

FIRST AMENDED DECLARATION *20, 2009*
OF
COVENANTS, CONDITIONS, RESERVATIONS AND RESTRICTIONS
FOR
BLAKELY PARK

THIS FIRST AMENDED DECLARATION, made on the date hereinafter set forth by **ROBADA, LLC**, a Virginia Limited Liability Company (hereinafter referred to as the "Declarant.")

WITNESSETH:

WHEREAS, Declarant, Farmers & Merchants Bank, by
Joshua P. Hale (NAME) Vice President (TITLE), lender, and John
N. Crist, Trustee for Farmers & Merchants Bank, are all to be indexed as GRANTORS;
and,

WHEREAS, Declarant caused a certain Declaration of Covenants, Conditions, Reservations and Restrictions of Blakely Park (hereinafter referred to as the "Declaration") to be recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia, in Deed Book 3557, at Page 145 on the 14th day of July, 2009; and

WHEREAS, Declarant has recorded a plat entitled "Final Plat Blakely Park, Section One" in the aforesaid Clerk's Office in Deed Book 3557, at Page 140, which contained four (4) lots; and

WHEREAS, as of the date of the recording of this Amendment, the Declaration may be amended in accordance with Article 10, Section 3 thereof by an instrument signed by not less than seventy-five percent (75%) of the Owners in Blakely Park; and,

WHEREAS, as of the signing of this Amendment, none of the original four (4) Lots of Blakely Park Section One have been sold by the Declarant and the Declarant represents 100% of the voting power; and,

WHEREAS, pursuant to the Amendment To Limited Liability Company Operating Agreement of the Declarant dated July 8, 2009, Jeffrey M. Robb, as attorney-in-fact for the Declarant, is authorized to make, execute, acknowledge and file any and all documents relevant to the Blakely Park Subdivision on behalf of the Declarant; and,

WHEREAS, the Owners representing not less than seventy-five percent (75%) of the voting power evidence their consent to this Amendment by affixing the signature of Jeffrey M. Robb, Managing Member of the Declarant at the end of this document; and,

WHEREAS, Farmers & Merchants Bank holds liens on the townhouse project as per Deed of Trust dated August 22, 2007, recorded in the aforesaid Clerk's Office in Deed Book 3170, at Page 550. The Trustee under the aforesaid Deed of Trust is John N. Crist. Farmers & Merchants Bank evidences its consent to this Amendment by affixing the signature of Joshua P. Hale (NAME), its Vice President (TITLE), at the end of this document. John N. Crist, Trustee for Farmers & Merchants Bank, evidences his consent to this Amendment by affixing his signature hereto.

NOW, THEREFORE, pursuant to and in compliance with Article 10, Section 3 of the Declaration, Declarant hereby amends the Declaration of Covenants, Conditions, Reservations and Restrictions of Blakely Park, as follows:

Section 2 of ARTICLE 4, COVENANTS FOR MAINTENANCE ASSESSMENTS, shall hereby be replaced with the following:

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Property and in particular for the administrative costs of the Association and the improvement, maintenance and repair of the Common Area.

The Association shall use such assessments and levies for the general purposes stated above, and in addition thereto shall be required to maintain and operate the following:

- (a) The Association shall provide the maintenance and repairs on improvements such as the walkways, and the storm water system. If need for such repair is caused by the willful or negligent act or omission of an Owner, his family, guests or tenants, the costs of such repairs shall be added to and become a part of the assessment to which such Lot is subject.
- (b) The Association shall maintain travel ways and parking areas. The Association shall provide snow removal for travel ways and parking areas. Each Owner of a Lot shall be deemed to have granted the Association and its agents an easement of access to such Lot for such purposes. Each Owner is responsible for the snow removal on the sidewalk(s) on his/her Lot. Each Owner shall be obligated to maintain grass cutting, plants, shrubs, trees, gardens or other landscaping features located on his/her Lot. The Owner shall perform said grass cutting of their Lot at least ten times annually so as to reasonably maintain the appearance of the grass on the Lot. The Association may, however, at its discretion (but shall not be obligated to) maintain grass cutting, plants, shrubs, trees, gardens or other landscaping features or elements located on any Lot. The Association may contract for services for the collection of garbage and trash, but shall not be obligated to do so.
- (c) The Association shall operate such recreational facilities as it deems proper for the use of the Members.

(d) The Association shall further be in charge of the general policing and control of the entire subdivision.

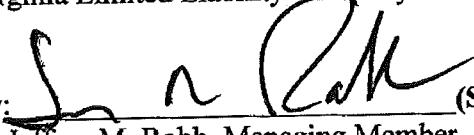
Section 4 of ARTICLE 4, COVENANTS FOR MAINTENANCE ASSESSMENTS, shall hereby be replaced with the following:

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments 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, or reconstruction, or unexpected repair or replacement of a described capital improvement upon the Common Area or parking lot or travel way, including the necessary fixtures and personal property related thereto, provided that any such assessment in excess of \$200 must be approved by two-thirds (2/3) of the voting power. Voting for special assessments shall be in person or by proxy at a meeting duly called for this purpose, pursuant to the normal notice required for meeting as provided under the By-laws of the Association, or if none is provided, according to Virginia law. Such special assessment shall be payable within the time period determined by the Board of Directors.

Except as modified by this Amendment, all the terms and provisions of the Declarations of Covenants, Conditions, Reservations and Restrictions for Blakely Park are hereby expressly ratified and confirmed and shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to be executed by Jeffrey M. Robb, Managing Member of ROBADA, LLC, a Virginia Limited Liability Company, Joshua P. Hale (NAME), Vice President (TITLE) of Farmers & Merchants Bank, and John N. Crist, Trustee for Farmers & Merchants Bank, on this 19 day of November, 2009.

ROBADA, LLC, a
Virginia Limited Liability Company

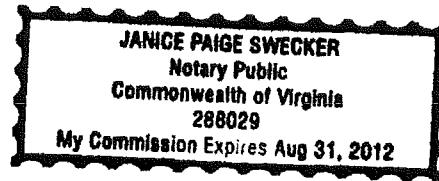
By: 
(SEAL)
Jeffrey M. Robb, Managing Member

COMMONWEALTH OF VIRGINIA,
CITY OF HARRISONBURG to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction
this 17th day of November, 2009, by Jeffrey M. Robb, Managing Member of
ROBADA, LLC., a Virginia Limited Liability Company, on behalf of the company.

My commission expires: 8/31/2012

Janice Paige Svecker
NOTARY PUBLIC



FARMERS & MERCHANTS BANK

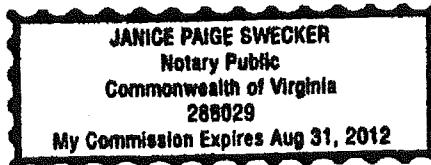
By: Joshua P. Hale (SEAL)
Joshua P. Hale, Vice President

COMMONWEALTH OF VIRGINIA,
CITY OF HARRISONBURG to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction
this 17th day of November, 2009, by Joshua P. Hale, Vice-President of
Farmers & Merchants Bank, on behalf of the Bank.

My commission expires: 8/31/2012

Janice Paige Swecker
NOTARY PUBLIC



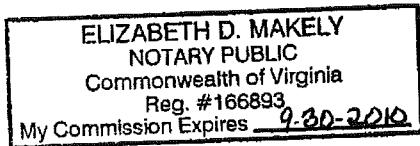
~~FARMERS & MERCHANTS BANK~~ ONC

By: John N. Crist (SEAL)
John N. Crist, Trustee

COMMONWEALTH OF VIRGINIA,
CITY OF HARRISONBURG to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction
this 19th day of November, 2009, by John N. Crist, Trustee of Farmers &
Merchants Bank, ~~on behalf of the~~ ^{onc} Bank.

My commission expires: 9-30-2010



Elizabeth D. Makely
NOTARY PUBLIC

ROCKINGHAM COUNTY
Chaz W. Evans-Haywood
CLERK OF COURT
Harrisonburg, VA 22801



BD 2009 00036392

Instrument Number: 2009-00036392

As
Amendment

Recorded On: November 20, 2009

Parties: ROBADA LLC
To
NO GRANTEE

Recorded By: ROBADA LLC

Comment:

Num Of Pages:

7

** Examined and Charged as Follows: **

Amendment	6.50	10 or Fewer Pages	14.50
Recording Charge:	21.00		

** THIS PAGE IS PART OF THE INSTRUMENT **

I hereby certify that the within and foregoing was recorded in the Clerk's Office, For: ROCKINGHAM COUNTY, VA

File Information:

Record and Return To:

ROBADA LLC

Document Number: 2009-00036392

Receipt Number: 155655

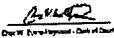
Recorded Date/Time: November 20, 2009 09:20:11A HARRISONBURG VA 22801

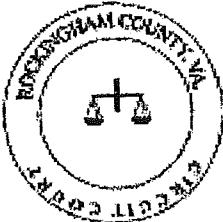
Book-Vol/Pg: Bk-OR VI-3624 Pg-145

Cashier / Station: A Pittman / Cash Station 3

THE STATE OF VIRGINIA
COUNTY OF ROCKINGHAM

I certify that the document to which this authentication is affixed is a true
copy of a record in the Rockingham County Circuit Court Clerk's Office
and that I am the custodian of that record.


Chaz W. Evans-Haywood, Clerk of Court
CLERK OF COURT
ROCKINGHAM COUNTY, VIRGINIA



Jul 14, 2009

**DECLARATION
OF
COVENANTS, CONDITIONS, RESERVATIONS
AND RESTRICTIONS
FOR
BLAKELY PARK**

THIS DECLARATION, made on the date hereinafter set forth by ROBADA, LLC, a Virginia limited liability company, hereinafter referred to as "Declarant."

WITNESSETH

Declarant is the owner of a certain parcel of land containing 1.141 Acres of land, more or less, which is intended to be subdivided into lots, situated near the intersection of Emerson Lane and U.S. Route 11 in the City of Harrisonburg, Virginia (the Property); and

WHEREAS, Farmers & Merchants Bank has a Deed of Trust, which is recorded in the aforesaid Clerk's Office in Deed Book 3170 page 550, on the property that is subject to this Declaration, Farmers & Merchants Bank and its Trustee, John N. Crist, Hoover Penrod PLC, 342 South Main Street, Harrisonburg VA 22801, join in this Declaration to evidence their consent; and

Declarant will convey the Property subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth.

NOW, THEREFORE, Declarant hereby declares that all of the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and liens, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, restrictions and liens shall run with the Property and shall be binding on all parties 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. Declarant, until such time as the Common Area is conveyed by deed to Blakely Park POA, Inc. (the "Association"), reserves the right to convey or encumber any portion or portions of the Common Area to any person or entity for any reason without the consent of the Owners.

**ARTICLE 1
DEFINITIONS**

Section 1. "Association" shall mean and refer to Blakely Park POA, Inc. and its successors and assigns.

Section 2. "Board of Directors" shall mean and refer to the governing body of the Association.

Section 3. "Common Area" shall mean and refer to all portions of the Property and all interests therein, including easements and improvements, owned or leased by the Association for the use and enjoyment of the Owners.

Section 4. "Declarant" shall mean ROBADA, LLC and its successors and assigns, but shall not include the purchaser of any Lot. Unless otherwise set forth herein, the rights and obligations of Declarant, as Declarant shall cease when the last Lot is sold.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property. All Lots are subject to these Covenants, Conditions, Reservations and Restrictions.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association as follows:

- (a) **Class A:** Class A members shall consist of those persons or entities which own a fee simple interest (or an undivided fee simple interest) in, and are the record owners of title to any Lot in the Association's Development; Provided, however, that Class A members shall not include (i) persons or entities holding such an interest solely as security for the performance of an obligation, or (ii) the Declarant, their successors or assigns.
- (b) **Class B:** The sole Class B member shall be the Declarant, or its successors or assigns.

Section 7. "Owner" shall mean or refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, whether acquired by purchase, gift, foreclosure or otherwise, but excluding those persons or entities having such interest merely as a security for the performance of an obligation. For purposes of these bylaws, the Declarant is an Owner so long as he owns any Lot or land which may added to Blakely Park. The address of an Owner (or Owners in case a Lot is owned by more than one person) for the purpose of notices required herein shall be the address on the tax records of the City of Harrisonburg, Virginia, unless an Owner notifies the Association of a different address in writing.

Section 8. "Property" shall mean and refer to the property, more specifically to be known and designated as Lots 12, 13, 14, and 15 inclusive, as shown on the plat of Blakely Park, Section One dated June, 11 2009, by Simmons Surveying, P.C., Land Surveyor, to be recorded in the Clerk's Office of the Circuit Court of Rockingham County, Virginia and all other Sections of Blakely Park which may later be made a portion of this Development. The Declarant reserves the right to add additional adjoining real estate to come under the authority and control of the Association.

Section 9. "Voting Power" shall mean and refer to the total vote authorized under Article III herein.

ARTICLE 2 THE ASSOCIATION

Section 1. Membership. Every Owner, including the Declarant, shall be a Member of the Association. Where there is more than one Owner of a Lot, each Owner shall be a Member. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot, except to persons occupying a Lot as herein provided. Ownership of the Lot shall be the sole qualification for membership. The benefits of membership may be assigned in writing with a copy to the Board of Directors by the Owner to any person who occupies Owner's Lot.

Section 2. Board of Directors. The number of Directors and method of selection of Directors shall be provided in the Bylaws; provided, however, that the Declarant, until such time as the last Lot is sold, shall be entitled to appoint all of the Directors.

Section 3. Voting Rights. Class A members shall be entitled to one (1) vote for each Lot owned. When a Lot is owned by more than one person or entity, the one (1) vote for such Lot may be cast by any co-owner thereof unless an objection or protest by another co-owner is made prior to the completion of a vote. Upon such objection or protest, the one (1) vote shall be cast according to the majority vote (based on each co-owner's percentage ownership interest) of the co-owners of such Lot, but in no event shall more than one (1) vote be cast with respect to any Lot.

The Class B member shall be entitled to three (3) votes for each Lot it owns.

If title to a Unit is in the name of a legal entity other than a natural person, the Owner shall give written notice to the Secretary of the names of one or more natural persons authorized to vote on behalf of such Owner, which notice may be revised from time to time.

All matters shall be determined by a majority vote unless a different margin is specified by law, the Covenants or these Bylaws.

No Owner may vote if he or his Lot has an outstanding indebtedness to the Association exceeding one month's regular assessment (or the equivalent if not paid monthly) at the time of the meeting or election unless such indebtedness arises at the meeting at which elections are held.

All votes shall be tallied by the President or other person so designated by the President.

Section 4. Members' Easement of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, and such easements shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to charge reasonable fees for the use of any facility situate upon the Common Area.
- (b) The right of the Association, in accordance with its Articles and By-laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof, to mortgage said property.
- (c) The right of the Association to suspend the voting rights and right to use of the facilities by an Owner for any period during which any assessment against his Lot remains unpaid.
- (d) The right of the Association to dedicate or transfer all or any part of the Common Area or any easement therein to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to in the instrument of dedication or transfer. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the voting power has been recorded, agreeing to such dedication or transfer.

Section 5. Delegation of Use. Any member may delegate in accordance with the Articles and By-laws enacted thereunder, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants or contract purchasers who reside on the Property or otherwise, as provided in the By-laws or Rules.

Section 6. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey Title to the Common Area to the Association free and clear of liens upon the sale of the last Lot. Thereafter, the Common Area cannot be mortgaged or conveyed without the consent of at least two-thirds (2/3) of the Lot Owners. Every Owner has a right and easement of enjoyment to the common area, which is appurtenant to the title of the Lot.

ARTICLE 3 EASEMENTS

Section 1. Encroachments and Support. If any improvement constituting part of any Lot or part of the Common Area now or hereafter encroaches on any (other) Lot or on the Common Area by reason of:

- (a) the original construction thereof;
- (b) deviation within normal construction tolerances in the maintenance or repair 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 the period of time the encroachment exists. To the extent that any land or improvement constituting part of any Lot or part of the Common Area now or hereafter supports or contributes to the support of any land or improvement constituting part of any (other) Lot or on the Common Area, the former is hereby burdened with an easement for the support of the latter.

Section 2. Easement Reserved to Declarant. The Declarant hereby reserves an exclusive easement over the Property, which easement shall arise upon the conveyance of the Common Area to the Association whether or not mentioned in that conveyance, for the purpose of:

- (a) Completing the construction of all improvements on the Property;
- (b) Placing and maintaining all signs on the Common Area;
- (c) Placing communications, cable television, or satellite infrastructure upon the property; and
- (d) Any other lawful purpose.

This easement shall be perpetual and exclusive to the Declarant.

Section 3. Utilities. The Property as a whole is hereby made subject to an easement for the provision to any portion or portions of the Property of utilities, including but not limited to water, sewer, electricity, gas and telephone service. Any pipes, conduits, lines, wires, transformers and any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where initially installed with the recorded permission of the Declarant, where contemplated on any site plan approved by the Declarant. The right is hereby reserved to the Declarant to grant to the City of Harrisonburg or any public utility company easements over and through any portion or portions of the Properties, including (without limitation) any Lots of which the Declarant is not the Owner at the time such easements required

by any government or governmental agency over any portion or portions of the Properties, including (without limitation) any Lots of which the Declarant is not the Owner at the time such easements are granted.

ARTICLE 4 COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments. The Declarant, for each improved Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association; (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time hereinafter provided. The Association shall have the power to collect such assessments. Such annual and special assessments, together with any interest thereon and costs of collection thereof, including reasonable attorney's fees, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made in the manner hereinafter provided and subject to prior liens upon the Property as hereinafter provided. Each such assessment, together with such interest costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. Mortgagees or lienholders shall not be required to collect assessments.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Property and in particular for the administrative costs of the Association and the improvement, maintenance and repair of the Common Area.

The Association shall use such assessments and levies for the general purposes stated above, and in addition thereto shall be required to maintain and operate the following:

- (a) The Association shall provide the maintenance and repairs on the Common Area, including improvements such as the walkways, and the storm water system. If need for such repair is caused by the willful or negligent act or omission of an Owner, his family, guests or tenants, the costs of such repairs shall be added to and become a part of the assessment to which such Lot is subject.
- (b) The Association shall maintain all open and Common Areas, as well as all travel ways and parking areas. The Association shall contract for services for the collection of garbage and trash and shall provide snow removal for Common Areas and grass cutting for the Common Area and Lots. Each Owner of a Lot shall be deemed to have granted the Association and its agents an easement of access to such Lot for such purposes. Each Owner shall be obligated to maintain plants, shrubs, trees, gardens or other landscaping features located on his/her Lot. The Association, however, may at its discretion, but shall not be obligated to, maintain plants, shrubs, trees, gardens or other landscaping features or elements located on any Lot. Fenced-in or screened-in areas on Lots shall be the responsibility of the Owner to maintain. The Association shall not be responsible for mowing areas of an Owner's lot that are inaccessible to a riding mower. The Owner shall be responsible for the mowing and maintenance of any areas on his/her Lot that are deemed by the Board of Directors of the Association to be inaccessible to a riding lawn mower. The Owner shall perform said maintenance of inaccessible portion(s) of a Lot at least eight times annually.

If any Owner wishes to be excluded from having the Association provide the aforesaid yard maintenance such Owner shall make written request to the Association and must agree to maintain the Lot in a manner satisfactory to the Board of Directors in order for such request to be approved. The Board of Directors shall, in its sole discretion, have the right to approve, deny or rescind approval of any such request. In no event shall approval of any such request result in any reduction in the Assessment due for such Lot.

- (c) The Association shall operate such recreational facilities as it deems proper for the use of the Members.
- (d) The Association shall further be in charge of the general policing and control of the entire subdivision.

Section 3. Annual Assessments.

- (a) Within thirty (30) days prior to the annual meeting of the Association, the Board of Directors shall estimate the net charges to be paid during the following year (including a reasonable provision for contingencies and replacements and less any expected income and any surplus from the prior year's operation). This "Common Expense Fund" shall be assessed to the Owner as provided in **Section 5** of this Article. Declarant shall be liable for the amount of any assessments against completed units owned by the Declarant which have been awarded a Certificate of Occupancy by the City of Harrisonburg; however, there shall be no assessment on unimproved Lots owned by the Declarant. If said sum estimated proves inadequate for any reason, including nonpayment of any Owner's assessment, the Board of Directors may at any time levy a further assessment which shall be assessed to the Owner in like proportion unless otherwise provided herein. Each Owner shall be obligated to pay assessments made pursuant to this paragraph to the Board of Directors annually or in such other reasonable manner as the Board of Directors shall designate.
- (b) The Common Expense Fund may also include such amounts as the Board of Directors may deem proper for general working capital, for a general operating reserve, for a reserve fund for replacements and major maintenance and to make up for any deficit in the common expenses for any prior year.
- (c) The omission by the Board of Directors before the expiration of any year to fix the assessments hereunder, for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions hereof or a release of the Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until a new assessment is fixed.
- (d) The Board of Directors or its designee shall keep detailed, accurate records in chronological order, for the receipts and expenditures affecting the Common Area and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by the Owner upon written request at reasonably convenient hours.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments 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, or reconstruction, or unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment in excess of \$200 must be approved by two-thirds (2/3) of the voting power. Voting for special assessments shall be in person or by proxy at a meeting duly called for this purpose, pursuant to the normal notice required for meeting as provided under the By-laws of the Association, or if none is provided, according to Virginia law. Such special assessment shall be payable within the time period determined by the Board of Directors.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all improved Lots and may be collected on an annual, semi-annual, quarterly or monthly basis as determined by the Board of Directors. The purchaser of a Lot shall pay the first pro-rata portion of the first annual assessment at the closing on the Lot. There shall be no assessment for unimproved Lots owned by the Declarant.

Section 6. Effect of Nonpayment of Assessments. Any assessments which are not paid when due shall be delinquent. Each Owner shall be personally liable, jointly and severally, for all assessments against his/her Lot. Any assessment or charge not paid within five (5) days after the due date shall accrue a late charge in the amount of twenty dollars (\$20.00), or such other amount as may be established from time to time by the Board of Directors. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the judgment interest rate provided by law.

If the assessment is not paid within sixty (60) days after the due date the Association shall have the power to (i) suspend an Owner's right to use facilities or services, including utility services, provided directly through the Association to the extent that access to the Lot through the common elements is not precluded and provided that such suspension shall not endanger the health, safety, or property of any Owner, tenant or occupant.

The Association shall have the power to collect unpaid assessments plus fees, interest, costs and any reasonable attorney's fees it expends in the collection of such fees, including reasonable attorney's fees incident to executing on a judgment or lien. Such fees, interest, costs and attorney's fees shall be added to the amount of such assessment. The Association may place a lien on the Lot(s) involved in accordance with § 55-516 of the Code of Virginia (1950 as amended), bring an action at law against the Owner(s) obligated to pay the delinquent assessments, bring a foreclosure action against the Lot(s) involved, or take any other action the law allows to collect the delinquent assessment. An action at law to recover a money judgment for delinquent assessments shall be maintainable without foreclosing or waiving the lien securing same. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Failure to pay assessments does not constitute a default under an insured mortgage. In any proceeding arising out of an alleged default by any Owner, the prevailing party shall be entitled to recover the costs of such proceeding including reasonable attorneys' fees.

Section 7. Lien for Payment of Assessments and Subordination of Lien to First Mortgage. There shall be a continuing lien upon each of the individual Lots herein in order to secure the payment of any of the assessments provided under this Declaration. Such lien shall include interest, costs and reasonable attorney's fees incident to collection of the assessment

including reasonable attorney's fees incident to executing on a judgment or lien. Such lien shall be at all times subject and subordinate to any first mortgage or deed of trust, securing an institutional lender, placed on the property at any time. However, at such time as the Association places on record a notice of delinquency as to any particular Lot on a form prescribed by the Board of Directors, then from the time of recordation of said lien notice, in the same manner as the lien of a docketed judgment in the Commonwealth of Virginia, the lien of such delinquent assessments in the amount stated in such notice shall become a lien prior to any mortgages or deeds of trust placed of record subsequent to the date of said notice.

A certificate executed and acknowledged by a majority of the Board of Directors stating the indebtedness secured by the lien upon any Lot created hereunder, shall be conclusive upon the Board of Directors, as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner or any encumbrancer or prospective encumbrancer of a Lot upon request at a reasonable fee. Unless the request for a certificate of indebtedness shall have been complied with within fifteen (15) days, all unpaid assessments which become due prior to the date of making such a request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on a Lot may pay any unpaid assessments payable with respect to such Lot and upon such payment such encumbrancer shall have a lien on such Lot for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment or other satisfaction of a delinquent assessment where a certificate has been recorded, the Board of Directors shall cause to be recorded in the same manner as the certificate of indebtedness a further certificate stating the satisfaction and the release of the lien.

The lien of assessment provided for herein, whether or not notice has been placed of record as above provided, may be foreclosed by an action in the same manner as provided for the foreclosures of mortgages, vendor's liens and liens of similar nature.

ARTICLE 5 PARTY WALLS

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

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, an Owner who has used the wall may restore it, and if the other Owner thereafter makes use of the wall, they shall contribute to the cost of restoration of the wall in proportion to such use without prejudice, however, to the rights of any such Owner regarding liability for negligent, willful acts or omissions.

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

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

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, the dispute shall be arbitrated. Each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator.

ARTICLE 6 ARCHITECTURAL CONTROL

No exterior addition to or change or alteration therein shall be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Control Committee (the Committee). The Committee shall consist of three (3) persons chosen by the Declarant until the last Lot has been sold. Thereafter, the Committee shall be elected by the Owners.

In the event the Architectural Control Committee fails to approve, modify, or disapprove, in writing, a correctly filed application within forty-five (45) days, approval will be deemed granted. Notification of total or partial disapproval shall include the reasons for such disapproval. Failure of the Architectural Control Committee 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 Control Committee or the Board of Directors of the enforcement of this Declaration at any later date.

ARTICLE 7 EXTERIOR MAINTENANCE

Owners shall be responsible for the maintenance of their Units and their lots, including but not limited to lawn care and maintenance not provided by the Association. In the event an Owner of any Lot fails to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, after approval by two-thirds (2/3) decision of the Board of Directors, the Association shall have the right, through its agents and employees, to enter upon said parcel and repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements. The cost of such exterior maintenance shall be added to and become part of the annual assessment to which such Lot is subject, and the expense of such exterior maintenance shall become a lien upon the subject property. It is a condition of these covenants that the Association is and shall be, deemed general contractor for the purpose of qualifying to file a mechanic's lien, and every Owner so in default, by the acceptance of this deed, and those claiming lien, and every Owner so in default, by the acceptance of his deed, and those claiming under him, hereby agrees to pay such expense, and grants permission to the Association, to enter upon such Lot and make such exterior maintenance without being guilty of trespass, and said Association, its agents and employees, shall not be liable in damages to any Owner except for willful and tortuous acts committed beyond the scope of this Declaration. Any assessments under this Article shall constitute liens and shall be subject to the provision of Section 55-516 of the Code of Virginia, as amended.

ARTICLE 8 USE RESTRICTION

Section 1. Limitation of Use of Lots and Common Area. The Lots and Common Area shall be occupied and used as follows:

- (a) Each Owner shall keep his Lot in good order, condition and repair and in clean and sanitary condition at all times.
- (b) No owner shall occupy or use his Lot, or permit the same or any part thereof to be occupied or used, for any purpose other than as a residence for the Owner and the Owner's family or the Owner's lessees or guests.
- (c) There shall be no obstruction of the Common Area. Nothing shall be stored in the Common Area without the prior written consent of the Association.
- (d) Nothing shall be done or kept in any Lot or in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in his Lot or in the Common Area which will result in the cancellation of insurance on any Lot or any part of the Common Area, or which would be in violation of the law. No waste will be committed in the Common Area.
- (d) No motor vehicle or material portion thereof that does not have a current license or current Virginia inspection sticker shall be permitted on the Property. No motorized vehicles of any kind shall be permitted upon any areas within said subdivision except for the streets and parking areas constructed by Declarant. No right of vehicular access shall exist across any Lot in said subdivision except for those areas upon which streets or parking areas have been constructed by Declarant.

No boats, mobile homes, motor homes, campers, buses, trailers of any type, tractors, trucks or any other motor vehicle, other than automobiles, motorcycles, pickup trucks or vans shall be permitted on any Lot, except during the course of construction.

- (e) There shall be no fences or hedges in front of any townhouse unit unless approved by the Architectural Control Committee.
- (f) Each Lot shall be entitled to the exclusive use of the two (2) parking spaces located on the Lot. No unit shall occupy more than two (2) parking spaces on the Property except for "temporary guests." Temporary guests shall mean guests staying at the unit seven nights or less per month.
- (g) No sign of any kind shall be displayed to the public view on or from any Lot or the Common Area without the prior written consent of the Association, except a sign of reasonable size advertising the Lot "For Sale" or "For Rent".
- (h) No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or in the Common Area, except dogs, cats or other commonly accepted household pets may be kept on a Lot, for non-commercial purposes, subject to rules and regulations adopted by the Board of Directors. No pets shall be kept outside.
- (i) No noxious or offensive activity shall be carried on in any Lot or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners.

- (j) Nothing shall be altered, constructed in, or removed from the Common Area, except upon the written consent of the Association.
- (k) There shall be no violation of rules for the use of the Common Area and Lots adopted by the Board of Directors and furnished in writing to the Owners and the Board of Directors is authorized to adopt such rules.
- (l) Owners shall abide by the Bylaws of the Association.
- (m) Nothing in this Declaration shall be construed to deny the right hereby reserved to the Declarant for a period on one (1) year following the recordation of this Declaration to maintain sales offices anywhere on the Common Area or on any Lot of which the Declarant is the Owner.

Section 2. Entry for Repairs for which the Association is Responsible. The Association its agents may enter any Lot or residence thereon when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made at reasonable hours and with as little inconvenience to the Owner as practicable and the Association out of the Common Expense Fund shall repair any damage caused thereby.

Section 3. Entry for Repairs for which the Owner is Responsible. Notwithstanding the general provisions for maintenance set forth herein, if an Owner fails to comply with the provisions of **Section 1** of this Article, the Association may pay, on behalf of an Owner, the cost and expense of exterior painting and maintenance, upkeep of the brick, vinyl siding and exterior installation and finish systems on all exterior walls and maintenance to party walls. The affected Owner shall reimburse all such costs and expenses to the Association and the Association shall have a lien on the Lot to secure such payment.

Section 4. Enforcement. The Association shall have the power to assess charges against any Owner for any violation of the Covenants, Bylaws, or of the rules or regulations promulgated pursuant thereto for which such Owner or his family members, tenants, guests or other invitees are responsible. The amount of any charges so assessed shall be treated as an assessment against the responsible Owner's Lot under **Article 4** these Covenants except that such assessment in excess of \$200 shall not be subject to the requirement of approval by two-thirds (2/3) of the voting power. After the date a lawsuit is filed challenging any such charges, no additional charges shall accrue. If the court rules in favor of the Association, the Association shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the Owner prior to filing of the action. This Section shall not be construed to prohibit the exercise of other powers and responsibilities by the Association or the Board of Directors as contained in the Bylaws or these Covenants.

ARTICLE 9 **INSURANCE**

The Board of Directors shall have the right to purchase insurance for all Lots and residences thereon or for a limited group of Owners which decide to participate in type, amount and coverage policies, whether purchased by the Association or individual Owners shall be paid for by the individual Owners, either directly to the Association, as the Board of Directors may designate, on a pro-rata basis. The premium for said insurance, if unpaid, shall become a lien

upon the individual Lot in the same manner as provided for the annual and special assessments. Should an individual Owner request more than the minimum coverage required by the Board of Directors, then the Board of Directors, if purchasing insurance, shall order this additional coverage for the individual Owner to be paid for by him at the time of the purchase.

ARTICLE 10 GENERAL PROVISIONS

Section 1. Enforcement. The Association or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration, the By-laws or rules and regulations of the Association, and the provisions of § 55-508 et seq. of the Code of Virginia (1950 as amended) (The Act). Lot owners shall be responsible for ensuring that their lessee's, families, cohabitants and guests abide by the Declaration, By-laws, rules, regulations or Act. In the event the Association hires an attorney to enforce the Declaration, the By-laws, any rules or regulations, or the Act, the Owner(s) responsible for the violation shall pay all reasonable attorneys' fees incident to the violation(s), including reasonable attorney's fees incident to executing on a judgment or lien. In any proceeding arising out of an alleged default by any Owner, the prevailing party shall be entitled to recover the costs of such proceeding including reasonable attorneys' fees. Failure by the Association or by an Owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 3. Amendment. The covenants, conditions, reservations 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, the Declarant, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, devisees, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods. Reservations and restrictions of this Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners representing not less than seventy-five percent (75%) of the voting power, and thereafter by an instrument signed by not less than sixty-seven percent (67%) of said Owners. Any amendment must be properly recorded.

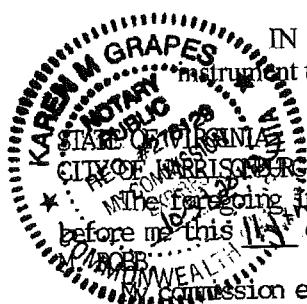
Section 4. Terms and Words to be Interpreted in Context. All terms and words used in the Declaration, regardless of the number and gender in which they were used, shall be deemed and construed to include any other numbers (singular or plural), any other gender (masculine, feminine, or neuter), as the context or sense of this declaration or any paragraph or clause hereof may require, the same as if such words has been fully and properly written in the number and gender.

Section 5. Declarant Rights. Declarant shall own each Lot not sold to any purchaser or otherwise transferred in fee simple. Declarant retains the right to enter into leases with any third parties for the occupancy of any of the Lots owned by Declarant. "Special Declarant Rights" are those rights reserved for the benefit of a declarant, including without limitation the following rights: (a) to maintain sales offices, management offices, signs advertising the Subdivision and

models; (b) to construct Homes and execute improvements; (c) to appoint or remove any officer of the Association or Board of Directors during the period of Declarant control; (d) to expand the Subdivision; (e) to make amendments to this Declaration, and (e) to exercise any power or responsibility otherwise assigned by any Subdivision Instrument or any officer or the Board of Directors; (f) to take advantage of any enforcement power available to either the Association or any Owner under the Covenants or the Bylaws. All Special Declarant Rights are reserved by, and are vested in, the Declarant. Nothing contained in the Subdivision Instruments shall be deemed to impose upon the Declarant any obligation of any nature to build, construct or provide any buildings or other improvements except to the extent required by law.

The declarant may unilaterally execute and record a corrective amendment or supplement to the declaration to correct a mathematical mistake, an inconsistency or a scrivener's error, or clarify an ambiguity in the declaration with respect to an objectively verifiable fact (including without limitation recalculating the liability for assessments or the number of votes in the association appertaining to a lot), within five years after the recordation of the declaration containing or creating such mistake, inconsistency, error or ambiguity. No such amendment or supplement may materially reduce what the obligations of the declarant would have been if the mistake, inconsistency, error or ambiguity had not occurred. Regardless of the date of recordation of the declaration, the principal officer of the association may also unilaterally execute and record such a corrective amendment or supplement upon a vote of two-thirds of the members of the board of directors.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be signed this 14th day of July, 2009.



STATE OF VIRGINIA
CITY OF HARRISONBURG, to-wit:

The foregoing instrument was acknowledged before me this 14th day of July, 2009, by JEFFREY M. ROBB.

My commission expires October 31, 2012

Karen M. Grapes
NOTARY PUBLIC

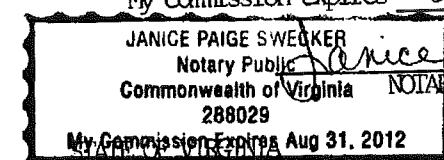
ROBADA, L.L.C.,
a Virginia limited liability company

By: Jeffrey M. Robb (Seal)
JEFFREY M. ROBB, Member/Manager

FARMERS & MERCHANTS BANK,
Note holder

By: Joshua P. Hale (Seal)
Vice President

John N. Crist (Seal)
John N. Crist, Trustee

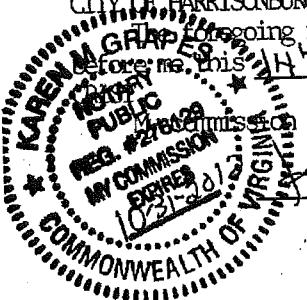


CITY OF HARRISONBURG, to-wit:

The foregoing instrument was acknowledged before me this 14th day of July, 2009, by JOHN N.

My commission expires October 31, 2012

Karen M. Grapes
NOTARY PUBLIC



ROCKINGHAM COUNTY
Chaz W. Evans-Haywood
CLERK OF COURT
Harrisonburg, VA 22801



60 2009 00022273

Instrument Number: 2009-00022273

As

Restrictive Covenants

Recorded On: July 14, 2009

Parties: ROBADA LLC

To

NO GRANTEE

Recorded By: JEFF ROBB

Num Of Pages:

14

Comment: PARCEL HBURG

** Examined and Charged as Follows: **

RestrictiveCovenants	6.50	11 - 30 Pages	28.50
Recording Charge:	35.00		

** THIS PAGE IS PART OF THE INSTRUMENT **

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: ROCKINGHAM COUNTY, VA

File Information:

Record and Return To:

Document Number: 2009-00022273

JEFF ROBB

Receipt Number: 143291

Recorded Date/Time: July 14, 2009 11:20:08A

HARRISONBURG VA 22801

Book-Vol/Pg: Bk-OR VI-3557 Pg-145

Cashier / Station: A Pittman / Cash Station 3

THE STATE OF VIRGINIA}
COUNTY OF ROCKINGHAM}

I certify that the document to which this authentication is affixed is a true
copy of a record in the Rockingham County Circuit Court Clerk's Office
and that I am the custodian of that record.


Chaz W. Evans-Haywood, Clerk of Court
CLERK OF COURT
ROCKINGHAM COUNTY, VIRGINIA

