_

Committee Representative: \_\_\_\_\_ Date of Decision: \_\_\_\_\_

displays, signs and special lighting on any part of the Property and on or in any building or structure now or hereafter erected thereon.

Section 21. Rules and Regulations. The Association shall have the authority to adopt such rules and regulations regarding this Article as it may from time to time consider necessary or appropriate.

## ARTICLE VII ARCHITECTURAL REVIEW BOARD

Section 1. Composition. The Architectural Review Board shall be comprised of three (3) or more members. Members shall serve staggered three (3) year terms as determined by the Board of Directors. As long as the Declarant owns any Lot within the Property, the Architectural Review Board shall consist of two (2) committees: the New Construction Committee and the Modification and Change Committee. When the Declarant no longer owns a Lot within the Property, the New Construction Committee shall be terminated.

Section 2. Method of Selection. The Developer shall appoint the persons to serve on the New Construction Committee. The Board of Directors shall appoint the persons to serve on the Modification and Change Committee. After the termination of the Class B membership, no member of the Modification and Change Committee may be a Director. The Developer may assign its rights under this Article to a Declarant or non-Declarant by a written assignment.

Section 3. Removal and Vacancies. Members of the Modification and Change Committee of the Architectural Review Board may be removed by the Board of Directors at any time with or without cause. Appointments to fill vacancies in unexpired terms shall be made in the same manner as the original appointment.

Section 4. Officers. At the first meeting of the Modification and Change Committee of the Architectural Review Board following each annual meeting of Members, the Modification and Change Committee shall elect from among themselves a chairperson, a vice-chairperson and a secretary who shall perform the usual duties of their respective offices.

Section 5. Duties. The Committees of the Architectural Review Board shall regulate the external design and appearance of the Property and the external design, appearance and location of the improvements thereon in such a manner so as to preserve and enhance property values and to maintain harmonious relationships among structures and the natural vegetation and topography. During the period the Architectural Review Board is comprised of the two (2) committees described above, the New Construction Committee shall regulate all initial construction, development or improvements on the Property. The Modification and Change Committee shall regulate all modifications and changes to existing improvements on the Property. In furtherance

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thereof, the Architectural Review Board shall:

- (a) review and approve or disapprove written applications of Owners for proposed alterations or additions to Lots;
- (b) periodically inspect the Property for compliance with adopted, written architectural standards and approved plans for alteration;
- (c) adopt and publish architectural standards subject to the confirmation of the Board of Directors;
- (d) adopt procedures for the exercise of its duties; and
- (e) maintain complete and accurate records of all actions taken by the Architectural Review Board.

*Approval by the Architectural Review Board of a correctly filed application shall not be deemed to be an approval by County authorities nor a waiver of the applicant's obligation to obtain any required County approvals or to comply with applicable local ordinances; provided however, that the Proffers require that a copy of the Architectural Review Board's written approval of any construction, remodeling and other alterations to the exterior of any Dwelling or Lot shall accompany any plans submitted to Warrant County, Virginia for building permit approval.*

**Section 6. Failure to Act.** In the event the Architectural Review Board fails to approve or disapprove a correctly filed application within forty-five (45) days of the receipt of the application sent by Registered Mail or Certified Mail-Return Receipt Requested, approval by the Architectural Review Board shall be deemed granted, except for those applications for additions or alterations prohibited by this Declaration or the architectural standards adopted by the Association, in which case no disapproval is necessary to uphold the prohibition. Failure of the Architectural Review Board or the Board of Directors to enforce the architectural standards or to notify an Owner of noncompliance with architectural standards or approved plans for any period of time shall not constitute a waiver by the Architectural Review Board or the Board of Directors of the enforcement of this Declaration at any later date.

**Section 7. Enforcement.** Any exterior addition, change or alteration made without application to, and approval of, the Architectural Review Board shall be deemed to be in violation of these covenants and may be required by the Board of Directors to be restored to its original condition at the offending Owner's sole cost and expense.

**Section 8. Appeal.** Any aggrieved party may appeal a decision of the Architectural Review Board to the Board of Directors by giving written notice of such appeal to the Association or any director within twenty (20) days of the adverse ruling.

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**ARTICLE VIII**  
**EASEMENTS**

**Section 1. Blanket Easements.** The Declarant grants and the Association reserves a blanket easement to the Association, its directors, officers, agents and employees, to any manager employed by or on behalf of the Association, and to all police, fire, ambulance personnel and all similar persons, to enter upon the Property in the exercise of the functions provided for by this Declaration, Articles of Incorporation, By-Laws and rules of the Association, and in the event of emergencies and in the performance of governmental functions.

**Section 2. Exercise of Easement Rights.** When not an emergency situation or a governmental function, the rights accompanying the easements provided for in Section 1 of this Article shall be exercised only during reasonable daylight hours and then, whenever practicable, only after advance notice to, and with the permission of, any Owner or tenant directly affected.

**Section 3. Encroachments.** If any improvement on the Property now or hereafter encroaches on any other portion of the Property by reason of (a) the original construction thereof by the Declarant or its assigns, which shall include, but not be limited to, any driveway which encroaches over a Lot's boundary line and draining of rainwater from roofs, (b) deviations within normal construction tolerances in the maintenance, repair, replacement or reconstruction of any improvement, or (c) the settling or shifting of any land or improvement, an easement is hereby granted to the extent of any such encroachment for both the encroachment and its maintenance for the period of time the encroachment exists. The owner of the encroaching improvement shall also have an easement for the limited purpose of maintenance of the encroaching improvement. This easement does not relieve any Owner or any other person from liability for such Owner's or other person's negligence or willful misconduct.

**Section 4. Development.** The Declarant, its agents and employees shall have a right of ingress and egress over the Common Area as required for construction on and development of the Property.

**Section 5. Utilities.** So long as the Declarant owns any Lots within the Property, there is reserved to the Declarant a right to grant non-exclusive easements over any Lot or Common Area, regardless of whether the Declarant is fee simple owner of such Lot or Common Area, for the purposes of installing, repairing and/or maintaining utility lines of any sort, including but not limited to storm drains and drainage swales, sanitary sewers, gas lines, electric lines and cables, water lines, telephone lines, telecommunication lines and cables, and the like, and for any purpose necessary for the Declarant or its assigns to obtain the release of any bonds posted with a municipality, governmental agency or regulatory agency, and non-exclusive easements over the Common Area to any municipal agency or private entity for any other purpose consistent with the "open space" designation thereof.

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**Section 6. Release of Public Improvement Bonds.** There is reserved to the Declarant an easement and the right to grant and reserve easements or to vacate or terminate easements across all Lots and Common Area as may be required by any governmental agency or authority or utility in connection with the development of the Property and the Blue Ridge Shadows Subdivision, release of improvement bonds or the acceptance of public streets for state maintenance with respect to the Property.

**Section 7. Declarant-Retained Easement Rights.** So long as the Declarant owns any Lots within the Property, there is reserved to the Declarant a non-exclusive easement over all Lots and the Common Area for the purposes of correcting drainage, regrading, maintenance, landscaping, mowing and erecting street intersection signs, directional signs, temporary promotional signs, entrance features, lights and wall features, and for the purpose of executing any of the powers, rights, or duties granted to or imposed on the Association herein.

**ARTICLE IX**  
**POWERS AND DUTIES OF THE ASSOCIATION**

**Section 1. Discretionary Powers and Duties.** The Board of Directors, on behalf of the Association, shall have all powers for the conduct of the affairs of the Association which are enabled by law and not specifically reserved to Members or the Declarant, including but not limited to the following powers and duties, which may be exercised in its discretion:

(a) to enforce any covenants or restrictions which are imposed by the terms of this Declaration or which may be imposed on any part of the Property. Nothing contained herein shall be deemed to prevent the Owner of any Lot from enforcing any building restriction in its own name. The right of enforcement shall not serve to prevent such changes, releases or modifications of the restriction or reservations placed upon any part of the Property by any party having the right to make such changes, releases or modifications in the deeds, contracts, declarations or plats in which such restrictions and reservations are set forth; and the right of enforcement shall not have the effect of preventing the assignment of those rights by the proper parties wherever and whenever such right of assignment exists. Neither the Association nor the Board of Directors shall have a duty to enforce the covenants by an action at law or in equity if, in its or their opinion, such an enforcement is not in the Association's best interest. The expenses and costs of any enforcement proceedings shall be paid out of the general fund of the Association as herein provided for; provided, however, that the foregoing authorization to use the general fund for such enforcement proceedings shall not preclude the Association from collecting such costs from the offending Owner;

(b) to provide such light as the Association may deem advisable on streets and the Common Area and to maintain any and all improvements, structures or facilities which may exist or be erected from time to time on the Common Area;

- (c) to build facilities upon the Common Area;
- (d) to use the Common Area and any improvements, structures or facilities erected thereon, subject to the general rules and regulations established and prescribed by the Association and subject to the establishment of charges for their use;
- (e) to mow and resow the grass and to care for, spray, trim, protect, plant and replant trees, shrubs and other landscaping on the Common Area and to pick up and remove from the Common Area all loose material, rubbish, filth and accumulation of debris; and to do any other thing necessary or desirable in the judgment of the Association to keep the Common Area in neat appearance and in good order;
- (f) to exercise all rights, responsibilities and control over any easements which the Association may from time to time acquire, including but not limited to those easements specifically reserved to the Association in the Articles entitled "Easements" herein;
- (g) to create, grant and convey easements and licenses upon, across, over and under all Common Area, including but not limited to easements for the installation, replacement, repair and maintenance of utility lines serving the Property;
- (h) to create subsidiary corporations in accordance with Virginia law;
- (i) to employ counsel and institute and prosecute such suits as the Association may deem necessary or advisable, and to defend suits brought against the Association;
- (j) to retain as an independent contractor or employee a manager of the Association and such other employees or independent contractors as the Board deems necessary, and to prescribe the duties of employees and scope of services of independent contractors;
- (k) to enter on any Lot to perform emergency repairs or to do other work reasonably necessary for the proper maintenance or protection of the Property;
- (l) to enter (or have the Association's agents or employees enter) on any Lot to repair, maintain or restore the Lot, all improvements thereon, and the exterior of the Dwelling Unit and any other improvements located thereon if such is not performed by the Owner of the Lot, and to assess the Owner of the Lot the costs thereof, such assessment to be a lien upon the Lot equal in priority to the lien provided for in the Article entitled "Covenant for Maintenance Assessments" herein; provided, however, that the Board of Directors shall only exercise this right after giving the Owner written notice of its intent at least fourteen (14) days prior to such entry;



(m) to resubdivide and/or adjust the boundary lines of the Common Area but only to the extent such resubdivision or adjustment does not contravene the requirements of zoning and other ordinances applicable to the Property;

(n) to adopt, publish and enforce rules and regulations governing the use of the Common Area and facilities and with respect to such other areas of responsibility assigned to it by this Declaration, except where expressly reserved herein to the Members. Such rules and regulations may grant to the Board of Directors the power to suspend a Member's voting rights and the Member's right to use recreational facilities or non-essential services for non-payment of assessments and to assess charges against Members for violations of the provisions of the Declaration or rules and regulations, as provided for in the Virginia Property Owners Association Act; and

(o) to declare the office of a member of the Board of Directors vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

Section 2. Mandatory Powers and Duties. The Association shall exercise the following powers, rights and duties:

(a) to accept title to the Common Area and to hold and administer the Common Area for the benefit and enjoyment of the Owners and occupiers of Lots, and to cause the Common Area and facilities to be maintained in accordance with the standards adopted by the Board of Directors;

(b) to transfer part of the Common Area to or at the direction of the Declarant, for the purpose of adjusting boundary lines or otherwise in connection with the orderly subdivision or development of the Property, but only to the extent such resubdivision or adjustment does not contravene the requirements of zoning and other ordinances applicable to the Property;

(c) after the termination of the Class B membership, to obtain and maintain without interruption liability coverage for any claim against a director or officer for the exercise of its duties and fidelity coverage against dishonest acts on the part of directors, officers, trustees, managers, employees or agents responsible for handling funds collected and held for the benefit of the Association. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in place. The fidelity bond coverage shall, at a minimum, be equal to the sum of three (3) months' Annual Assessment of all Lots in the Property plus the Association's reserve funds, if any;

(d) to obtain and maintain without interruption a comprehensive coverage of public liability and hazard insurance covering the Common Area and easements of which the Association is a beneficiary, if available at reasonable cost. Such insurance policy shall contain a severability of interest clause or endorsement which shall

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preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. The scope of coverage shall include all coverage in kinds and amounts commonly obtained with regard to projects similar in construction, location and use. Further, the public liability insurance must provide coverage of at least \$1,000,000.00 for bodily injury and property damage for any single occurrence;

(e) to provide for the maintenance of any and all (i) improvements, structures or facilities which may exist or be erected from time to time on the Common Area, including but not limited to street lights (including the payment of utility costs therefor), private streets, recreational facilities, entrance ways and entrance areas, (ii) easement areas of which the Association is the beneficiary and for which it has the maintenance responsibility, (iii) facilities, including but not limited to fences and signs authorized by the Association and erected on any easements granted to the Association, and (iv) street lights that may be constructed within the rights-of-way of any public streets within or adjacent to the Property and which the Commonwealth of Virginia or the County requires the Association to maintain (including the payment of utility costs therefor);

(f) to pay all proper bills, taxes, charges and fees on a timely basis; and

(g) to maintain its corporate status.

#### ARTICLE X RIGHTS OF MORTGAGEES

All Mortgagees shall have the following rights:

Section 1. Notice. A Mortgagee shall be given written notice from the Association of the following:

(a) any condemnation or casualty loss that affects either a material portion of the Common Area or the Lot that is the security for the indebtedness due the Mortgagee;

(b) any default in the performance of any obligation under this Declaration or related Association documents by the Owner of a Lot that is the security for the indebtedness due the Mortgagee which is not cured within sixty (60) days after the Owner's receipt of notice of the default;

(c) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association

(d) any proposed action that would require the consent of a specified percentage of Mortgagees.

Section 2. Unpaid Assessments. Any Mortgagee, who obtains title to a Lot

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pursuant to the remedies provided in its mortgage or deed of trust or foreclosure of the mortgage or deed of trust or deed in lieu of foreclosure, will not be liable for such Lot's unpaid dues or charges which accrue prior to the acquisition of title to the Lot by the Mortgagee.

**Section 3. Books and Records.** A Mortgagee shall have the right to examine and copy at its expense the books and records of the Association during normal business hours and upon reasonable notice to the Association.

**Section 4. Notice.** As set forth in this Article, Mortgagees shall have the right, upon request, to receive notice of (a) the decision of the Owners to abandon or terminate the Planned Unit Development (as defined by the Federal National Mortgage Association); (b) any material amendment to the Declaration, the By-Laws or the Articles of Incorporation; and (c) if professional management has been required by a Mortgagee, the decision of the Association to terminate such professional management and assume self-management.

**Section 5. Rights.** Provided that improvements have been constructed in the Common Area and provided that a Mortgagee gives written notice to the Association that it has relied on the value of the improvements in making a loan on a portion or all of the Property, then such Mortgagee shall be further entitled to the following rights:

(a) Subject to the right of the Declarant to annex additional areas as provided in the Article entitled "General Provisions" herein, unless at least sixty-seven percent (67%) of the total allocated votes in the Association and Mortgagees representing at least fifty-one percent (51%) of those Lots that are subject to mortgages or deeds of trust have given their prior written approval, the Association shall not:

(i) fail to maintain fire and extended coverage insurance on insurable parts of the Common Area or other Association property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value, based on current replacement costs, not including land value;

(ii) use hazard insurance proceeds for losses to the Common Area or other Association property for other than the repair, replacement or reconstruction of such property;

(iii) add or amend any material provision of this Declaration or related Association documents concerning the following:

(1) voting rights of any Member;

(2) increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens;

(3) reductions in reserves for maintenance, repair and replacement of those parts of the Common Area that may be replaced or require maintenance on a periodic basis;

(4) insurance or fidelity bonds;

(5) responsibility for maintenance and repair of the Property;

(6) annexation or withdrawal of property to or from the Property (other than annexation or withdrawal of those properties referred to in the Article entitled "General Provisions" herein);

(7) imposition of any restriction on the leasing of Dwelling Units;

(8) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey its property;

(9) restoration or repair of the Property after damage or partial condemnation;

(10) reallocation of interests in the Common Area or rights to its use, except as provided in the Articles entitled "Voting Rights" and "Property Rights" herein;

(11) termination of the legal status of the Association after substantial destruction or condemnation of the subdivision occurs; and

(12) any provisions that are for the express benefit of Mortgagees.

(iv) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The resubdivision and/or adjustment of boundary lines of the Common Area and the granting of easements by the Association shall not be deemed a transfer or subdivision within the meaning of this clause.

(v) by act or omission waive or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Dwelling Units and their appurtenances, the exterior maintenance of Dwelling Units and their appurtenances, the maintenance of the Common Area, common fences and driveways and the upkeep of lawns and plantings in the Property.

An addition or amendment to this Declaration or related Association documents shall not be considered material if it is for the purpose of clarification or correcting errors. A Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days of receipt of such request shall be deemed to have approved such request.

(b) A Mortgagee may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for such Common Area. The Mortgagee making such payments shall be owed immediate reimbursement therefor from the Association.

(c) In the event that there is a condemnation or destruction of the Common Area or other Association property, to the extent practicable, condemnation or insurance proceeds shall be used to repair or replace the condemned or destroyed property.

(d) Should there be excess insurance or condemnation proceeds after the renovation, repair or reconstruction called for herein, such excess proceeds may be distributed equally to the Owners, apportioned equally by Lot; subject, however, to the priority of a Mortgagee with regard to the proceeds applicable to the Lot securing said Mortgagee and in accordance with Virginia law.

(e) The Association must provide an audited financial statement for the preceding fiscal year to a Mortgagee upon its written request at the Mortgagee's expense.

(f) Eligible Mortgagees representing at least sixty-seven percent (67%) of the votes of the mortgaged Lots must consent to the termination of the legal status of the Association for reasons other than substantial destruction or condemnation of the Property.

(g) The Association shall cause the immediate repair, reconstruction or renovation of any damage to the Common Area unless a decision not to repair, reconstruct or renovate is approved by a majority of the Mortgagees.

#### ARTICLE XI GOLF COURSE PROVISIONS

Section 1. Golf Ball Easement. The Property, all Lots and Common Area are subject to a perpetual, non-exclusive easement permitting golf balls to unintentionally enter and land on the Lots or portion of the Property from the Golf Course. Under no circumstances shall any of the following persons be held liable for any damage or injury resulting from golf balls or this easement: the Declarant and its principals, successors or assigns; the Association or its members (in their capacity as such); and the Owner of the golf Course or any employee thereof. This paragraph is not intended to relieve individual golfers of responsibility, if any, for damage caused by errant golf balls.

Section 2. Ownership and Operation of Golf Course. All owners of Lots and Member of the Association are advised that no representations or warranties have been

000104 NOV -3 8

made or are made by the Declarant, the owner of the Golf Course or any other person with regard to the continuing existence, ownership or operation of the Golf Course. Ownership and/or operation of the Golf Course may change at any time, and no consent of the Association or any owner of any Lot is required to effect any change in the ownership or operation of the Golf Course.

Section 3. Independent Operations. Neither ownership of a Lot nor membership in the Association confers any ownership interest in or right to use the Golf Course. Rights to use the Golf Course are within the exclusive control of the owner of the Golf Course, and will be given to such persons and on such terms and conditions as the owner of the Golf Course may determine from time to time. The owner of the Golf Course may amend or waive its determinations and policies with respect to use of the Golf Course at any time.

Section 4. Views. Neither the Declarant, the Association nor the owner of the Golf Course guarantees or represents that any view over or across the Golf Course from any Lot or from the Property will be preserved without impairment.

Section 5. Approval Required to Amend this Article XI. This Article XI may not be amended without the written approval and signature of the owner of the Golf Course.

Section 6. Deed Requirements for Lots. All deeds conveying the fee simple title to any Lot, the Common Area or the Property shall contain the following language:

"The property conveyed by this deed is subject to an easement permitting golf balls to unintentionally enter and land on such property from the Golf Course (as defined in the recorded Declaration of Covenants, Conditions and Restrictions for Blue Ridge Shadows) that is adjacent to portions of the Blue Ridge Shadows subdivision. Grantee acknowledges and expressly assumes the risks of golf balls unintentionally entering onto or landing on Grantee's property or other portions of the Blue Ridge Shadows subdivision. Under no circumstances shall any of the following persons be held liable for any damage or injury resulting from golf balls or this easement, and Grantee hereby relinquishes all claims in that regard: Grantor or its principals, successors or assigns; the Association or its members (in their capacity as such); or the owner of the Golf Course or its successors in interest as to the Golf Course (as such terms are defined in the recorded Declaration of Covenants, Conditions and Restrictions for Blue Ridge Shadows). This paragraph is not intended to relieve individual golfers of responsibility, if any, for damage caused by errant golf balls. This paragraph is intended to and shall run with the land, and shall bind the successors and assigns of Grantee."

"Every deed hereafter conveying all or any part of the property described in this deed shall expressly provide that such conveyance is subject to the restrictions in the preceding paragraph, but the preceding paragraph shall survive and bind successors and assigns of Grantee regardless of whether it is included in the deed of conveyance."

**ARTICLE XII**  
**GENERAL PROVISIONS**

**Section 1. Enforcement.** The Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Declaration or other Association documents unless such right is specifically limited.

Failure by the Association or by any Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration shall not constitute a waiver of the right of the Association or an Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies and privileges granted to the Association or any Owner pursuant to any term, provision, covenant or condition of the Declaration shall be deemed to be cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies nor shall it preclude the party exercising the same from exercising such privileges as may be granted to such party by this Declaration or at law or in equity.

**Section 2. Severability; Headings; Conflict.** Invalidation of any one of the provisions of this Declaration by judgment or court order shall in no way affect any other provision, which shall remain in full force and effect. Titles of paragraphs are for convenience only and are not intended to limit or expand the covenants, rights or obligations expressed therein. In the case of any conflict between the Articles of Incorporation and this Declaration, the Articles of Incorporation shall control; in the case of any conflict between this Declaration and the By-Laws, this Declaration shall control.

**Section 3. Duration; Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, unless such right is specifically limited, for a term of twenty (20) years from the date this Declaration is recorded, after which time the covenants and restrictions of this Declaration shall be automatically extended for successive periods of twenty (20) years each. The covenants and restrictions of this Declaration may be amended in whole or in part with the assent of at least sixty-seven percent (67%) of the Members. Any amendment must be properly executed and acknowledged by the Association (in the manner required by law for the execution and acknowledgment of deeds) and recorded among the appropriate land records.

**Section 4. Special Amendment.** Notwithstanding anything herein to the contrary, the Declarant may unilaterally amend this Declaration for any reason prior to the first conveyance of a Lot to an Owner other than the Declarant and thereafter may make any amendment required by any of the federal mortgage agencies, such as the Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, or by the County, as a condition of the

approval of this Declaration, by the execution and recordation of such amendment following notice to all Members.

**Section 5. Waiver.** The Declarant, as the present most interested party in maintaining the high quality of development which by these covenants is sought to be assured for the Property, hereby expressly reserves unto itself (so long as these restrictions are in effect), the unqualified right to waive or alter from time to time such of the herein contained restrictions as it may deem best, as to any one or more of the Lots, which waiver or alteration shall be evidenced by the mutual written consent of the Declarant and the then-Owner of the Lot as to which some or all of said restrictions are to be waived or altered; such written consent to be duly acknowledged and recorded among the land records of Warren County, Virginia.

**Section 6. Annexation of Additional Property.** The Association may annex additional areas and provide for maintenance, preservation and architectural control of Lots and Common Area within such areas, and so may add to its membership under the provisions of the Article entitled "Membership" herein, with the written consent of at least sixty-seven percent (67%) of each class of Members. Provided, however, that during the seven (7) year period commencing with the date of recordation of this Declaration or any amendment or supplemental thereto, no such consent is required for the annexation by the Declarant of (i) all or any part of any real property located adjacent to or contiguous with the boundaries of the outer boundaries of the Property or across a public highway, (ii) any real property located on Warren County Tax Map 12, and (iii) any of the real property as set forth in Exhibit A attached hereto and made a part hereof. Any future improvements on the annexed property must be consistent with or better than the initial improvements on the Property in terms of quality, design and construction and comparable in style, size and cost.

**Section 7. Withdrawable Real Estate.**

(a) The Declarant shall have the unilateral right, without the consent of the Class A Members or any Mortgagee, to execute and record an amendment to this Declaration withdrawing any portion of the Property on which Dwelling Units have not been constructed; provided, however, that not more than five (5) years have lapsed since the date of the recordation of this Declaration.

(b) Upon the dedication or the conveyance to any public entity or authority of any portion of the Property for public street purposes, this Declaration shall no longer be applicable to the land so dedicated or conveyed.

**Section 8. Management Contracts.** For such time as the Declarant has Class B membership status, the Declarant shall have the right to enter into professional management contracts on behalf of the Association for the management of the Property for terms not to exceed one (1) year; provided, however, that the Association shall have the right to terminate such contracts, with or without cause, upon thirty (30) days' written



000107 NOV-3 1982

notice to the other party and without payment of a termination fee.

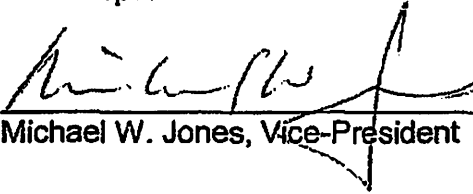
Section 9. Dissolution. The Association may be dissolved with the assent given in writing and signed by at least two-thirds (2/3) of each class of Members and in accordance with Title 13.1, Chapter 10, Article 13 of the Code of Virginia. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association, both real and personal, shall be offered to an appropriate public agency to be devoted to purposes and uses that would most nearly reflect the purposes and uses to which they were required to be devoted by the Association. In the event that such offer of dedication is refused, such assets shall be then offered to be granted, conveyed or assigned to any non-profit corporation, trust or other organization devoted to similar purposes and in accordance with Virginia law. Any such dedication or transfer of the Common Area shall not be in conflict with then-governing zoning ordinances or the designation of the Common Area as "open space".

[SIGNATURE PAGE FOLLOWS]

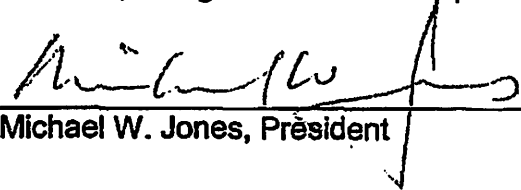
000108 NOV -3 05

WITNESS the following signatures and seals:

**D. R. HORTON, INC.,**  
a Delaware corporation


By:  (SEAL)  
Michael W. Jones, Vice-President

**BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION,** a Virginia non-stock corporation

By:  (SEAL)  
Michael W. Jones, President

COMMONWEALTH OF VIRGINIA  
COUNTY OF Fairfax : to-wit:


The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of October, 2005, by Michael W. Jones as Vice-President of D. R. Horton, Inc.

  
Notary Public

My commission expires: 10/31/07

COMMONWEALTH OF VIRGINIA  
COUNTY OF Fairfax : to-wit:

The foregoing instrument was acknowledged before me this 25<sup>th</sup> day of October, 2005, by Michael W. Jones as President of ~~Southern~~ Blue Ridge Shadows Homeowners Association.

  
Notary Public

My commission expires: 10/31/07

000109 NOV -3 2005

**EXHIBIT A**  
**DESCRIPTION OF A PORTION OF ANNEXABLE LAND**

Tracts A, B and C as the same are shown on that certain plat entitled "RECORD PLAT, BLUE RIDGE SHADOWS, RESIDENTIAL DEVELOPMENT" recorded with the Deed of Division, Conveyance, Easements, Restrictions and Dedication dated October 13, 2004 and recorded as Instrument Number 040011495 among the Warren County, Virginia land records.

**LESS AND EXCEPT THE FOLLOWING:**

Lots 1 through 24, both inclusive, Lots 51 through 61, both inclusive, Lots 84 through 97, both inclusive, and Parcels O, R, S, T, U, V, W, X, and Y, PHASE 1, BLUE RIDGE SHADOWS, as the same are duly subdivided, platted and recorded by Instrument Number 050013597 among the land records of Warren County, Virginia ; and

Lots 62 through 83, both inclusive, and Parcels P and Q, PHASE 2, BLUE RIDGE SHADOWS, as the same are duly subdivided, platted and recorded by Instrument Number 050013598 among the land records of Warren County, Virginia

INSTRUMENT #050013986  
RECORDED IN THE CLERK'S OFFICE OF  
WARREN COUNTY ON  
NOVEMBER 3, 2005 AT 10:49AM  
JENNIFER R. SIMS, CLERK

RECORDED BY: SFK

*Sfk*

000112 JAN 12 10  
**FIRST SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
BLUE RIDGE SHADOWS**

THIS FIRST SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Supplemental Declaration") is made as of this 20<sup>th</sup> day of December, 2005 by D. R. HORTON, INC., a Delaware corporation, its successors and assigns (the "Declarant"), Grantor; and BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION, a Virginia non-stock corporation, its successors and assigns (the "Association"), Grantee.

**RECITALS:**

A. The Declarant is the owner of Lots 162 through 225, both inclusive, Parcels A, B, N1 and N, BLUE RIDGE SHADOWS, PHASE 3 (the "Property") which are duly subdivided, platted and recorded as Instrument Number 060000470 among the Warren County, Virginia land records (the "Land Records").

B. The Property is a portion of the annexable land described in Exhibit "A" to that certain Declaration of Covenants, Conditions and Restrictions for the Blue Ridge Shadows Subdivision (the "Declaration") recorded as Instrument Number 050013986 among the Land Records

C. The Declarant has the unilateral right to annex and subject the Property to the Declaration and the Association pursuant to Article XIII, Section 6 of the Declaration.

D. The Declarant desires and intends to subject the Property to the Declaration and to annex the Property to the Association.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant does hereby declare that the Property shall be henceforth held, sold and conveyed subject to the easements, restrictions, covenants and conditions as set forth in the Declaration.

THIS DEED FURTHER WITNESSETH, that for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant hereby annexes the Property unto the Association.

[SIGNATURE PAGES FOLLOW]

WITNESS the following signature and seal:

000144 JAN 12 2006

D. R. HORTON, INC.,  
a Delaware corporation

By: *Michael W. Jones* (SEAL)  
Name: Michael W. Jones  
Title: Vice President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Fairfax, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Michael W. Jones, whose signature is signed as Vice President of D. R. Horton, Inc., appeared before me this date and personally acknowledged same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 20th day of December, 2005.

*Lauren E. Worthington* (SEAL)  
Notary Public

My commission expires: 10/31/07

INSTRUMENT #060000471  
RECORDED IN THE CLERK'S OFFICE OF  
WARREN COUNTY ON  
JANUARY 12, 2006 AT 02:07PM  
JENNIFER R. SIMS, CLERK

RECORDED BY: SFK

*SFK*

000147 JAN 12 2005  
**SECOND SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
BLUE RIDGE SHADOWS**

THIS SECOND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Supplemental Declaration") is made as of this 20<sup>th</sup> day of December, 200 5 by D. R. HORTON, INC., a Delaware corporation, its successors and assigns (the "Declarant"), Grantor; and BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION, a Virginia non-stock corporation, its successors and assigns (the "Association"), Grantee.

RECITALS:

A. The Declarant is the owner of Lots 25 through 50, both inclusive, Parcels C, D, L and M, BLUE RIDGE SHADOWS, PHASE 4 (the "Property") which are duly subdivided, platted and recorded as Instrument Number 060000472 among the Warren County, Virginia land records (the "Land Records").

B. The Property is a portion of the annexable land described in Exhibit "A" to that certain Declaration of Covenants, Conditions and Restrictions for the Blue Ridge Shadows Subdivision (the "Declaration") recorded as Instrument Number 050013986 among the Land Records

C. The Declarant has the unilateral right to annex and subject the Property to the Declaration and the Association pursuant to Article XIII, Section 6 of the Declaration.

D. The Declarant desires and intends to subject the Property to the Declaration and to annex the Property to the Association.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant does hereby declare that the Property shall be henceforth held, sold and conveyed subject to the easements, restrictions, covenants and conditions as set forth in the Declaration.

THIS DEED FURTHER WITNESSETH, that for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant hereby annexes the Property unto the Association.

[SIGNATURE PAGES FOLLOW]

WITNESS the following signature and seal:

000148 JAN 12 08

D. R. HORTON, INC.,  
a Delaware corporation

By: *Michael W. Jones* (SEAL)  
Name: Michael W. Jones  
Title: Vice President

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF Fairfax, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Michael W. Jones, whose signature is signed as Vice President of D. R. Horton, Inc., appeared before me this date and personally acknowledged same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 20<sup>th</sup> day of December, 2005.

*Lauren E. Worthington* (SEAL)  
Notary Public

My commission expires: 10/31/07

INSTRUMENT #060000473  
RECORDED IN THE CLERK'S OFFICE OF  
WARREN COUNTY ON  
JANUARY 12, 2006 AT 02:13PM  
JENNIFER R. SIMS, CLERK

RECORDED BY: SFK

*Sfk*

WARREN COUNTY, VIRGINIA  
LAND RECORDS

000284 JAN-35

PREPARED WITHOUT BENEFIT OF TITLE EXAMINATION

Prepared by:

Cynthia Crawford Beattie, Esq  
Hight Tramonte Siciliano Yeonas & Roberts, P C  
8221 Old Courthouse Road, Suite 300  
Vienna, Virginia 22182

TAX EXEMPT PURSUANT TO VA CODE § 58.1-811(D)

**THIRD SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
BLUE RIDGE SHADOWS  
AND CONVEYANCE OF COMMON AREA IN PHASE 5**

THIS SECOND SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND CONVEYANCE OF COMMON AREA IN PHASE 5 ("Supplemental Declaration") is made as of this 3RD day of JANUARY, 2008 by D. R. HORTON, INC., a Delaware corporation, its successors and assigns (the "**Declarant**"), Grantor; and BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION, a Virginia non-stock corporation, its successors and assigns (the "**Association**"), Grantee.

RECITALS:

A. The Declarant is the owner of Lots 98 through 140, both inclusive, and Lots 142 through 161, both inclusive, Outlot 141, and Parcels E, F, G, H, I, J and K, BLUE RIDGE SHADOWS, PHASE 5 (the "**Property**") which are duly subdivided, platted and recorded as Instrument Number 070000033 among the Warren County, Virginia land records (the "**Land Records**").

B. The Property is a portion of the annexable land described in Exhibit "A" to that certain Declaration of Covenants, Conditions and Restrictions for the Blue Ridge Shadows Subdivision (the "**Declaration**") recorded as Instrument Number 050013986 among the Land Records

C. The Declarant has the unilateral right to annex and subject the Property to the Declaration and the Association pursuant to Article XIII, Section 6 of the Declaration.

D. The Declarant desires and intends to subject the Property to the Declaration and to annex the Property to the Association.

E. The Declarant further desires and intends to convey Parcels E, F, G, H, I, J and K and Outlot 141, BLUE RIDGE SHADOWS, PHASE 5, to the Association as more particularly hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant does hereby declare that the Property shall be henceforth held, sold and conveyed subject to the easements, restrictions, covenants and conditions as set forth in the Declaration



WARREN COUNTY, VIRGINIA  
LAND RECORDS

000285 JAN-35

THIS DEED FURTHER WITNESSETH, that for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant hereby annexes the Property unto the Association.

THIS DEED FURTHER WITNESSETH, that for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant does hereby grant and convey with SPECIAL WARRANTY of title unto the Association the real property more particularly described as follows:

Outlot 141, and Parcels E, F, G, H, I, J and K, BLUE RIDGE SHADOWS, PHASE 5 as the same are duly subdivided, platted and recorded as Instrument Number 070000033 among the Warren County, Virginia land records.

[SIGNATURE PAGES FOLLOW]

WARREN COUNTY, VIRGINIA  
LAND RECORDS

000286 JAN-35

WITNESS the following signature and seal:

D. R. HORTON, INC.,  
a Delaware corporation

By: [Signature] (SEAL)

Name: C. DAVID MCCARTHY

Title: V.P.

COMMONWEALTH OF VIRGINIA  
CITY/COUNTY OF FAIRFAX, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that C. DAVID MCCARTHY, whose signature is signed as VICE PRESIDENT of D. R. Horton, Inc., appeared before me this date and personally acknowledged same in my jurisdiction aforesaid.

GIVEN under my hand and seal this 3 day of January, 2007.

[Signature] (SEAL)  
Notary Public

My commission expires: 8/31/10

MELANIE L WEST  
NOTARY PUBLIC  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES AUGUST 31, 2010

INSTRUMENT #070000033  
RECORDED IN THE CLERK'S OFFICE OF  
WARREN COUNTY ON  
JANUARY 3, 2007 AT 04:09PM  
JENNIFER R. SIMS, CLERK

RECORDED BY: SFK  
[Signature]

**AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (the "Amendment") is made as of this 1<sup>st</sup> day of May, 2017 by **D.R. HORTON, INC.**, a Delaware corporation, (the "Declarant") Grantor; and **BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION**, a Virginia non-stock corporation, its successor and assigns (the "Association"), Grantee.

WHEREAS, Declarant is the owner of Lots 25 through 36, both inclusive, BLUE RIDGE SHADOW, PHASE 4 (collectively, the "Phase 4 Lots"), which are duly subdivided, platted and recorded as Instrument Number 060000472 among the land records of Warren County, Virginia (the "Land Records"); and

WHEREAS, Declarant is the owner of Lots 98 through 118, both inclusive, BLUE RIDGE SHADOW, PHASE 5 (collectively, the "Phase 5 Lots"), which are duly subdivided, platted and recorded as Instrument Number 070000033 among the Land Records; and

WHEREAS, the Phase 4 Lots and the Phase 5 Lots are collectively referred to hereinafter as the "Lots"; and

WHEREAS, the Lots are subjected to a certain Declaration of Covenants, Conditions and Restrictions for Blue Ridge Shadows Subdivision recorded as Instrument Number 050013986 among the Land Records, as the same has been amended from time to time (collectively, the "Declaration"); and

WHEREAS, Warren County has approved a new Proffer Statement for the Lots, pursuant to Rezoning # R2016-09-01, which has been approved by the Warren County Board of Supervisors as of January 17, 2017 (the "Active Adult Proffers"); and

WHEREAS, Article XII, Section 4 of the Declaration provides the Declarant with the unilateral right to amend the Declaration, among other things, to bring the Declaration into compliance with the requirements of Warren County, Virginia; and

WHEREAS, it is necessary to amend the Declaration in order to bring the Declaration into compliance with the Active Adult Proffers; and

WHEREAS, it is the desire of the Declarant to amend the Declaration, to bring the Declaration into compliance with the Active Adult Proffers; and

WHEREAS, the Association joins herein to evidence its consent to this Amendment.

Prepared by/Return to:  
Michael R. Kieffer, VSB No. 75077  
Walsh, Colucci, Lubeley & Walsh, PC  
2200 Clarendon Blvd., Suite 1300, Arlington, VA 22201

NOW THEREFORE, the Declarant, ~~in its capacity~~ as the Declarant under the Declaration and as the fee simple owner of the Lots, with the consent of the Association, hereby declares that the Declaration is amended as follows:

1. The following is added as a new Section 21 to ARTICLE VI of the Declaration:

"21. Dwelling Size, Lots 25 – 36, Phase 4 and Lots 98 – 118, Phase 5. Notwithstanding anything to the contrary contained in Article VI, Section 19, in accordance with the Proffer Statement approved by the Warren County Board of Supervisors as of January 17, 2017, pursuant to Rezoning # R2016-09-01, the following restrictions shall apply to Lots 25 through 36, both inclusive, Blue Ridge Shadows, Phase 4, and Lots 98 through 118, both inclusive, Blue Ridge Shadows, Phase 5:

a. the minimum square footage for a one-story single family detached Dwelling shall be 2,900 square feet cumulative. The minimum square footage for a single family detached Dwelling of two or more stories shall be 3,500 square feet cumulative.

b. For two or more story homes, square footages as set forth above shall include unfinished basement areas, if the first two stories are at least 2,500 square feet, and provided further that such unfinished basement area is capable of being finished including the installation of a heating and air conditioning system appropriately sized and installed, so the basement area can be finished as living space. The above restrictions shall exclude garage space and porches.

c. For one-story homes, the finished living area in the basement shall count toward the 2,900 square foot minimum set forth above. The 2,900 square feet shall not include garage space, porches or other unfinished spaces.

d. All Dwellings shall be single-family detached dwellings as defined in the Warren County Zoning Ordinance."

2. RECITALS. The recitals above are incorporated herein by this reference as though the same had been set forth at length. Any capitalized term used in this instrument and not defined herein shall have the definition given to it in the Declaration.

3. BINDING AFFECT. The covenants, conditions, restrictions, easements, agreements and benefits contained herein shall be binding upon and inure to the benefits of the parties hereto, their successors and assigns, and shall run with title to the land. Except as modified by this Amendment, all of the terms and provisions of the Declaration are hereby expressly ratified and confirmed and shall remain in full force and effect.

WARREN COUNTY, VIRGINIA  
LAND RECORDS

4. GOVERNING LAW. This instrument shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia.

5. COUNTERPARTS. This instrument may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.

The Declarant and Association have caused this instrument to be signed as of the date described above.

**[SIGNATURE PAGES FOLLOW]**

WARREN COUNTY, VIRGINIA  
LAND RECORDS

000918 MAY 11 2

D.R. HORTON, INC., a Delaware corporation

By: *[Signature]*  
Name: Patrick J. Williams  
Title: Vice President

STATE OF Virginia :  
COUNTY/CITY OF Fairfax :

The foregoing instrument was acknowledged before me this 1st day of May, 2017 by Patrick J. Williams, Vice President of D.R. Horton, Inc., on behalf of said corporation.

*[Signature]*  
Notary Public

My commission expires: 10/31/19

LAUREN E WORTHINGTON  
NOTARY PUBLIC  
REGISTRATION # 326997  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES  
10/31/19

[SIGNATURE PAGES CONTINUE ON THE FOLLOW PAGE]

WARREN COUNTY, VIRGINIA  
LAND RECORDS

000019 MAY 11 2017

**BLUE RIDGE SHADOWS  
HOMEOWNERS ASSOCIATION, INC.,** a  
Virginia non-stock corporation

By: *[Signature]*  
Name: Patrick J. Williams  
Title: President

STATE OF Virginia :  
COUNTY/CITY OF Fairfax :

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of May, 2017 by Patrick J. Williams, President of Blue Ridge Shadows Homeowners Association, Inc., on behalf of said corporation.

*[Signature]*  
Notary Public

My commission expires: 10/31/19

LAUREN E WORTHINGTON  
NOTARY PUBLIC  
REGISTRATION # 326997  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES  
10/31/19

INSTRUMENT 170002430  
RECORDED IN THE CLERK'S OFFICE OF  
WARREN COUNTY ON  
May 11, 2017 AT 09:09 AM  
DARYL L. FUNK, CLERK  
RECORDED BY: AVS

*AVS*

000008 MAY 11 2017  
**AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS**

Prepared by/Return to:  
Michael R. Kieffer, VSB No. 75077  
Walsh, Colucci, Lubeley & Walsh, PC  
2200 Clarendon Blvd., Suite 1300, Arlington, VA 22201

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (the "Amendment") is made as of this 15<sup>th</sup> day of May, 2017 by D.R. HORTON, INC., a Delaware corporation, (the "Declarant") Grantor; and BLUE RIDGE SHADOWS HOMEOWNERS ASSOCIATION, a Virginia non-stock corporation, its successor and assigns (the "Association"), Grantee.

WHEREAS, Declarant is the owner of Lots 119 through 140, both inclusive, and Lots 142 through 161, both inclusive, BLUE RIDGE SHADOW, PHASE 5 (collectively, the "Age-Restricted Lots"), which are duly subdivided, platted and recorded as Instrument Number 070000033 among the land records of Warren County, Virginia (the "Land Records"); and

WHEREAS, the Age-Restricted Lots are subjected to a certain Declaration of Covenants, Conditions and Restrictions for Blue Ridge Shadows Subdivision, recorded as Instrument Number 050013986 among the Land Records, as the same has been amended from time to time (collectively, the "Declaration"); and

WHEREAS, Warren County has approved a new Proffer Statement for the Age-Restricted Lots, pursuant to Rezoning # R2016-09-01, which has been approved by the Warren County Board of Supervisors as of January 17, 2017 (the "Active Adult Proffers"); and

WHEREAS, Article XII, Section 4 of the Declaration provides the Declarant with the unilateral right to amend the Declaration, among other things, to bring the Declaration into compliance with the requirements of Warren County, Virginia; and

WHEREAS, it is necessary to amend the Declaration in order to bring the Declaration into compliance with the Active Adult Proffers; and

WHEREAS, it is the desire of the Declarant to amend the Declaration, to bring the Declaration into compliance with the Active Adult Proffers; and

WHEREAS, the Association joins herein to evidence its consent to this Amendment.

NOW THEREFORE, the Declarant, in its capacity as the Declarant under the Declaration and as the fee simple owner of the Age-Restricted Lots, with the consent of the Association, hereby declares that the Declaration is amended as follows:

1. The following is added as a new ARTICLE XIII to the Declaration:

**"ARTICLE XIII**



HOUSING FOR OLDER PERSONS: AGE RESTRICTIONS

13.1 The provisions of this Article XIII are subject to the requirements of the Proffer Statement approved as a part of Rezoning # R2016-09-01, which may be amended from time to time (the "Active Adult Proffers"). Notwithstanding anything to the contrary contained in this Declaration, the provisions of this Article XIII shall not encumber, govern or restrict or be binding upon any portion of the Property other than Lots 119 through 140, both inclusive, and Lots 142 through 161, both inclusive, BLUE RIDGE SHADOW, PHASE 5, which are duly subdivided, platted and recorded as Instrument Number 070000033 among the Land Records; provided, however that the Declarant reserves the right to record one or more amendments to the Declaration to unilaterally subject other Lots to which the Active Adult Proffers apply to the provisions of this Article XIII (each such Lot is an "Age Restricted Lot", and collectively, the "Age Restricted Lots"). Use and development of the Age Restricted Lots is subject to the terms and conditions of the Active Adult Proffers.

13.2 Occupancy Restrictions. For purposes of this Article XIII, The Age Restricted Lots are intended to provide housing for occupancy by at least one person 55 years of age or older per Lot, subject to the permitted exceptions specifically set forth in this Section. The Age Restricted Lots shall be operated as an age restricted community in compliance with all applicable state and federal laws, to the extent required by the Fair Housing Act, 42 U.S.C. Sec. 3601, et seq., and the Virginia Fair Housing Law, Va. Code Ann. § 36—96.7, et seq., as such laws are amended from time to time, including, but not limited to, amendments to the Fair Housing Act contained within the Housing for Older Persons Act of 1995 (collectively, the "Fair Housing Acts"). Notwithstanding anything to the contrary contained in this Declaration or elsewhere, the provisions of this Article may be enforced by the Board of Directors by an action in law or in equity, including, without limitation, an injunction requiring specific performance hereunder. In accordance with The Fair Housing Acts, the following restrictions on ownership, use, and occupancy are hereby imposed on the Owners, and the Age Restricted Lots, and the Dwelling Units located therein:

(a) Unless the context otherwise specifies or requires, the following words and phrases when used in this Article will have the meanings hereinafter specified:

"Age Qualified Occupant" means a person of not less than fifty-five (55) years of age.

"Applicable Law" means all statutes, laws, common law, rules, regulations, ordinances, codes and other legal requirements of any governmental authority, and any judgment, injunction, order, directive, decree or other judicial or regulatory requirement of any court or governmental authority of competent jurisdiction affecting or relating to the person or property in question.

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"Disregarded Resident" means any Occupant who is either: (i) an employee of the Association, provided that such person performs substantial duties related to the management of the Association or maintenance of any Common Area; or (ii) necessary to provide reasonable accommodation to disabled Age Qualifying Occupants.

"Occupant" means any person from time to time entitled to the use and occupancy of a Lot under an ownership right, deed or other instrument of conveyance, lease, sublease, assignment, license, concession, or other similar agreement.

(b) Generally. Each Age Restricted Lot shall be occupied by either (i) Disregarded Residents; or (ii) at least one (1) Age Qualified Occupant. Except as otherwise set forth in Section 13.2(c), and in accordance with the Active Adult Proffers, all other Occupants of Age Restricted Lots must be a spouse of, or a cohabitant with, or one who provides primary physical or economic support to, an Age Qualified Occupant; provided, however, that no children under the age of eighteen (18) shall be permitted to reside permanently within an Age Restricted Lot.

(c) Exceptions. Notwithstanding the provisions of Section 13.2(b) to the contrary, an Age Restricted Lot may be occupied by any of the persons set forth below; provided, however, that, in any event, no person may occupy an Age Restricted Lot if occupancy by such person would result in fewer than eighty percent (80%) of all occupied Age Restricted Lots being occupied by at least one (1) Age Qualified Occupant:

(i) Guests under the age of 55, including persons under the age of eighteen (18), provided that such guests do not occupy the Lot for more than a maximum period of thirty (30) days within any consecutive twelve (12) month period.

(ii) Any person who takes title to a Lot through a conveyance or change of interest by reason of death of the prior Owner of the Lot, whether provided for in a will, trust or decree of distribution.

(iii) Any person granted an exception by the Board of Directors, in its sole discretion.

(d) For purposes of calculating the percentage of occupied Age Restricted Lots in accordance with Section 13.2(c), Age Restricted Lots occupied solely by Disregarded Residents shall be excluded from such calculation.

(e) The requirements contained in this Article are intended to comply with the exemption requirements under the Fair Housing Acts and any regulations

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issued thereunder. Notwithstanding ~~anything~~ <sup>6001 MAY 11 11</sup> contained herein to the contrary, all Owners acknowledge and agree that although it is the intent of the Developer that the Age Restricted Lots are to be operated in compliance with the Fair Housing Acts, which exempt "housing for older persons" from the prohibitions against discrimination because of familial status, no representation or warranty is made that the Age Restricted Lots comply or will comply with the Fair Housing Acts, and if for any reason the Age Restricted Lots are deemed not in compliance with the Fair Housing Acts and, therefore, not exempt from the prohibitions against discrimination because of familial status, neither the Developer, nor the Declarant, nor the Association nor their respective directors, officers, agents or employees shall have any liability in connection therewith. Notwithstanding any other provision of this Declaration to the contrary, the Declarant, during the Development Period, and thereafter the Board of Directors, may amend the provision of this Article from time to time to the extent that it deems it necessary or appropriate, without the approval of the Members, in accordance with applicable local and state regulations governing age restricted housing and the Federal Fair Housing Act so long as the substantive intent as set forth herein is maintained.

(f) Sale, Lease or Transfer. Each Owner of an Age Restricted Lot shall be responsible for including the statement that the Age Restricted Lots are intended for occupancy by Age Qualified Occupants, as set forth above, in conspicuous type in any purchase and sale agreement, lease agreement or transfer documents relating to such Owner's Lot, which agreements or contracts shall be in writing and signed by the purchaser or lessee, as applicable..

(g) Notice of Transfer. In the event of any proposed change in occupancy of any Age Restricted Lot, as a result of transfer, sale, gift, assignment, death, birth, marriage, separation, divorce or otherwise, the Owner of such Age Restricted Lot shall immediately notify the Board in writing and provide to the Board the names and ages of all current and proposed Occupants of the Lot and such other information as the Board may reasonably require to verify the age of each Occupant. No voluntary change in occupancy shall occur unless such change complies with the provisions of this Article. Persons purporting to acquire title or a right of possession to an Age Restricted Lot by sale, gift or other transfer that do not comply with the restrictions set forth in this Article shall not be entitled to occupy the Lot in question. The Board shall be entitled to bring an action to evict any disapproved Occupant and such person shall be liable for the Board's legal fees and costs, at trial and upon appeal, in connection with any and all legal action taken to enforce the provisions of this Article.

(h) Maintaining Age Records. The Board of Directors will maintain age records of all Occupants of Age Restricted Lots. The Board of Directors shall publish and adhere to policies, procedures and rules to monitor and maintain compliance with this Article and Applicable Law, including policies regarding verification of compliance with Applicable Law. The Association shall develop procedures for determining the occupancy of each Age Restricted Lot. The Association may require Occupants to produce copies of birth certificates, driver's

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licenses, passports, immigration cards, military identifications and other official documents containing birth date of comparable reliability. In furtherance of the foregoing, at least once every two (2) years, the Association shall conduct a survey of the Occupants of all Age Restricted Lots to determine whether the community is in compliance with the provisions of this Article and Applicable Law.

(i) The Dwelling Unit on each Age Restricted Lot shall contain no less than 1650 square feet of finished space above ground.

13.3 Association Maintenance – Service Assessment. The Association shall have the right but not the obligation to maintain the following landscaping of un-fenced yard areas on the Age Restricted Lots: i) mowing of grass; ii) weeding; semi-annual turning of beds; semi-annual mulching of beds; semi-annual pruning. The cost of such on-lot landscape maintenance shall be assessed as an Annual Service Assessment against each applicable Age Restricted Lot in accordance with Article V, Section 3 of this Declaration. The Association is hereby granted an easement over and through all or any portions of the Property, except for dedicated rights-of-way (and also excluding any areas occupied by a Dwelling Unit, a structure or any other similar improvements) for the foregoing purposes. Notwithstanding anything to the contrary, the Association shall not be responsible for maintaining fenced-in yard areas, which shall be maintained by the Owner of such Lot at such Owner's sole cost and expense."

2. RECITALS. The recitals above are incorporated herein by this reference as though the same had been set forth at length. Any capitalized term used in this instrument and not defined herein shall have the definition given to it in the Declaration.

3. BINDING AFFECT. The covenants, conditions, restrictions, easements, agreements and benefits contained herein shall be binding upon and inure to the benefits of the parties hereto, their successors and assigns, and shall run with title to the land. Except as modified by this Amendment, all of the terms and provisions of the Declaration are hereby expressly ratified and confirmed and shall remain in full force and effect.

4. GOVERNING LAW. This instrument shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia.

5. COUNTERPARTS. This instrument may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument.


The Declarant and Association have caused this instrument to be signed as of the date described above.

**[SIGNATURE PAGES FOLLOW]**

WARREN COUNTY, VIRGINIA  
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000013 MAY 11 2017

**D.R. HORTON, INC.,** a Delaware corporation

By:   
Name: Patrick J. Williams  
Title: Vice President

STATE OF Virginia :  
COUNTY/CITY OF Fairfax :

The foregoing instrument was acknowledged before me this 1st day of May, 2017 by Patrick J. Williams, Vice President of D.R. Horton, Inc., on behalf of said corporation.

  
Notary Public

My commission expires: 10/31/19

LAUREN E WORTHINGTON  
NOTARY PUBLIC  
REGISTRATION # 329997  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES  
10/31/19

**[SIGNATURE PAGES CONTINUE ON THE FOLLOW PAGE]**

WARREN COUNTY, VIRGINIA  
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000014 MAY 11 2017

**BLUE RIDGE SHADOWS  
HOMEOWNERS ASSOCIATION, INC.**, a  
Virginia non-stock corporation

By: [Signature]  
Name: Patrick J. Williams  
Title: President

STATE OF Virginia :  
COUNTY/CITY OF Fairfax :

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of May, 2017 by Patrick J. Williams, President of Blue Ridge Shadows Homeowners Association, Inc., on behalf of said corporation.

[Signature]  
Notary Public

My commission expires: 10/31/19

LAUREN E WORTHINGTON  
NOTARY PUBLIC  
REGISTRATION # 328987  
COMMONWEALTH OF VIRGINIA  
MY COMMISSION EXPIRES  
10/31/19

INSTRUMENT 170002429  
RECORDED IN THE CLERK'S OFFICE OF  
WARREN COUNTY ON  
May 11, 2017 AT 09:07 AM  
DARYL L. FUNK, CLERK  
RECORDED BY: AVS

AVS