

SCHAUB DRIVE

BYLAWS

SCHAUB DRIVE HOMEOWNERS' ASSOCIATION, INC.

BYLAWS OF
SCHAUB DRIVE HOMEOWNERS' ASSOCIATION, INC.

ARTICLE 1
PRINCIPAL OFFICE AND REGISTERED AGENT

Section 1.1. **Name:** The name of the corporation is **SCHAUB DRIVE HOMEOWNERS' ASSOCIATION, INC.** ("Association").

Section 1.2. **Principal and Registered Office:** The Association shall have and maintain in the State of North Carolina a principal and registered office, and a registered agent whose business address is identical with such registered office. The registered office may be, but need not be, identical with the principal office in the State of North Carolina, and the address of the registered office may be changed from time to time by the Board of Directors.

Section 1.3. **Other Offices:** The Association may have offices at such other places, as the Board of Directors may from time to time determine, or as the affairs of the Association so require.

Section 1.4. **Meetings of Members and Directors:** Meetings of Members and Directors may be held at such places within the State of North Carolina as may be designated from time to time by the Board of Directors.

ARTICLE 2
DEFINITIONS

For the purposes of these Bylaws, capitalized terms not specifically defined herein shall have the meanings ascribed to them in the *Declaration of Covenants, Conditions and Restrictions for Schaub Drive Subdivision*, which will be recorded in the Office of the Register of Deeds of Wake County, North Carolina, as the same is or may be supplemented or amended from time to time (collectively, the "Declaration"). The term "Board of Directors" or "Board" shall have the same meaning as "Executive Board" as defined in the Act (as hereinafter defined) and the Declaration. Specific statutory citations referenced herein are for convenience only and as such exist in the North Carolina General Statutes on the date hereof.

ARTICLE 3
APPLICABILITY OF BYLAWS

Section 3.1. **Applicability of Bylaws:** All present and future Owners, mortgagees, devisees, legatees and occupants of Lots within the Community, and their agents, servants, and employees, and any other persons who may make use of the facilities of the Community in any manner, are subject to the Declaration, these Bylaws, the Rules and Regulations, and any other rules duly passed.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a Lot by any party shall conclusively establish the acceptance and ratification by such party of these Bylaws (and the Rules and Regulations adopted pursuant hereto), as they may be amended from time to time, and shall constitute an agreement by such parties to comply with these Bylaws.

ARTICLE 4
MEMBERSHIP AND MEETINGS OF MEMBERS

Section 4.1. **Members:** Each Lot Owner shall be a Member of the Association and shall remain a Member until ceasing to be a record owner of a Lot.

Section 4.2. **Annual Meetings:** The first annual meeting of the Association Members shall be held at a place to be designated by the Board within one (1) year from the date of incorporation of the Association, and any subsequent, regular, annual meeting of the Members shall be held on the same day of the same month of each year thereafter. If the day of the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day of the following week which is not a legal holiday. The Members shall elect the Board of Directors at each annual meeting.

Section 4.3. **Special Meetings:** Special meetings of the Members may be called at any time: (a) by the president; (b) by a majority of the Board of Directors; or (c) within thirty (30) days after the Members holding at least twenty-five percent (25%) of all votes entitled to be cast on any issue proposed to be considered at the proposed special meeting have signed, dated and delivered to the Association's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held. No business shall be transacted except that which is stated in the notice to the Members of the special meeting.

Section 4.4. **Notice of Meetings:** Written notice of each meeting of the Members shall be given by, or at the direction of the Declarant of the Association, or the person authorized to call the meeting, by hand delivery or by mailing a copy of such notice, postage prepaid, at least ten (10) days before, but not more than sixty (60) days before, to each Member entitled to vote thereat, addressed to the Members' address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, date and hour of the meeting, and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove a director or officer. Notice by other method shall be deemed given when said notice is deposited in the United States mail, addressed to the Member at his address as it appears on the records of the Association, the postage thereon prepaid, or delivered by hand to such address. Attendance by a Member at any meeting of Members shall be a waiver of notice to him as to the time and place and purpose thereof, except as provided in Section 4.5 hereof. Attendance at a meeting or a waiver of notice signed by one Owner in the event of multiple ownership of a Lot shall be considered a waiver of notice as to all co-Owners of that Lot, except as provided in Section 4.5 hereof. Notice to one of two or more co-Owners of a Lot shall constitute notice to all co-Owners. It shall be the obligation of every Member to immediately notify the Association in writing of any change in address and it shall be the responsibility of any new Member to immediately notify the Association of the fact of a transfer of ownership.

Section 4.5. **Waiver of Notice:** Any Lot Owner or lessee (if given the right to vote pursuant to the Articles of Incorporation of the Association [the "Articles"]), at any time, may waive notice of any meeting of the Association in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Lot Owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a Lot Owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the voting Members are present at any meeting of the Association, no notice shall be required, and any business may be transacted at such meeting.

Section 4.6. **Quorum:** The presence at the meeting of Members entitled to cast, or proxies entitled to cast twenty percent (20%) of the total votes in the Association (as set forth in the Declaration) shall constitute a quorum for any action except as otherwise provided in the Articles, the Declaration, or these Bylaws. Pursuant to Article 3 of the Act in the event any business cannot be conducted at any Association meeting because a quorum is

not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision to the contrary in the Declaration or the Bylaws, the quorum requirement at the next meeting shall be fifty percent (50%) of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

Section 4.7. **Proxies:** At all meetings of Members, each Member or lessee (if given the right to vote) may vote in person or by proxy. All proxies shall be in writing, dated as to the date of execution, and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon (i) conveyance by the Member of his Lot, (ii) upon the giving of actual notice to the person presiding over the meeting of the Association, or (iii) upon the lapse of eleven (11) months from the date of execution unless the proxy provides a shorter term. If a Lot is owned by more than one person, each owner of the Lot may vote or register protest to the casting of votes by the other owners of the Lot through a duly executed proxy.

Section 4.8. **Voting:** At every meeting of Members, the Lot Owners shall have the right collectively to cast on each question one vote for each Lot owned. Fifty-One percent (51%) of the eligible votes entitled to be cast by Members present at the meeting, in person or by proxy, shall be a majority unless the question is one upon which, by express provision of statute or the Articles, the Declaration, or of these Bylaws, a different vote is required, in which case such express provision shall govern. If only one of the multiple Owners of any Lot is present at an Association meeting, the Owner present is entitled to cast all the votes allocated to his Lot. If more than one of the multiple owners is present, the votes allocated to such Lot may be cast only in accordance with the agreement of the majority of such multiple owners; such majority agreement shall be conclusively presumed if any one of the multiple owners casts the allocated votes without protest being made promptly to the person presiding over the meeting by any of the other multiple owners.

Section 4.9. **Suspension of Right to Vote:** Pursuant to the provisions and procedures of section 13.2 the Board of Directors (or an adjudicatory panel appointed thereby) may suspend any Member's voting rights (i) for any period during which any assessment levied against such Member's Lot remains unpaid, and (ii) for a reasonable period of time in the case of an infraction of the Declaration, Bylaws, or the Rules and Regulations. Such suspension, however, shall not constitute a waiver or discharge of the Member's continuing obligation to pay any assessments.

Section 4.10. **Action Without Meeting:** Any action required to be taken at a meeting of Members may be taken without meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Members entitled to vote with respect to the subject matter thereof and filed with the secretary of the Association as part of the corporate records, whether done before or after the action so taken.

ARTICLE 5

BOARD OF DIRECTORS - ELECTIONS - TERM OF OFFICE

Section 5.1. **Number:** During the Declarant Control Period (as defined in the Declaration), the affairs of the Association shall be managed by a board (hereinafter referred to as the "Board" or the "Board of Directors" or "Executive Board") of no less than one (1) and no more than three (3) directors, ("Directors"), and after the Declarant Control Period the Board of Directors shall consist of three (3) and no more Directors beginning with the date of the first annual meeting of the Members. The initial Board of Directors existing prior to the first annual meeting of the Members shall consist of two (2) Directors. The initial Directors are those named in the Articles, or, if none are named in the Articles, those named at the organizational meeting of the Association. At each annual meeting of the Association, the Members shall determine by resolution the number of and persons who shall serve

as Directors on the Board of Directors until the next annual meeting. Vacancies on the Board not filled by Members shall be treated as vacancies to be filled by and at the discretion of the Board.

Section 5.2. Term of Office: After the Declarant Control Period, each Director will serve staggered terms of two (2) years each, but may be re-elected to serve additional two year terms. In order to accomplish this, one of the Directors elected at the first election after the Declarant Control Period shall be elected for an initial term of one (1) year and the other two (2) shall be elected for an initial term of two (2) years.

Section 5.3. Removal/Resignation: The Lot Owners, by a majority vote of all votes entitled to be cast in accordance with the declaration and entitled to vote at any meeting of the Association at which a quorum is present, may remove any member of the Board of Directors with or without cause. In the event of death, resignation or removal of a Director, his successors shall be selected by the remaining Directors and shall serve for the unexpired term of his predecessor. A Director may resign at any time by communicating his resignation in writing to the Board of Directors of the Association. The resignation is effective when communicated unless it specifies a later effective date.

Section 5.4. Compensation: No Director shall receive compensation for any services he may render to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of his duties.

Section 5.5. Action Taken Without A Meeting: The Directors or a committee thereof shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors or members of the committee. Any action so approved shall have the same effect as though taken at a meeting of the Directors or the committee.

Section 5.6. Vacancies: Any vacancies occurring on the Board of Directors and any directorship to be filled by reason of any increase in the number of Directors shall be filled by the Board of Directors, and any Director elected or appointed to fill a vacancy shall be elected or appointed for the unexpired term of its predecessor in office.

Section 5.7. Elected Board Members: A majority of elected Directors shall be a Lot Owner or co-Owner, or the spouse or immediate family member of a Lot Owner or co-Owner, unless the Lot Owner is a corporation, partnership, trust, limited liability company, or other legal entity or other than a natural person(s), in which event any officer, director, agent or employee or such corporation, partner of such partnership, beneficiary of such trust, or member or manager of such other legal entity, shall be eligible to serve as a member of the Board.

ARTICLE 6 MEETINGS OF DIRECTORS

Section 6.1. Regular Meetings: Regular meetings of the Board shall be held at least annually without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 6.2. Special Meetings: Special meetings of the Board shall be held when called by the Declarant of the Association, or by any two (2) Directors, after not less than ten (10) days notice to each Director.

Section 6.3. Quorum: A majority of the number of Directors fixed by the Articles shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present

at a duly held meeting at which a quorum is present shall be regarded as the act of the Board, unless a greater number is required by law, the Articles or these Bylaws. If at any meeting of the Board of Directors there is less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such meeting any resumption of business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 6.4. **Notice:** Neither the business to be transacted at, nor the purpose of, any regular or special meetings of the Board need be specified in the notice or written notice or waiver of such meeting.

ARTICLE 7
POWERS AND DUTIES OF THE BOARD OF DIRECTORS
PROHIBITED POWERS

Section 7.1. **Powers:** The Board of Directors shall have the power to:

- a. adopt, amend, enforce and publish rules and regulations governing the use of the common elements and facilities, if any, and the personal conduct of the Members and their visitors, invitees, employees and guests thereon, and to establish penalties for the infraction thereof;
- b. suspend the voting rights of a Member pursuant to section 4.9 hereof;
- c. exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions, these Bylaws, the Articles, the Rules and Regulations, the Declaration, or the Act;
- d. declare the office of a member of the Board to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board;
- e. enter a Lot when necessary in connection with any emergency, maintenance, replacement or improvements for which the Association is responsible; provided, except as permitted by North Carolina law, such entry shall be made during reasonable hours with as little inconvenience to the Lot Owner as practicable, and any damage caused thereby (except such damage as results from any emergency beyond the Association's control) shall be repaired by the Association and such expense shall be treated as a Common Expense;
- f. employ or engage a manager, an independent contractor, attorney or accountant or such other employees and agents as they deem necessary, and to prescribe to them their duties; and
- g. annually adopt a proposed budget for the Association.

Section 7.2. **Duties:** It shall be the duty of the Board of Directors to:

- a. cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by twenty percent (20%) of the Members who are entitled to vote;
- b. supervise all officers, agents and employees of the Association, and ensure that their duties are properly performed;

c. within thirty (30) days after adoption of any proposed budget for the Community, provide to all Lot Owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum.

d. issue, or cause an appropriate officer to issue, upon demand by any person and for a reasonable charge established by the Board, a certificate setting forth whether or not any assessment has been paid;

e. procure and maintain adequate liability and hazard insurance, if available, on property owned or managed by the Association;

f. cause the Area of Common Maintenance to be maintained in a manner consistent with the provisions of these Bylaws and the Declaration;

g. prepare and have available to each Member an annual report which shall include the annual financial statement which shall summarize the operation and actions of the Association and its income, expenditures and reserves; and

h. pay any licenses or governmental charges levied or imposed against the property of the Association.

Section 7.3. Prohibited Powers: The Board of Directors may not act unilaterally on behalf of the Association to amend the Declaration, to terminate the planned community or to elect members of the Board of Directors or determine the qualifications, powers and duties, or terms of office of the Board of Directors; provided, however, the Board may unilaterally fill vacancies in its membership for the unexpired portion of any term.

ARTICLE 8 ADOPTION AND RADIFICATION OF ANNUAL BUDGET

The Board of Directors shall be responsible for adopting a proposed annual Association budget in an amount sufficient to cover all obligations set forth in the Declaration and these Bylaws. Within thirty (30) days after said adoption, the Board shall provide to all Members a summary of the proposed budget and a notice of the meeting to consider its ratification, including a statement that the budget may be ratified without a quorum. The Board shall set a date for a meeting of the Members to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget shall be ratified at the meeting unless a majority of all the Members in the Association rejects the proposed budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

ARTICLE 9 OFFICERS AND THEIR DUTIES

Section 9.1. Enumeration of Officers: The officers of this Association shall be a President, Secretary and a Treasurer who shall at all times be members of the Board, and such other officers, including but not limited to a Vice President, as the Board may from time to time by resolution create; provided, however, such additional officers do not need to be members of the Board.

Section 9.2. Election of Officers: The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 9.3. **Term:** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise be disqualified to serve.

Section 9.4. **Qualifications:** All officers must be at least twenty-one (21) years of age.

Section 9.5 **Special Appointment:** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 9.6 **Resignation and Removal:** Any officer may be removed from office, with or without cause, by the Board, provided that such action shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 9.7 **Vacancies:** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 9.8 **Multiple Offices:** Except for the members of the Declarant of the Declaration, no person shall simultaneously hold more than one of the offices except in the case of special offices created pursuant to section 8.5 hereof.

Section 9.9 **Compensation:** No officer shall receive any compensation from the Association for acting as such, but the Board may reimburse any officer for any direct expense incurred by him in the performance of his duties as such officer, and such reimbursement shall be a Common Expense.

Section 9.10 **Duties:** The duties of the officers are as follows:

a. **President:** The President shall when present, preside at all meetings of the Board of Directors; see that orders and resolutions of the Board are carried out; sign all written instruments and agreements and co-sign all checks, and, in general, perform all duties incident to the office of the President and such other duties as may be prescribed from time to time by the Board.

b. **Vice President:** The Vice President, if any, shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the President and/or the Board.

c. **Secretary:** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve all notices required by law and these Bylaws; keep appropriate current records showing the Members of the Association together with their addresses; and perform such other duties as required by the Board.

d. **Treasurer:** The Treasurer shall have custody of all funds and securities and receive and deposit in appropriate bank accounts all monies of the Association and disburse such funds as directed by resolution of the Board of Directors; sign all checks of the Association; keep proper books of accounts; and prepare an annual

budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members. The Treasurer shall also prepare and file or cause to be prepared and filed all reports and returns required by Federal, State or local laws, and generally perform all other duties as may be assigned to him from time to time by the President or the Board.

ARTICLE 10 COMMITTEES

The Board of Directors, by resolution adopted by majority of the number of Directors then in office, may designate one or more committees, including but not limited to the Architectural Review Board, each consisting of two or more Directors, and each of which, to the extent provided in the resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Association, except no such committee shall have authority as to the following matters:

- a. the dissolution, merger or consolidation of the Association; the amendment of the Articles of the Association; or the sale, lease or exchange of all or substantially all of the Property of the Association;
- b. the designation of any such committee or the filling of vacancies in the Board of Directors or in any such committee;
- c. the amendment or repeal of these Bylaws or adoption of new Bylaws;
- d. the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable; and
- e. any other act prohibited by the Board.

Any such committee, or any member thereof, may be discharged or removed by action of the majority of the Board. Any resolutions adopted or other action taken by any such committee within the scope of authority delegated to it by the Board shall be deemed for all purposes to be adopted or taken by the Board. These committees shall create their own governing rules subject to approval by the Board.

ARTICLE 11 BOOKS AND RECORDS

The books, records and papers of the Association shall at all times by appointment, during reasonable business hours, be subject to inspection by any Member, or his agent or attorney, for any proper purpose. The Declaration, the Articles and these Bylaws shall be available for inspection by any Member at the principal office of the Association, where copies may be made at a reasonable price. The Board or the manager shall keep detailed records of the actions of the Board and the Association Manager, if any, minutes of the Board, minutes of meetings of the Association, and financial records and books of accounts of the Association, including a chronological listing of receipts and expenditures, charges against each Lot, the date when due, the amount paid thereon and the balance remaining unpaid. The financial records and books of account shall be available for examination by any Lot Owner or their duly authorized agents or attorneys during business hours by prior arrangement with the Board or the manager. A written report summarizing all receipts and expenditures of the Community shall be rendered by the Board to all Lot Owners on or before the 15th day of the third month following the close of each calendar year, covering the preceding year.

**ARTICLE 12
ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association the monthly, annual and/or special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any annual or special assessments levied against a Lot and remaining unpaid for thirty (30) days or longer from the time such sum is due and payable, shall be a lien on that Lot and shall be deemed a continuing lien thereon when a claim of lien is filed of record in the Office of the Wake County Clerk of Superior Court. Each such assessment, together with interest, late charges, and costs, and Reasonable Attorneys' Fees (as defined in the Act) incurred by the Association in collecting delinquent assessments shall also be the personal obligation of the person or person who was the Lot Owner at the time such assessments became due; provided, however, that the personal obligation of an Owner for delinquent assessments shall not pass to his successors in title unless the lien continues to encumber such transferred property interest.

In any action brought by the Board to foreclose on a Lot because of the unpaid assessments and attendant late fees, the Lot Owner shall be required to pay a reasonable rental for the use of his Lot, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all Lot Owners, or on behalf of any one or more individual Lot Owners, shall have the power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with same, subject, however, to applicable restrictions of record. A suit to recover money judgments for unpaid common charges and attendant late fees may be maintained without foreclosing or waiving the lien securing the same.

**ARTICLE 13
ASSESSMENTS FOR DAMAGES, OTHER FINES,
AND SUSPENSIONS**

Section 13.1. Damage to the Area of Common Maintenance. A Lot Owner is legally responsible for damage inflicted on any Area of Common Maintenance, and the Association may direct such owner to repair such damage at his expense, or the Association may itself accomplish the repairs and recover damages from the responsible Owner; liability of such owner established pursuant to this section shall be an assessment secured by a lien upon such owner's Lot or Lots.

When any claim arising under this section 13.1 is less than or equal to the jurisdictional amount established for "small claims" as defined in section 7A-7-120 of the North Carolina General Statutes, the aggrieved party may request a hearing before an adjudicatory panel appointed by the Board of Directors (or in the absence of appointment of such a panel before the Board itself) to determine responsibility for the alleged damage. Such hearing shall accord to the party charged with causing damages notice of such charge, the opportunity to be heard and to present evidence, and notice of the decision; provided, however, that such panel (or the Board as appropriate) may not assess liability for each damage incident against the party charged, be it a Lot Owner or the Association, in excess of the foregoing jurisdictional amount. When such claim exceeds the aforesaid jurisdictional amount, liability of any Lot owner shall be determined as otherwise provided by law.

Section 13.2 Other Fines and Suspension of Voting Rights: The adjudicatory panel referenced in section 13.1 shall have the authority to determine if a Lot Owner should be fined for a violation of the Declaration, Bylaws or Rules and Regulations of the Association. Such panel shall give the party charged with the violation notice of the charge, an opportunity to be heard and to present evidence and notice of the decision. If it is determined that a fine should be imposed, a fine may be imposed in accordance with the Declaration. If it is

determined that a suspension of privileges (including the right to vote on Association matters) should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured.

ARTICLE 14 AMENDMENTS TO THE BYLAWS

Section 14.1 Amendment by Owners: These Bylaws may be amended by the affirmative vote of the voting Members having at least sixty-seven percent (67%) of the votes allocated in the Association, cast in person or by proxy at a meeting duly held in accordance with the provisions of these Bylaws.

Section 14.2 Amendment by the Board: Notwithstanding section 15.1, the Board of Directors, may amend these Bylaws without the consent of the Lot Owners:

- a. to correct any obvious error or inconsistency in their drafting, typing, or reproduction; and
- b. to conform to the requirements of any law or governmental agency having legal jurisdiction over the Community or to qualify the Community or any Lots therein for mortgage or improvement loans made or insured by a governmental agency.

ARTICLE 15 AMENDMENTS OF THE DECLARATION

Any instrument amending the Declaration (other than an amendment by the Board of Directors to correct an error or inconsistency in drafting, typing, or reproduction) shall be delivered, following approval by the Owners, to the Board of Directors. Thereupon, the Board of Directors shall, within thirty (30) days after delivery of the instrument of amendment: (i) reasonably assure itself that the amendment has been duly approved by the Owners as provided in the Declaration, and for this purpose, the Board of Directors may rely on its roster of Members and shall not be required to cause any title to be examined; (ii) attach to the amendment a certification (upon such satisfactory determination) as to its validity, which certification (in form set forth in the Declaration) shall be executed by the President of the Association and attested by the Secretary, and (iii) cause the amendment to be recorded in the Wake County Registry; provided that any delay in recording such amendment within the aforesaid thirty (30) day period shall not invalidate the amendment.

ARTICLE 16 MISCELLANEOUS

16.1 Indemnity: Each person who is or was a director, officer, employee and agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Association to the maximum extent permitted under North Carolina law against any and all claims and liabilities to which he has or shall become subject to by reason of serving or having served as such director, officer, employee or agent or by reason of any action alleged, and the Association shall reimburse each such person for all expenses, including reasonable attorneys' fees, reasonably incurred by him to the maximum extent permitted under North Carolina law in connection with any such claim or liability. The right of indemnification hereinabove provided for shall not be exclusive of any rights to which any such Director, officer, employee or agent may be entitled by law, agreement, vote of the Board of Directors or Members or otherwise with respect to any liability or litigation expenses arising out of his activities in such capacity. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association, or who is or was serving at the request of the Association as a Director, officer employee or agent of another corporation,

partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

Section 16.2 **Fiscal Year:** The fiscal year of the Association shall be the calendar year. The commencement date of the fiscal year herein established may be modified by the Board of Directors should corporate practice subsequently dictate.

Section 16.3 **Construction and Definitions:** Unless the context requires otherwise, the general provisions, rules of construction, and definitions in Chapter 55A of the North Carolina General Statutes shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, the plural number includes the singular, and the term “person” includes both a corporation and a natural person. The rules contained in the current edition of Roberts' Rules of Order shall govern the Association in all cases in which they are applicable, and in which they are not inconsistent with these Bylaws, the Articles, the Declaration or any applicable law.

Section 16.4 **Waiver of Notice:** Whenever any notice is required to be given under the provisions of Chapter 55A of the North Carolina General Statutes, or under the provisions of the Articles, these Bylaws, or the Declaration, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent of the giving of such notice.

Section 16.5 **Distribution of Assets Upon Dissolution:** The assets of the Association shall be distributed as provided for in the Articles.

Section 16.6 **Conflicts:** In the case of any conflict between the Act and these Bylaws, the Act shall control; in case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

CERTIFICATION

We, Jacobs Building Co., Inc., a North Carolina corporation, and Raleigh Custom Homes, Inc., a North Carolina Corporation, the undersigned, do hereby certify that we are acting Declarants of Schaub Drive Homeowners' Association, Inc., a North Carolina nonprofit corporation, and that the foregoing Bylaws constitute the original Bylaws of the Association, as duly adopted by written consent of all Directors of the Association, effective as of the date hereof.

IN WITNESS WHEREOF, I have hereto subscribed my name and affixed the seal of the Association this _____ day of February, 2018.

SCHAUB DRIVE HOMEOWNERS' ASSOCIATION, INC.

JACOBS BUILDING CO., INC., a North Carolina corporation,
Declarant

By: _____
Joseph E. Jacobs, Jr., President

RALEIGH CUSTOM HOMES, INC., a North Carolina
corporation, Declarant

By: _____
Timothy Thompson, President