

**FIFTH AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
TELLICO HARBOR PROPERTY ASSOCIATION, INC.**

**ARTICLE VI
PROPERTY RIGHTS IN COMMON PROPERTIES**

Section 1. Association Powers and Duties. The operating entity for the Common Properties shall be the Association. The Association shall have all powers and duties set forth therefore in the Governing Documents, applicable laws, statutes, ordinances and governmental rules and regulations, and all other lawful powers and duties deemed by its Board of Directors as advisable or necessary to carry out its functions. Every Owner shall be bound by the Governing Documents, as they shall be amended from time to time.

Section 2. Interest of the Association. All property acquired by the Association, whether real or personal or otherwise, whether owned or leased, shall be held, utilized and disposed of by the Association as Common Property for the use and benefit of the Owners. Except as otherwise specifically provided in the Governing Documents, any expense of the Association for acquisition, ownership, leasing, administration, maintenance, operation, repair or replacement of the Common Properties shall be treated as, and paid for as, part of the common Expense of the Association.

Section 3. Member's Easement of Enjoyment. Every Member shall, as Owner of one (1) or more Lots, have a right and non-exclusive easement appurtenant to said Lot, which shall pass with the title to every Lot, of use and enjoyment in and to the Common Properties. Such easements of use and enjoyment shall, however, be subject to the following limitations:

- A. The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosure; and
- B. The right of the Association to suspend the use and enjoyment rights of any Member as provided in the Declaration; and
- C. The right of the Association to charge reasonable admission and other fees for the use, service and enjoyment of any recreational facilities or other improvements situated upon the Common Properties; and
- D. The right of the Association to delegate to any occupant of such Lot the right to the use and enjoyment of the Common Property subject, however, to the Governing Documents.

- E. The right of the Association to dedicate or transfer all or any part of the Common Properties to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be executed unless voted upon and approved by three-fourths (3/4) of the votes of the entire eligible qualified members of the Association at a meeting called for this purpose and unless written notice of the meeting and proposed action is sent to every Member not less than ten (10) days nor more than sixty (60) days in advance thereof.

Section 4. Parking Rights. The use of parking areas located on the Common Property shall be subjected to, and at all times governed by, the Association's rules as the same are in effect from time to time. Such rights to use parking areas are expressly subject to a non-exclusive right of ingress and egress attributable to other Members. This right to use shall also be subject to all drainage, utility and other necessary easements whether now or hereafter located on the Property.