

COVENANT REGARDING PROPERTY AND

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOUR SEASONS AT CHARLOTTESVILLE

Greene County, Virginia

THIS COVENANT REGARDING PROPERTY AND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Covenant") is made as of the 17th day of May, 2011, by and among CHARLOTTESVILLE LAND INVESTMENT GROUP, LLC, a Virginia limited liability company ("CLIG"), and CHARLOTTESVILLE LAND DEVELOPMENT GROUP, LLC, a Virginia limited liability company ("CLDG", and CLIG and CLDG are individually and collectively the "Investor"); K. HOVNANIAN'S FOUR SEASONS AT CHARLOTTESVILLE, L.L.C., a Virginia limited liability company ("Hovnanian"); FOUR SEASONS AT CHARLOTTESVILLE COMMUNITY ASSOCIATION, INC., a Virginia non-stock corporation (the "HOA"); and MANUFACTURERS AND TRADERS TRUST COMPANY, a New York corporation ("M&T"), and F. RICHARD POTTER, TRUSTEE and VANCE MASON, TRUSTEE, either of whom may act (collectively, "M&T Trustee", and M&T and M&T Trustee are collectively referred to herein as the "M&T Parties"), with each party listed above being both a Grantor and a Grantee for indexing purposes.

WHEREAS, the parties hereto entered into that certain Settlement Agreement dated of even date herewith (the "Settlement Agreement") setting forth their agreements and understandings in satisfaction of certain disputes arising with respect to those certain parcels of land containing in the aggregate approximately 203.905 acres, together with a 50' ingress/egress easement (collectively, the "Property"), originally anticipated to be developed as a community of approximately five hundred thirty-five (535) age-restricted, single family detached homes to be known as Four Seasons (the "Project"), it being acknowledged, however, that the current zoning/proffers for the Project allow for the development of up to six hundred fifty (650) "age-restricted single family units" within the Project. The Property currently exists as (i) a development of one hundred forty-four (144) age-restricted single family detached homes known as Four Seasons, Phase One (of which twenty-four (24) lots are owned by CLIG (the "CLIG Lots")), and (ii) the remainder of the Property, owned by CLDG, which has not yet been subdivided into lots (the "Additional Land"). The Additional Land includes a clubhouse (the "Clubhouse") originally intended for the benefit of the owners of the lots within the Project, including the lots in Four Seasons, Phase One; and

WHEREAS, the CLIG Lots and the Additional Land are encumbered by the lien of that certain Deed of Trust, Assignment and Security Agreement dated as of May 27, 2009, recorded in Deed Book 1217, at page 158, among the land records of Greene County, Virginia, in which Investor conveyed the CLIG Lots and the Additional Land to M&T Trustee for the benefit of M&T (the "M&T Deed of Trust"); and

WHEREAS, in consideration of and as set forth in the Settlement Agreement, Investor, Hovnanian, and the HOA desire to enter into this Covenant to set forth those portions of the Settlement Agreement which specifically apply to the Property and the Project and which are not otherwise set forth in other documents recorded simultaneously with this Covenant; and

WHEREAS, as set forth in the Settlement Agreement, M&T enters into this Covenant (and causes M&T Trustee to enter into this Covenant), as beneficiary and trustee, respectively, of the M&T Deed of Trust, to consent to the provisions of this Covenant regarding the Clubhouse and the Clubhouse Parcel (as such term is defined in Section 2b below); and

Boyd Miller 6/7/17 7:33 PM

Comment: The 2011 Amendment to the DCCR

Boyd Miller 6/24/17 4:50 PM

Comment: "HOA" is defined in this document as the Four Seasons at Charlottesville Community Association.

Boyd Miller 6/7/17 7:36 PM

Comment: The Settlement Agreement is referenced here.

Boyd Miller 6/24/17 4:50 PM

Comment: "Property" is all 204 acres.

Boyd Miller 6/24/17 4:51 PM

Comment: "Project" is the entire planned subdivision.

Boyd Miller 6/24/17 4:57 PM

Comment: This codifies the terms of the Settlement Agreement as an amendment to the DCCR.

Boyd Miller 6/24/17 4:56 PM

Comment: Deed of Easement, Special Declarant Rights, etc.

Boyd Miller 7/5/17 1:48 PM

Comment: M&T releases Clubhouse from Deed of Trust and recognizes it as common area for the Project.

WHEREAS, the Settlement Agreement amends that certain Declaration of Covenants, Conditions, and Restrictions, Four Seasons at Charlottesville, Greene County, Virginia, dated January 10, 2007, and recorded in Deed Book 1072, page 1, among the Greene County, Virginia, land records (the "Declaration"), including specifically by providing that (i) each of the twenty-four (24) CLIG Lots will not pay any HOA assessments until such CLIG Lot has been sold to a homeowner, (ii) each CLIG Lot will not have any HOA voting rights until the homeowner of such CLIG Lot has begun paying HOA assessments, and (iii) HOA assessments may be used to pay Clubhouse Expenses (as such term is defined in Section 3h below), all as more particularly set forth herein; and

WHEREAS, the Settlement Agreement, including specifically as an amendment to the Declaration, has been approved by the required majority of lot owners as set forth in the Declaration,

NOW, THEREFORE, this Covenant

WITNESSETH:

That for and in consideration of the sum of Ten Dollars (\$10.00), cash in hand paid, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, as applicable, covenant and agree as follows:

1. **CLIG Lots.** Investor, Hovnanian and the HOA hereby agree that the CLIG Lots are subject to the provisions of the Declaration, and that CLIG, and its successors and assigns, as owners of the CLIG Lots (such successors and assigns being referred to as "Allowed Successors" of CLIG), are and shall be members of the HOA; however, no HOA or other assessments or any other charges under the Declaration shall be assessed against, accrue or become due and payable with respect to each CLIG Lot until such time as the construction of a residential dwelling unit upon such CLIG Lot has been completed and such CLIG Lot has been conveyed to a homeowner (and the HOA assessments or other charges under the Declaration with respect to such Lot, as described in the Declaration, shall begin to accrue on the date that such homeowner closes upon and takes title to any such CLIG Lot). In no event shall Investor be responsible for any such assessments or other charges with respect to the CLIG Lots.

2. **Additional Land.** The Additional Land will be developed in a manner consistent with the approvals from Greene County as an active adult community. CLDG (and its successors and assigns who have purchased one or more parcels of the Additional Land for subdivision, development and/or construction of homes in the ordinary course of business, such successors and assigns being referred to as "Development Successors" of CLDG) shall form one (1) or more new homeowners' associations and develop the Additional Land subject to one (1) or more new declarations (all as may be approved by Greene County to the extent that any such approval of Greene County may be required). Each such new homeowners' association will be responsible for payment of a pro-rata share (based on the number of lots served by such new homeowners' association as a percentage of all lots served by the applicable facilities) of the cost of maintaining the facilities used by members of the HOA and by members of the new homeowners' association, including streets, adjacent landscaped areas and entry monuments.

- a. CLDG (or its Development Successor) will also form (at the same time as the new homeowners' association for the Additional Land, or first such new homeowners' association, is formed) a master association (the "Master Association") for the sole purpose of taking title to and operating and maintaining the Clubhouse, the parcel of land on which the Clubhouse is located (the "Clubhouse Parcel"), and those portions of the common areas located within Phase One of the Project (and the facilities and improvements located thereon, such as the private streets, adjacent landscaped areas and entry monuments) which are to be used jointly by the homeowners in Phase One of the Project and the Additional Land (the "Joint Phase One Common Areas").

Boyd Miller 6/24/17 5:05 PM

Comment: This amends the DCCR to defer any assessment due from CLIG lots until they have a Home Owner. Until then, they will be Members without voting rights.

Boyd Miller 6/24/17 5:07 PM

Comment: As per Section 12 of the SA, this Covenant serves as the amendment to the DCCR.

Boyd Miller 7/5/17 1:49 PM

Comment: The lots were already in Exhibit A and therefore continue to be Members of the Association (HOA). However, this amendment causes the loss of voting rights until assessments are payable.

Boyd Miller 7/5/17 1:50 PM

Comment: This amendment to the DCCR now delays when assessments are payable to the Association. Assessment and other charges payable by CLIG were waived by the SA.

Boyd Miller 6/24/17 5:18 PM

Comment: Commits all 204 acres of the Property to be active adult (i.e., SR)

Boyd Miller 7/5/17 1:51 PM

Comment: Requires a separate declaration and homeowner association for any new development in the Additional Land. However, it does not prohibit just moving proper ... [1]

Boyd Miller 6/24/17 5:23 PM

Comment: Master Association will be formed If a new separate homeowner association formed.

Boyd Miller 7/5/17 1:52 PM

Comment: Phase One streets as marked in Exhibit A of this amendment to the DCCR.

(i) The members of the Master Association shall consist of the HOA and each new homeowners' association which has been formed for governance of any lots created out of the Additional Land.

Boyd Miller 6/7/17 8:14 PM

Comment: Association will be one member of the MA.

(ii) CLDG (or its Development Successor) shall be the declarant under the declaration for the Master Association and shall have all customary declarant rights, including the right to appoint the members of the board of directors during the declarant control period (however, during such declarant control period the HOA shall have the right to designate one (1) member of the board). The declaration and any other governing documents for the Master Association shall be in a customary and commercially reasonable form and reasonably acceptable to the HOA (and in any event, so long as such governing documents are consistent with the provisions of this Covenant and are approved by the County Attorney and Zoning Administrator for Greene County, they will be deemed acceptable to the HOA).

Boyd Miller 6/7/17 8:15 PM

Comment: CLDG or Developer will be Declarant for MA.

(iii) Upon completion of the development of the Project, including the Additional Land, the members of the Master Association (the HOA and the other homeowners' association(s)) shall govern the Master Association.

Boyd Miller 7/5/17 1:53 PM

Comment: This is a really powerful statement that limits the Association in objecting to terms of the declaration for the MA. Association will need to work with Greene County on any issues.

(iv) Upon completion of the development of the Project, including the Additional Land, the votes shall be allocated to the members on a pro-rata basis based on the number of lots served by each member as a portion of all lots served by the Master Association.

Boyd Miller 6/24/17 5:26 PM

Comment: This will favor the larger homeowner associations.

(v) The HOA members shall not be required to pay (i) any initial capital contributions or initial working capital amounts which may be assessed against members of the new homeowners' association formed for the Additional Land, or (ii) any charges that are attributable to common areas or facilities that serve only the CLIG Lots and/or the lots to be created out of the Additional Land. In addition, Hovnanian will not be obligated to fund assessments or deficits for any lots created out of the Additional Land, except to the extent it acquires title to any such lots.

Boyd Miller 6/12/17 10:02 AM

Comment: This recognizes that the 120 current residents have already contributed, especially for the Clubhouse.

b. Notwithstanding the other provisions of this Covenant or any of the provisions of the Declaration:

Boyd Miller 7/5/17 1:58 PM

Comment: This paragraph simply states that Home Owners in the Additional Land will pay pro-rata assessment fees for the Common Areas managed by the Association (also see DCCR Section 11.4). Of course, they could also have assessment fees from their own homeowner association.

(i) Any new homeowners' association formed for the Additional Land and each lot within the Additional Land served by such new homeowners' association shall not be responsible for the payment of the applicable pro-rata share of any maintenance costs for the Joint Phase One Common Areas until such time as the construction of a residential dwelling unit upon such lot has been completed and such lot has been conveyed to a homeowner (and such pro-rata share with respect to such lot shall begin to accrue on the date that such homeowner closes upon and takes title to any such lot). The parties agree that each pro-rata share calculation to be paid by any new homeowners' association shall include, at the time such pro-rata share payment is due, only the number of lots within the Additional Land served by such new homeowners' association on which the construction of a residential dwelling unit upon such lot has been completed and such lot has been conveyed to a homeowner.

(ii) In no event shall any homeowner or resident of a lot within the Additional Land be entitled to use any of the Joint Phase One Common Areas until the pro-rata share payments with respect to such lot have begun to be made.

Boyd Miller 7/5/17 2:00 PM

Comment: No obligation for CLDG or Successor to contribute to Association deficit

(iii) In no event shall Investor, an Allowed Successor or a Development Successor have any obligation to fund any deficits or budget shortfalls of the HOA.

Boyd Miller 7/5/17 2:01 PM

Comment: This declares the Clubhouse to be common area for the Project. The lien has already been removed. CLDG simply holds the deed for now until it is conveyed.

c. CLDG shall initially retain ownership of the Clubhouse and the Clubhouse Parcel; however, CLDG shall convey (by special warranty deed, free and clear of any monetary liens and for no consideration due) the Clubhouse and Clubhouse Parcel to the Master Association at a time which is in accordance with any proffers for the Project and which CLDG deems appropriate (but not

later than the sale and conveyance of the last lot in the last phase of the Additional Land). At the same time as CLDG conveys the Clubhouse and Clubhouse Parcel to the Master Association, the HOA will convey the Joint Phase One Common Areas (by special warranty deed, free and clear of any monetary liens and for no consideration due) to the Master Association. The HOA and CLDG agree and acknowledge that the Joint Phase One Common Areas consist of those items described as such on (and shown on the plat constituting a portion of) Exhibit A attached hereto. Once the Joint Phase One Common Areas are conveyed to the Master Association, the Master Association shall be responsible for repairing and maintaining the Joint Phase One Common Areas for the benefit of all lots within the Project (including the Additional Land), including any roadways and landscaping located on the Joint Phase One Common Areas.

Boyd Miller 6/24/17 5:30 PM

Comment: The HOA initially retains ownership (deed) of the Joint area, but will later convey it to a Master Association.

- d. CLDG will not convey the Clubhouse and/or the Clubhouse Parcel to any person or entity other than the Master Association or a Development Successor that is obligated to convey (on the terms set forth in Section 2c) the Clubhouse and the Clubhouse Parcel to the Master Association.

Boyd Miller 6/7/17 8:38 PM

Comment: Clubhouse cannot be anything other than the Project's clubhouse.

Notwithstanding any of the foregoing, Investor shall not be required to undertake any obligation to assume any Declarant obligations with respect to the Declaration and the HOA or to construct, erect or pay for any facilities or amenities for the Project that have not yet been constructed.

Boyd Miller 6/7/17 8:40 PM

Comment: CLDG and CLIG are not required to spend anything.

3. **Management.** Except as otherwise specifically provided below, the HOA will manage the operation of the Clubhouse and the Clubhouse Parcel on behalf of CLDG and/or its Development Successors until such time as the Clubhouse and the Clubhouse Parcel are conveyed to the Master Association. When the Clubhouse and the Clubhouse Parcel are conveyed to the Master Association, the Clubhouse and the Clubhouse Parcel shall be managed by the Master Association. The manager of the Clubhouse and the Clubhouse Parcel (whether such manager is the HOA, the Master Association or some other person or entity, the "Manager") shall maintain the Clubhouse and the Clubhouse Parcel in good repair, shall operate the Clubhouse in a commercially reasonable manner, shall collect all dues, assessments and other revenues associated with the Clubhouse and the Clubhouse Parcel, shall pay all Clubhouse Expenses (as defined below in Section 3g), and shall comply with the following terms, as applicable:

Boyd Miller 6/24/17 5:33 PM

Comment: Association can manage the CH until the MA has ownership of common area and assumes management duties. How a MA would work initially is not yet defined.

- a. The Clubhouse will be reserved for the exclusive use of residents of the Project, including the Additional Land; provided, however, that if Investor acquires one or more parcels of land which adjoin the Project, and Investor (or an Allowed Successor or a Development Successor) develops any such parcel of land as an active adult community, such parcel of land may be annexed into any homeowners' association governing all or any portion of the Additional Land (provided that such annexation has been approved by the applicable governmental authorities of Greene County, to the extent that any such approval of Greene County may be required), in which event such additional annexed parcel of land shall be deemed Additional Land (and, therefore, part of the Project) for all purposes of this Covenant.

Boyd Miller 6/7/17 8:47 PM

Comment: This is what the Association is doing now.

- b. All HOA members (homeowners) shall have the continuing right to use the Clubhouse and the Clubhouse Parcel (subject to any reasonable and customary rules and regulations that are equally applicable to the owners of lots created out of the Additional Land), provided that each such HOA member continues paying such HOA member's assessments under the Declaration. The owner(s) of lots created out of the Additional Land (or the new homeowners' association(s) created for the governance of the lots created out of the Additional Land) shall be responsible for paying such owner(s)' pro-rata share of the Clubhouse Expenses, with such payments to commence, with respect to each such lot, at such time as the construction of a residential dwelling unit upon such lot has been completed and such lot has been conveyed to a homeowner (i.e., such pro-rata share shall begin to accrue on the date that such homeowner closes upon and takes title to such lot). In no event shall any homeowner or resident of a lot within the Additional Land (or of the CLIG Lots) be entitled to use the Clubhouse and the Clubhouse Parcel until the HOA assessments and other charges under the Declaration (with respect to the CLIG Lots) or the pro-rata share payments (with

Boyd Miller 6/24/17 5:34 PM

Comment: Clubhouse belongs to the Project.

Boyd Miller 6/24/17 5:41 PM

Comment: While the Association is managing the Clubhouse, any new homeowners in the Additional Land will pay an assessment to the Association for pro-rata share Clubhouse expenses.

respect to the lots created out of the Additional Land) with respect to such lot have begun to be made. [In the event Investor pays any Clubhouse Expenses for the benefit of the HOA, including but not limited to the payment of any real estate taxes applicable to the Clubhouse and/or the Clubhouse Parcel, the HOA will promptly reimburse such Clubhouse Expenses to Investor upon request and reasonable proof of payment. (With respect to any real estate taxes applicable to the Clubhouse and/or the Clubhouse Parcel which are not separately assessed but are included as part of a real estate tax bill for a larger parcel, the HOA and Investor agree and acknowledge that they will cooperate to determine a fair allocation of such real estate taxes to the Clubhouse and/or the Clubhouse Parcel.) However, by no later than June 2, 2011, Hovnanian, on behalf of the HOA, will pay to Investor a total of One Hundred Thousand Dollars (\$100,000) in full satisfaction of the HOA's share (and Hovnanian's share, if any) of the real estate taxes paid by or due from Investor with respect to the Project (i.e., such payment will include the real estate taxes applicable to the Clubhouse and/or the Clubhouse Parcel, and the Phase One Common Areas) for all of tax years 2009, 2010 and 2011.¹

- c. If, at any time in the future until there are a total of at least two hundred forty (240) lots contributing to the upkeep and maintenance of the Clubhouse and Clubhouse Parcel, the homeowners in Phase One no longer want to pay the Clubhouse Expenses, then upon at least sixty (60) days notice to the owner of the facility (CLDG, its Development Successor, or the Master Association, as applicable), the HOA can terminate the homeowners' use of and payment for the Clubhouse and Clubhouse Parcel. Upon such termination, the owner of the facility (which shall then become the Manager in place of the HOA if the HOA is the Manager at the time of such termination) shall be entitled either to shut down the Clubhouse or keep the Clubhouse open; however, after the HOA's termination of the homeowners' use of and payment for the Clubhouse and Clubhouse Parcel, such owner shall fund all Clubhouse Expenses whether the Clubhouse is open or closed (and such owner shall also have the right to rent out the Clubhouse or open it for the use of others upon such terms as such owner determines in its sole discretion in order to help defray the Clubhouse Expenses). In the event that the HOA terminates the homeowners' use of and payment for the Clubhouse and Clubhouse Parcel, such homeowners shall be entitled to resume use of the Clubhouse and Clubhouse Parcel only upon obtaining approval from CLDG or, as applicable, its Development Successor.

In addition, the Manager shall have the right to (i) adjust the Clubhouse hours or reduce the services available in order to cut down on the Clubhouse Expenses, and/or (ii) notwithstanding the provisions of Section 3a above, rent the Clubhouse and/or Clubhouse Parcel (or portions thereof), subject to a schedule to be established by the Manager, to others for special events, such as weddings and anniversary or retirement parties; provided, however, that at such time as CLDG (or its Development Successor) begins to develop the Additional Land, as evidenced by the issuance of the first grading permit for the first phase of lots within the Additional Land, the Manager shall obtain CLDG's (or its Development Successor's) prior written consent before exercising any of such rights (or before establishing any future rental schedule), such consent not to be unreasonably withheld. The rental rates and fees associated with the foregoing item (ii) shall be set by the Manager, with the rental rates and fees paid for such use being used first to fund any deficits related to the Clubhouse, the Clubhouse Parcel, and/or the Joint Phase One Common Areas, and secondly to be deposited in a separate interest-bearing account to be established by the Manager at a federally insured bank or savings institution reasonably selected by the Manager (with any interest earned thereon being deemed part of such account for all purposes hereunder) (the "Amenity Account") to be used solely (except as specifically provided below) to fund the cost of constructing at the Clubhouse or on the Clubhouse Parcel additional amenities such as an outdoor pool, tennis courts and/or bocce courts. The funds in the Amenity Account may be used by CLDG

Boyd Miller 6/24/17 5:36 PM

Comment: If CLDG or CLIG pays Clubhouse expenses, the Association will reimburse them.

Boyd Miller 6/24/17 5:42 PM

Comment: Per the Oct., 2011 Greene County court case, the CH has no real estate taxes. The Association has never paid any real estate taxes and will not need to reimburse CLDG.

Boyd Miller 6/12/17 10:42 AM

Comment: This would allow the Association to waive the Home Owner's right to use the Clubhouse per 3.b. and to forfeit management rights to the Clubhouse common area.

Boyd Miller 6/24/17 5:44 PM

Comment: Such use is limited because it is still a clubhouse in a SR-zoned subdivision.

Boyd Miller 6/12/17 11:08 AM

Comment: Currently the Manager is the Association.

Boyd Miller 6/12/17 11:14 AM

Comment: Does allow the Manager (Association) to use the Clubhouse for income.

Boyd Miller 6/24/17 5:45 PM

Comment: Income from the additional use of the Clubhouse is used to offset operating expenses.

Boyd Miller 6/12/17 2:08 PM

Comment: This account is not going to happen as long as the Association is Manager, and besides it has a 2020 deadline.

¹ The Association has never paid any real estate taxes on the Clubhouse and Clubhouse Parcel. All taxes paid through 2011 was by the Developer per Virginia law.

(or its Development Successor) to offset the cost of the construction of such additional amenities in the event CLDG (or its Development Successor) constructs, solely at its option, such additional amenities; however, neither Hovnanian, Investor, or any Allowed Successor or Development Successor shall have the right to increase the assessments or other amounts due from the HOA members and/or the owners of lots created out of the Additional Land, or to bill any such person(s) or entity/ies for, the cost of constructing such additional amenities. If the additional amenities, or any portion thereof, are not constructed by September 30, 2020, the full amount then in the Amenity Account shall be delivered to the Manager and used to pay any Clubhouse Expenses and/or expenses of maintaining the Joint Phase One Common Areas.

- d. For the purpose of determining deficits related to the Clubhouse, the Clubhouse Parcel and the Joint Phase One Common Areas which are eligible to be reduced with the rental fees collected pursuant to Section 3c above, the parties agree that:

(i) Until pro-rata share payments with respect to the lots developed within the Additional Land begin to be made, the HOA members' monthly assessments will not be reduced below the current monthly assessment of Two Hundred Sixty and no/00 Dollars (\$260.00) plus annual increases of not more than three percent (3%). (For purposes of clarity, it is agreed that these provisions do not apply if the HOA has terminated the homeowners' use of and payment for the Clubhouse and Clubhouse Parcel as set forth in Section 3c above.)

(ii) After pro-rata share payments with respect to the lots developed within the Additional Land begin to be made, the HOA members' monthly assessments may be reduced, provided that they shall not be any greater or less (with respect to the Clubhouse Expenses and the costs of maintaining the Joint Phase One Common Areas) than the applicable pro-rata shares (for the Clubhouse Expenses and the costs of maintaining the Joint Phase One Common Areas) charged to owners of the lots created out of the Additional Land (or to the applicable new homeowners' association(s) governing such lots).

- e. During the time that the HOA is managing the Clubhouse and Clubhouse Parcel for CLDG (and/or its Development Successors),

(i) the HOA shall promptly notify CLDG (and/or its Development Successors) of any property damage sustained by the Clubhouse and/or Clubhouse Parcel,

(ii) the HOA shall promptly notify CLDG (and/or its Development Successors) of any bodily injuries sustained by employees, contractors, residents or other users of the Clubhouse and/or Clubhouse Parcel,

(iii) the HOA shall keep CLDG (and/or its Development Successors) reasonably informed of any matters material to the operation, maintenance and use of the Clubhouse and/or Clubhouse Parcel,

(iv) those matters regarding the Clubhouse and Clubhouse Parcel listed on Exhibit B attached hereto shall be deemed major decisions with respect to the Clubhouse and Clubhouse Parcel and shall require a joint decision by the HOA and CLDG (and/or its Development Successors),

(v) upon request by CLDG (and/or its Development Successors), the HOA shall deliver to CLDG (and/or its Development Successors), a copy of the most recent operating and capital budget for the Clubhouse and Clubhouse Parcel, and

(vi) in the event that the HOA defaults in its management obligations under this Section 3, and such default continues for a period of at least thirty (30) days after written notice of the claimed default is given to the HOA by CLDG (and/or its Development Successors), CLDG (and/or its

Boyd Miller 6/12/17 2:15 PM

Comment: This paragraph refers to operating deficits for managing the Clubhouse and the Joint common area when rental fees are collected as income per 3c.

Boyd Miller 6/12/17 2:18 PM

Comment: This is to prevent the Association from collecting large rental fees and reducing the Base Assessments, thus not putting enough money into the Amenity Account.

Boyd Miller 7/5/17 2:06 PM

Comment: At this point, the operating costs for the Clubhouse and the Joint common area will be spread over more Dwelling Units and per 3c, CLDG may exercise more control with respect to Clubhouse additional usage.

Boyd Miller 7/5/17 2:08 PM

Comment: Association Income has to be fair.

Boyd Miller 6/14/17 8:19 AM

Comment: MSC to do this

Boyd Miller 7/5/17 2:09 PM

Comment: This is only that insurance coverage for CH include CLDG consent.

Boyd Miller 6/24/17 5:50 PM

Comment: MSC to do this.

Development Successors) shall have the right, at any time until the default is cured, to terminate the HOA's management of the Clubhouse and Clubhouse Parcel.

f. During the time that it is managing the Clubhouse and Clubhouse Parcel for CLDG (and/or its Development Successors), the HOA shall have the right to hire contractors of its choice, on commercially reasonable terms, to help with the responsibilities and required services associated with such management. Any such persons or entities hired in such regard shall not be considered employees of CLDG (and/or its Development Successors), and the costs and expenses applicable to the employment of such persons or entities shall be Clubhouse Expenses.

g. As used in this Section 3, the term "Clubhouse Expenses" shall mean all costs and expenses of maintaining, repairing and operating the Clubhouse and the Clubhouse Parcel, including but not limited to costs for cleaning, insurance, salaries of Clubhouse employees, repairs, utilities, security, landscaping, trash collection, equipment maintenance and real estate taxes. (With respect to real estate taxes, the parties agree and acknowledge that Investor has filed a challenge over the amount of real estate taxes paid and/or payable for the Clubhouse and Clubhouse Parcel. If Investor receives any refunds of real estate taxes for the Clubhouse and/or Clubhouse Parcel for any period for which the HOA paid the real estate taxes, the applicable refund shall be credited back to the HOA, less a reasonable allowance for costs and attorney fees incurred by Investor with respect to such refund.)² With respect to this Section 3, "pro-rata share" shall be determined based on all parties who have the right to use the Clubhouse and the Clubhouse Parcel, including members of the HOA (including the owners of the CLIG Lots once they are conveyed to homeowners) and owners of the lots created out of the Additional Land. In addition, for the purposes of this Section 3 and wherever the context requires in this Agreement, including specifically in Section 2, "lots" shall include condominium units, and "homeowners' associations" shall include unit owners' associations.

h. CLDG reserves the right to charge owners of the CLIG Lots and/or owners of any lots created out of the Additional Land an amenity fee or an initial or capital contribution fee for use of the Clubhouse. Any such fee(s) charged by CLDG shall be in addition to the pro-rata share of Clubhouse Expenses otherwise payable by the owners of the CLIG Lots and/or owners of any lots created out of the Additional Land and shall be paid directly to CLDG.

i. Except as provided in this Covenant, Investor shall have no direct obligation, liability or responsibility to fund any deficits or budget shortfalls associated with the management and/or operation of the Clubhouse or the HOA.

4. **M&T Agreement.** The M&T Parties consent to the terms and agreements regarding the Clubhouse and the Clubhouse Parcel as set forth in this Covenant. The M&T Parties further agree that M&T's rights to the Clubhouse and the Clubhouse Parcel under any documents evidencing, governing or securing any financing encumbering the Clubhouse and/or the Clubhouse Parcel (including specifically the M&T Deed of Trust) shall be subordinate to the terms of this Covenant, and that any foreclosure conducted under such documents shall be subject to the rights of the HOA (and its members) with respect to the Clubhouse and the Clubhouse Parcel as set forth in this Covenant.

5. **Further Assurances.** Each of the parties covenants and agrees to do any and all further acts and to execute, acknowledge, seal and deliver any and all other and further instruments and documents (not otherwise inconsistent herewith) as may be requested by another party in order to effectuate the terms

² CLDG legally challenged the taxation of the Clubhouse and Clubhouse Parcel by Greene County in October 2011 by claiming that these were common areas belonging to all real estate Owners in the Properties and any taxable real estate of the common area was proportionally included in each Lot assessment. The Circuit Court ruled in their favor. The Association was relieved from reimbursing CLDG for any real estate tax payments CLDG paid on the Clubhouse and Clubhouse Parcel.

Boyd Miller 6/24/17 5:51 PM

Comment: We are doing this with the help of MSC.

Boyd Miller 7/21/17 8:28 AM

Comment: These are all in the Association's operating budget.

Boyd Miller 6/14/17 8:29 AM

Comment: The October 2011 tax case resulted in the CH having a zero tax assessment on the argument that its value should be distributed equally across all lots in the Project.

Boyd Miller 6/14/17 8:30 AM

Comment: The Association never ever paid any taxes.

Boyd Miller 6/14/17 8:31 AM

Comment: Noted.

Boyd Miller 6/14/17 8:34 AM

Comment: The current 120 Home Owners have already paid for even more than we currently have.

Boyd Miller 6/14/17 8:37 AM

Comment: Once again, HC Land declares they will not fund any Association deficits with managing the Clubhouse.

Boyd Miller 6/14/17 8:52 AM

Comment: Per the 'Collateral Assignment of Rights' recorded Jun 15, 2011, the M&T Deed of Trust lien on the Clubhouse (& Parcel) was released.

Boyd Miller 6/14/17 8:53 AM

Comment: Any HC Land foreclosure would not include the Clubhouse (& Parcel).

Boyd Miller 6/14/17 8:57 AM

Comment: Legalese

and provisions of this Covenant. Each person signing this Covenant in a representative capacity on behalf of a party hereto hereby represents and warrants that such person's execution and delivery of this Covenant is within such person's respective authority and that all requisite action shall have been taken to make this Covenant valid and binding upon the party upon whose behalf such person is signing this Covenant.

6. **No Third Party Beneficiaries**. The provisions of this Covenant are exclusively for the benefit of the parties named herein (including specifically M&T and its designees to the extent that M&T or its designees acquire legal, fee simple title to any of the CLIG Lots and/or the Additional Land, it being agreed, however, that M&T and its designees shall have no liability or obligation hereunder unless and except to the extent it/they acquire(s) legal, fee simple title to the CLDG Property and/or the Additional Land; and notwithstanding anything to the contrary contained elsewhere in this Covenant, (i) M&T and its designees shall not be required to undertake any obligation to assume any Declarant obligations with respect to the Declaration and the HOA or to construct, erect or pay for any facilities or amenities for the Project that have not yet been constructed, and (ii) M&T and its designees shall have no liability or obligation under this Covenant, except as set forth in Section 4 above, unless and until they undertake development or construction activities within the Project beyond activities intended merely to preserve entitlements or protect partially completed improvements). No other person or entity shall have any right to require performance of all or any portion of this Covenant, and no other person or entity shall be deemed a beneficiary hereof. As used in this Covenant, the term "designees" shall include any purchaser at foreclosure or any recipient of a deed in lieu of foreclosure.

Boyd Miller 6/14/17 8:58 AM

Comment: Legalese for benefit of M&T

7. **Governing Law; Conflict**. This Covenant shall be governed by and interpreted under the applicable laws of the Commonwealth of Virginia, without regard to any conflicts of law principles. In the event of any conflict between the provisions of this Covenant and the provisions of the Settlement Agreement, the provisions of the Settlement Agreement shall control.

8. **Severability**. If any term or condition of this Covenant shall be determined by any court of competent jurisdiction to be invalid, illegal or unenforceable, the remaining terms and conditions of this Covenant shall continue to be valid, legal and enforceable in all respects.

9. **Counterparts**. This Covenant may be executed in counterparts, each of which shall be considered an original of this Covenant and all of which, collectively, shall constitute but one Covenant.

10. **Disputes**. In the event of any dispute or disagreement between or among the parties regarding their respective rights and obligations under the terms and conditions of this Covenant, the parties agree to promptly submit all such disputes and disagreements to the Circuit Court of Greene County, Virginia. Each of the parties knowingly, voluntarily, intentionally, expressly, with full knowledge and understanding of such party's legal rights and remedies, and with the full knowledge, advice and consent of their legal counsel, does hereby waive trial by jury with respect to any and all claims relating to any such dispute or disagreement between or among the parties regarding their respective rights and obligations under the terms and conditions of this Covenant. It is expressly understood and agreed among the parties that the Circuit Court of Greene County, Virginia, shall have both subject-matter and personal jurisdiction over the parties and over all claims which may be filed under the terms and conditions of this Covenant, including full power and authority to issue injunctive relief, to order specific performance, to award monetary damages and/or to award any other legal or equitable relief which may be available to a court of law or a court of equity under the laws of the Commonwealth of Virginia.

Boyd Miller 6/24/17 5:56 PM

Comment: Yet, Section 30 of the SA states that if there is any conflict between the provisions of the SA and the provisions of the final executed Covenant, the provisions of such final executed document (this document) shall control.

Boyd Miller 6/14/17 9:26 AM

Comment: Legalese

Boyd Miller 6/14/17 9:25 AM

Comment: Legalese

Boyd Miller 6/24/17 5:58 PM

Comment: Has never been used. No longer an option.

11. **Attorney Fees to Prevailing Party**. In the event that any party files any litigation, lawsuit or legal proceeding to enforce any of the specific terms and conditions of this Covenant, the prevailing party in any such legal proceeding shall be entitled to an award of all reasonable actual attorney's fees and costs incurred by such party in the litigation.

12. **Notices.** Any notices under this Covenant shall be in writing and shall be deemed duly given on the date actually received (or on the date delivery is refused) and shall be delivered by hand-delivery, delivered by Federal Express, UPS or another recognized and reputable overnight delivery service, or sent by telecopier (fax) with a confirming telephone call and an additional copy of the notice sent by first-class mail, postage prepaid, addressed as follows:

If to Investor: Charlottesville Land Investment Group, LLC
 c/o HC Land Company L.C.
 1880 Howard Avenue, Suite 305
 Vienna, Virginia 22182
 Attn: Carter Boehm and Harry Ghadban
 Telephone: (703) 448-8300; Fax: (703) 448-1995

With a copy to: Henry F. Brandenstein, Jr., Esquire
 Venable LLP
 8010 Towers Crescent Drive, Suite 300
 Vienna, Virginia 22182
 Telephone: (703) 760-1632; Fax: (703) 821-8949

If to Hovnanian: K. Hovnanian's Four Seasons at Charlottesville, L.L.C.
 4090-A Lafayette Center Drive
 Chantilly, Virginia 20151
 Attn: Gary Chandler,
 Virginia Division President
 Telephone: (703) 631-0834; Fax: (703) 631-5877

With a copy to: K. Hovnanian Homes
 1802 Brightseat Road, 6th floor
 Landover, Maryland 20785
 Attn: Peter R. Thompson, President
 Attn: Stephen W. Pelz,
 VP and Associate General Counsel
 Telephone: (301) 772-8900; Fax: (301) 772-1891

And a copy to: William L. Matson, Esquire
 Matson Freyvogel PC
 8200 Greensboro Drive, Suite 325
 McLean, Virginia 22102
 Telephone: (703) 448-7605; Fax: (703) 448-8144

If to the HOA: Four Seasons at Charlottesville Community Association, Inc.
 c/o K. Hovnanian Homes
 4090-A Lafayette Center Drive
 Chantilly, Virginia 20151
 Attn: Drew Main
 Telephone: (703) 885-7242; Fax: (703) 631-5877

If to M&T: Manufacturers and Traders Trust Company
 9214 Center Street
 Manassas, Virginia 20110
 Attn: Richard Potter, Vice President
 Telephone: (571) 921-1269; Fax: (703) 393-7698

With a copy to: Patrick K. Cameron, Esquire
Ober Kaler
120 E. Baltimore Street
Baltimore, Maryland 21202
Telephone: (410) 685-1120; Fax: (410) 547-0699

If to M&T Trustee: F. Richard Potter and Vance Mason, Trustees
c/o Manufacturers and Traders Trust Company
9214 Center Street
Manassas, Virginia 20110
Telephone: (571) 921-1269; Fax: (703) 393-7698

Any party may change its notice address by sending written notice to all other parties in accordance with the terms and conditions of this section.

13. **Interpretation.** [This Covenant and the Settlement Agreement contain the final and entire agreement between the parties on all of the matters described herein. No party shall be bound by any term, condition, promise, statement, covenant, representation or warranty not set forth herein or therein. Except as set forth in the specific terms and conditions of this Covenant or in the Settlement Agreement, no person has made any promise, statement, covenant, representation or warranty to any party to induce such party to execute this Covenant, and no party has relied in any manner whatsoever on any such promise, statement, covenant, representation or warranty from any such person. All parties have participated in the preparation of this Covenant and no construction of the terms hereof shall be taken against either as the one drafting this Covenant.

Boyd Miller 6/24/17 5:59 PM

Comment: All parties, if not all of the Home Owners, fully agreed to this covenant.

14. **Amendment.** [This Covenant may not be amended, altered, modified, changed or waived unless such amendment, alteration, modification, change or waiver is in writing and is signed by all of the parties to be charged thereby] and recorded among the land records of Greene County, Virginia No oral amendment, alteration, modification, change or waiver of any of the terms or conditions of this Covenant shall be legal, valid, effective and/or enforceable against any party.

Boyd Miller 6/14/17 9:35 AM

Comment: "all of the parties to be charged" is a bit unclear, but would seem to include CLIG, CLDG, M&T, and the Association

15. **Amendment to Declaration.** The Settlement Agreement constitutes an amendment to the Declaration to the extent applicable, including specifically as described in this Covenant. The HOA, by its signature hereto, certifies that the Settlement Agreement, including specifically the amendments to the Declaration as described in this Covenant, has been approved, consented to and ratified by the requisite majority of the lot owners (HOA members) within the Project as set forth in the Declaration.

Boyd Miller 6/14/17 9:37 AM

Comment: As titled and recorded in Greene County this document is an amendment to the DCCR.

[Signatures and acknowledgments begin on the following page]

[See the Greene County recorded copy of this document for notarized signatures.]

Exhibit A

Plat Showing Joint Phase One Common Areas

The Phase One Common Areas consist of all of Parcel A, Four Seasons, Phase One, Greene County, Virginia, shown on the attached subdivision plat (Sheet 2 of 18 through and including Sheet 8 of 18) (the "Plat"), together with the right to use, in common with CLDG, and CLDG's successors and assigns, that certain 50' ingress/egress easement created by Deed of Dedication and Easements recorded in Deed Book 952 at page 239, among the Greene County land records and as shown on Plat Cards 3701, 3702, 3703 and 3704 (said easement being shown on the Plat--Sheet 2 of 18--as "Ex. 50' Ingress/Egress Easement").

The Joint Phase One Common Areas consist of those portions of such Parcel A (and the 50' ingress/egress easement) on which are located the private streets (or portions thereof) known as Greenecroft Boulevard, John Rucker Drive, Four Seasons Drive, Mistland Trail, Prestwood Drive and Stodghill Drive, all as more particularly shown on the Plat, as well as (i) any adjoining street landscaping, and (ii) the entrance monument located on Greenecroft Boulevard.

Boyd Miller 6/16/17 5:15 PM

Comment: Street includes roadway, curbs, and sidewalks.

[The Plat attached hereto is a portion of the subdivision plat recorded with that certain Deed of Subdivision and Easement (for Four Seasons, Phase One) in Deed Book 1014 Page 300, also shown on Plat Cards 3875 through 3892, among the aforesaid land records.]

[Plats are not included here, refer to the original version of this document.]

Exhibit B

List of Major Decisions Regarding Clubhouse and/or Clubhouse Parcel

1. Amount, type and selection of provider(s) for the insurance obtained, or to be obtained, with respect to the Clubhouse and the Clubhouse Parcel.

Boyd Miller 6/16/17 5:14 PM

Comment: MSC sends info to HC Land each year.