

STATE OF NORTH CAROLINA
COUNTY OF WAKE

RIVERWOOD ATHLETIC CLUB
COMMUNITY ASSOCIATION MANAGEMENT,
COMMON AREA MAINTENANCE,
SPORTS CLUB, and
MAINTENANCE FREE NEIGHBORHOOD
AGREEMENT

THIS COMMUNITY ASSOCIATION MANAGEMENT, COMMON AREA MAINTENANCE, SPORTS CLUB AND MAINTENANCE FREE NEIGHBORHOOD AGREEMENT ("Agreement") is made and entered into effective this 1st day of January, 2011, between RIVERWOOD ATHLETIC CLUB COMMUNITY ASSOCIATION, INC. ("RACCA") and FSC I, LLC dba FRED SMITH COMPANY ("FSC") (RACCA and FSC are at times referred to collectively as "Parties" and individually as a "Party").

RACCA and FSC agree on the following premises:

1. Riverwood Athletic Club ("RAC") is a Planned Unit Development located in Clayton, Johnston County, and the properties within RAC (the "Community") are subject to the Declaration of Covenants, Conditions and Restrictions recorded at Book 2083, Page 553 of the Johnston County Register of Deeds (as amended) ("Covenants");
2. RACCA is a North Carolina nonprofit corporation, and was formed to exercise the rights and powers set out in the Covenants;
3. The affairs of the RACCA are governed by a Board of Directors ("Board");
4. RACCA desires to retain the services of FSC to manage the business affairs of the RACCA in accordance with the instructions of the Board and the Covenants (the "Management Services");
5. RACCA desires to retain the services of FSC to maintain the common area in the Community ("CAM Services");
6. RACCA desires to offer sports club amenities to owners of the lots or units ("Owners") that reside in the Community (the "Amenities");

7. RACCA desires, for certain neighborhoods in the Community where the homes were purchased as “maintenance-free” homes (collectively, “MFNs”), desires to retain the services of FSC to provide maintenance services for the MFNs which will be described within this Agreement (the “MFN Services”); and

8. The Board and FSC have agreed to memorialize in this Agreement the terms pursuant to which the Management Services, CAM Services, Amenities, and MFN Services will be provided.

IN CONSIDERATION OF THE FOREGOING PREMISES AND THE COVENANTS, RELEASES, PROMISES, AND AGREEMENTS PROVIDED HEREIN, THE RECEIPT, SUFFICIENCY, AND ACCEPTANCE OF WHICH ARE HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. TERM. This Agreement shall be effective as of the day and year written above, and shall terminate on December 31, 2015 (“Term”).

2. DEFINED TERMS. For purposes of this Agreement, the following definitions shall apply:

- a. “Bronze Membership” shall be defined as “the base membership level in the Club, as more specifically defined by the Club;”
- b. “Club” shall be defined as “Fred Smith Company Sports Club, the sports club facilities owned by FSC I, LLC, its successors or assigns;”
- c. “Exterior” shall be defined as “the exterior of the siding, patios, decks, roofs, fences, erosion control devices, and screened-in porches which are a part of any MF Neighborhood Unit;”
- d. “MF Neighborhood Unit” shall be defined as a “currently or previously inhabited residential structure in any MFNs in the Community;”

- e. "Owner" shall be defined as "one or more persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation, or such person or persons residing in the Unit under a valid and enforceable written, lease agreement submitted to and approved by the RACCA;" and
- f. "Unit" shall be defined as a "currently or previously inhabited residential structure in the Community, including but not limited to any MF Neighborhood Unit, but saving and excepting a Unit where the Owner or Owners of said Unit have opted out of Bronze Membership in the Club in writing."

3. MANAGEMENT SERVICES. During the Term of this Agreement, FSC agrees to provide the following specific management services for the benefit of RACCA:

- a. Manage the day-to-day affairs of the RACCA in accordance with the instructions of the Board;
- b. Monitor the enforcement of the Covenants in the community and take reasonable actions to safeguard against violations of the Covenants;
- c. Collect fees in accordance with the terms of the Covenants; provided, however, in no event shall FSC guarantee the collection of fees; instead, FSC shall simply be responsible for initial attempts to collect fees, and shall have the ability to recommend to the Board the retention of additional services, including but not limited to additional services from FSC, collection agencies, and legal service providers, associated with the collection of fees in accordance with the terms of the Covenants; furthermore, and for the purpose of collecting fees in accordance with the Covenants, RACCA assigns all rights reasonably required for the purpose of collecting fees in accordance with the Covenants;

- d. Retain, manage and purchase, at the expense of the RACCA, the services of FSC and other persons or entities to provide services, including services not covered by this Agreement, legal services, accounting services, and other professional services, in accordance with the instructions of the Board and/or the Covenants;
- e. Serve as the agent of the RACCA in accordance with the terms of this Agreement;
- f. Record the collection of fees in a database for ongoing reference;
- g. At the expense of the RACCA, pay all bills of the RACCA which have been approved for payment by the Board, and record such transactions for ongoing reference;
- h. Prepare quarterly financial statements of the RACCA, and submit the same to the Board for review;
- i. Prepare drafts of agendas and meeting minutes for the Board meetings;
- j. Make recommendations to the Board on how to improve conditions of the Community and provide oversight of the open-space and common-areas;
- k. Supervise all contracts entered into by the RACCA to help insure that work is performed in a timely and effective manner, and report to the Board on the status of all work performed for the RACCA;
- l. Respond to residents concerns and complaints in a timely manner and refer such concerns and complaints to the Board as reasonably appropriate; and
- m. Review modification requests submitted by the Owners to the Architectural Review Board or Committee (ARC) within the guidelines presented in the Covenants and the Community guidelines as approved by the Board, and forward

all decisions of the ARC to the requesting Owners via written letter, e-mail or documented phone call.

(collectively, the “Management Services”).

4. CAM SERVICES. During the Term of this Agreement, FSC agrees to provide the following specific CAM Services for the benefit of the RACCA:

- a. Up to thirty (30) times each year, mow the turf areas of the common area owned by the RACCA (“Common Area”) on a regular weekly schedule dependent upon weather conditions and attempt thereby to maintain a grass height of three inches (3”) or less during the course of the year; however, in no event shall FSC be responsible for watering any real property;
- b. Up to thirty (30) times each year, and consistent with the mowing obligations of this Agreement, trim the grass in the turf areas where natural and man-made obstacles exist in the Common Area, and simultaneously return all utility boxes to their original installed positions;
- c. Up to thirty (30) times each year, and consistent with the mowing obligations of this Agreement, blow or sweep cut grass from the sidewalks, curbs and paved areas after each mowing in the Common Area;
- d. Every two (2) weeks during the grass growing season, edge all accessible sidewalks and curbs in the Common Area with appropriate grass edging equipment;
- e. Remove trash and debris from the turf areas of the Common Area on a weekly basis;

- f. At least semi-annually with applications occurring once during the months of April or May and once during the months of July or August, fertilize the turf areas of the Common Area;
- g. On an annual basis during the months between February 1st and May 31st, treat all turf areas of the Common Area with products that limit the growth of broadleaf weeds and crab grass in the Common Area;
- h. Aerate the heavily compacted soil in the turf areas of the Common Area on an annual basis during the months between May 1st and August 31st;
- i. On an annual basis before or during the summer of each year, seed the turf areas of the Common Area with bermuda grass;
- j. On a reasonable basis, apply chemicals to the ornamental plant beds in the Common Area for the purpose of attempting to remove weed growth;
- k. Twice each year, prune and/or shear on a reasonable basis all ornamental trees, shrubs and ground covers in the Common Area; provided, however, in no event that FSC be required to prune or shear ornamental trees, shrubs or ground cover above a height of six (6) feet;
- l. Annually, fertilize with a slow-release formula all trees and shrubs in the Common Area; and
- m. Annually between November 15th and March 15th, spread pine straw or mulch (at the discretion of FSC) up to a total depth in all ornamental plant beds in the Common Area.

(collectively, the "CAM Services).

5. AMENITIES. During the Term of this Agreement, FSC agrees to provide a Bronze Membership in the Club for each Owner or Owners of a Unit in the Community, save and except a

Unit where the Owner or Owners of said Unit have opted out of a Bronze Membership in the Club in writing (collectively, the “Amenities”). Bronze Membership includes access to the (“Club”), including pool, fitness center, and limited access to golf subject to any rules or restrictions that may be imposed by the owner of the Club. Each Owner may apply for a higher level of membership in the Club to gain additional access to golf. Such increased levels of membership in the Club shall be granted in the sole discretion of the owner of the Club and subject to such terms and conditions as may be determined by the owner of the Club. The fee for such additional use rights shall be set by the owner of the Club. Notwithstanding anything to the contrary in this Agreement, RACCA and FSC agree that membership in the Club is subject to the following conditions:

- a. Ownership and Control of the Club. Membership in the Club or occupancy of a Unit shall not confer any ownership interest in the Club. Rights to use the Club will be granted upon such terms and conditions as may be determined from time to time by owner of the Club. The owner of the Club shall have the right to grant use rights to persons that do not reside in the Community. The Owner of the Club shall have the right, from time to time in its sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of the Club, including, without limitation, eligibility for and duration of use rights, categories of use and extent of use privileges, and number of users, and shall also have the right to reserve use rights and to terminate use rights altogether, subject to the terms of any written agreements with its members.
- b. Conveyance of the Club. No representations or warranties have been or are made by FSC, the owner of the Club, the declarant under the Covenants, the Association under the Covenants, any builder, or by any person acting on behalf of any of the foregoing, with regard to the continuing ownership or operation of

the Club, and no purported representation or warranty in such regard, either written or oral, shall be effective unless specifically set forth in a written instrument executed by the record owner of the Club. Further, the ownership or operation of the Club may change at any time by virtue of, but without limitation, (a) the sale to or assumption of operations of the Club by a person other than the current owner or operator; (b) the establishment of, or conversion of the membership structure to, an “equity” club or similar arrangement whereby the members of the Club or an entity owned or controlled by its members become the owner(s) and/or operator(s) of the Club; or (c) the conveyance of the Club to one or more affiliates, shareholders, employees or independent contractors of the declarant under the Covenants. No consent of the RACCA under the Covenants or any Owner shall be required to effectuate any change in ownership or operation of the Club, for or without consideration and subject to or free of any mortgage, covenant, lien or other encumbrance.

- c. Rules and Regulations. All Owners and their guests at the Club must comply with all rules and regulations of the Club, including hours of operation, whether delivered in writing or orally, posted throughout the Club premises, or published in any Club membership documentation (“Rules and Regulations”). The owner of the Club reserves the right to amend all Rules and Regulations from time to time in its sole discretion. RACCA hereby acknowledges that any violation or breach of any of the Rules and Regulations, or breach of any separate agreement between the owner of the Club and any Owner, may cause the membership of that Owner to be terminated immediately at the sole discretion of the owner of the Club.

- d. Other Documentation. FSC and the owner of the Club reserves the right to require Owners to complete additional documentation or agreements before granting access to the Club, including but not limited to a health questionnaire.
- e. Liability Waiver. It is expressly agreed that all use of the club equipment, programs, and facilities shall be undertaken by Owners, Owners' family members, and Owners' guests at their own risk, and neither FSC, the owner of the Club nor their successors, assigns, owners, shareholders, directors, officers, agents, or employees shall be liable for any injuries or damage to any Owner, any family member or guest, or the property of any Owner, any family member or guest, or subject to any liability, claims, or demands for any injury, illness, death or loss of or damage to property whatsoever, including, without limitation, liability, claims, or demands for injury, illness, death or damage caused by the acts, omissions, or negligence of the owner of the Club, its successors or assigns, as well as its owners, shareholders, directors, officers, agents, or employees. It is further agreed that FSC and/or the owner of the Club shall not be responsible or liable to Owners, family members, or guests for personal property lost or stolen on the Club premises or within the Club facilities. FSC and the owner of the Club shall not be responsible or liable for loss or damage to any other property of Owners, family members, or guests, including their automobiles and automobile contents. Any damage to the Club facilities or property belonging to the owner of the Club, or to the property of any Owner by another Owner, family member, or guest, is the sole responsibility of the offending Owner.

6. MFN SERVICES. During the Term of this Agreement, FSC and RACCA agree that FSC shall provide certain specific MFN Services specified below, some specific types of repair and

replacement will be excluded from the MFN Services, and the RACCA will accumulate capital reserves to make capital repairs which are outside the scope of the MFN Services. Specifically, and with regard to the MFN Services, FSC and the RACCA agree that:

- a. FSC shall, after the transfer of such lot to a third-party not affiliated with FSC, monitor and maintain the Exterior of the MF Neighborhood Units and repair the Exterior of the MF Neighborhood Units from damage which occurs as a direct result of normal wear and tear by providing the following specific services:
 - i. To the extent reasonably necessary on an annual basis, caulk the Exterior of the MF Neighborhood Units where two different materials meet, such as where siding joins the foundation wall, at inside corners, and where window and door trim meet the siding;
 - ii. To the extent reasonably necessary, powerwash the Exterior of the MF Neighborhood Units, powerwash any screened-in porches, decks or patios included as a part of the Exterior of the MF Neighborhood Units and repaint wood (including door jambs and window sills) on the Exterior of the MF Neighborhood Units at least once every three (3) years; provided, however, FSC shall not be required to provide any water for the purpose of powerwashing Units and is authorized by the RACCA and each Owner to use water from the Units for the purpose of powerwashing Units;
 - iii. Inspect the MF Neighborhood Units for maintenance issues, including caulking areas, siding/foundation, decks, patios, screened-in porches, dryer vents, exterior doors, windows, gutters and other items affecting the structural integrity of the MF Neighborhood Units at least once every year and prepare a written inspection report relating to each such

- inspection and provide a copy of the written inspection report to the Owners of the MF Neighborhood Units and the RACCA;
- iv. Up to thirty (30) times each year, mow the turf areas in the MFNs on a regular weekly schedule dependent upon weather conditions and attempt thereby to maintain a grass height of three inches (3") or less during the course of the year; however, in no event shall FSC be responsible for watering any part of the MFNs;
 - v. Up to thirty (30) times each year, and consistent with the mowing obligations of this Agreement, trim the grass in the turf areas where natural and man-made obstacles exist in the MFNs, and simultaneously return all utility boxes and mailboxes displaced by such trimming work to their original installed positions;
 - vi. Up to thirty (30) times each year, and consistent with the mowing obligations of this Agreement, blow or sweep cut grass from the sidewalks, curbs and paved areas after each mowing in the MFNs;
 - vii. Every two (2) weeks during the grass growing season, edge all accessible sidewalks and curbs in the MFNs with appropriate grass edging equipment;
 - viii. Remove trash and debris from the turf areas of the MFNs on a weekly basis;
 - ix. At least semi-annually with applications occurring once during the months of April or May and once during the months of July or August, fertilize the turf areas of the MFNs;

- x. On an annual basis during the months between February 1st and May 31st, treat all turf areas of the MFNs with products that limit the growth of broadleaf weeds and crab grass in the MFNs;
- xi. Aerate the heavily compacted soil in the turf areas of the MFNs on an annual basis during the months between May 1st and August 31st;
- xii. On an annual basis before or during the summer of each year, seed the turf areas of the MFNs with bermuda grass;
- xiii. On a reasonable basis, apply chemicals to the ornamental plant beds in the MFNs for the purpose of attempting to remove weed growth;
- xiv. Twice each year, prune and/or shear on a reasonable basis all trees, shrubs and ground covers in the MFNs; provided, however, in no event that FSC be required to prune or shear ornamental trees, shrubs or ground cover above a height of six (6) feet;
- xv. Annually, fertilize with a slow-release formula all trees and shrubs in the MFNs;
- xvi. Annually between November 15th and March 15th, spread pine straw or mulch (at the discretion of FSC) to a total depth of three inches (3") in all ornamental plant beds in the MFNs;
- xvii. Replace flood light bulbs attached to the Exterior of the MF Neighborhood Units within the MFNs as the same become inoperable, and schedule such replacement such that inoperable flood light bulbs not higher than nine (9) feet off the ground are replaced within two (2) business days after a work order is submitted to FSC and inoperable flood

- light bulbs higher than nine (9) feet off the ground are replaced by the end of the month after a work order is submitted to FSC; and
- xviii. Annually if needed, clean the gutters connected to the Exterior of the MF Neighborhood Units in the MFNs.
- (collectively, the “MFN Services”);
- b. MFN Services will not include any repair, replacement, or services necessitated, and FSC will not be required to repair any damage which occurs:
- i. as a direct or indirect result of any failure in the MF Neighborhood Unit covered by any applicable warranty or any warranty which applied in the past;
 - ii. to the interior of the MF Neighborhood Units;
 - iii. to any fence in the MF Neighborhood (save and except any privacy fences connected to the Exterior of the MF Neighborhood Units, which shall be considered a part of the Exterior of the MF Neighborhood Units for purposes of this Agreement); and/or
 - iv. to any foundation, brick, block, wood wall, window, sidewalk, walkway, parking pad, street, roof, roofing material, rotten wood, siding, mailbox, deck, deck material or other similar feature; and
- c. RACCA shall take reasonable steps to accumulate capital reserves which can be used to replace the roof, roofing materials, rotten wood, siding, fencing, mailboxes, decks or deck material attached or adjacent to the MF Neighborhood Units or otherwise make capital repairs or capital improvements to the MF Neighborhood Units and, as a result, FSC is not obligated to:

- i. replace any part of the Exterior of the MF Neighborhood Units, but shall solely be obligated to maintain the Exterior of the MF Neighborhood Units in accordance with this Agreement; or
- ii. make any capital repair or capital improvement to the MF Neighborhood Units, which capital repairs or capital improvements shall be satisfied by and through the capital reserves.

7. INTENTIONAL AND RECKLESS ACTS; ACTS OF GOD. RACCA agrees that FSC is not required to provide, as a part of the Management Services, CAM Services and/or MFN Services, any maintenance, repair, or other similar services under this Agreement which are a result of:

- a. Any negligent, reckless, intentional, criminal, or malicious act by individuals other than employees of FSC; or
- b. Any act of God.

8. MANAGEMENT SERVICES, CAM SERVICES AND AMENITIES FEE. In consideration for the Management Services, CAM Services and Amenities, RACCA agrees to pay FSC:

- a. For the period between January 1, 2011, and December 31, 2011, the sum of
 - i. an amount equal to the total number of Units multiplied by Fifty-Five and No/100 Dollars (\$55.00); and
 - ii. an amount equal to the total number of currently or previously inhabited residential structures in the Community where the Owner or Owners of said residential structures have opted out of a Bronze Membership in the Club in writing multiplied by Thirty and No/100 Dollars (\$30.00); and

- b. For each annual period beginning January 1, 2012, and thereafter, an amount equal to or greater than the amount referenced in paragraph 8(a) above mutually agreed to between the Board and FSC.

All such amounts shall be due and payable on the 1st day of each month; provided, however, FSC shall have the right to collect and retain the fees set forth herein directly from the Owners.

9. MFN SERVICES FEE. In consideration for the MFN Services, RACCA agrees to pay FSC:

- a. For the period between January 1, 2011, and December 31, 2011, an amount equal to the total number of occupied Units in the MF Neighborhoods multiplied by Forty-Five and No/100 Dollars (\$45.00); and
- b. For each annual period beginning January 1, 2012, and thereafter, an amount equal to or greater than the amount referenced in paragraph 9(a) above mutually agreed to between the Board and FSC.

All such amounts shall be due and payable on the 1st day of each month; provided, however, FSC shall have the right to collect and retain the fees set forth herein directly from the Owners.

10. PAYMENT. The obligation of RACCA to pay the fees set forth above for Management Services, CAM Services, Amenities, and Maintenance Services to FSC with regard to any particular Unit in the Community shall commence on the later of the following two events:

- a. The date of this Agreement; and
- b. The 1st day of the month after the sale of a Unit to a third-party not affiliated with FSC.

Furthermore, in the event that RACCA fails to pay to FSC the fees set forth above for Management Services, CAM Services, Amenities and/or MFN Services, FSC shall give written notice to RACCA of such alleged material default and provide a thirty (30) day right to cure any alleged material

default. In the event that RACCA fails to cure such alleged material default within the thirty (30) day right to cure period or otherwise fails to document how such alleged material default has not occurred, FSC shall have the option to terminate this Agreement.

11. OTHER OBLIGATIONS. RACCA agrees:

- a. To assist FSC by making available to FSC all data, insurance policies, keys, records, RACCA documents or other documents as required by FSC to reasonably perform its duties and obligations under this Agreement;
- b. To grant to FSC access at all times to all parts of the Community necessary to carry out the services described in the Agreement;
- c. To pay FSC in accordance with the terms of this Agreement; and
- d. To designate a single representative of RACCA who will be authorized to deal with FSC on matters relating to this Agreement.

12. REPORTING. On at least an annual basis, FSC shall provide an oral or written report to the RACCA summarizing the services provided for the period which is the subject of the report.

13. LIMITED WARRANTY. During the Term of this Agreement, FSC warrants that the CAM Services and MFN Services will be provided free of faulty workmanship. In the event that RACCA is dissatisfied with FSC's rejection or handling of a warranty claim, RACCA will participate in a mediation and/or arbitration process described herein. FSC makes no warranty whatsoever as to the type, health, location or amount of landscaping which will exist in the Community during the Term of this Agreement. FSC makes no warranty or guarantee, express or implied, except as specifically set forth with this limited warranty, and disclaims all other warranties. RACCA agrees that certain items installed or used by FSC while providing the CAM Services and MFN Services (e.g., wood, grass or fertilizer) are not be covered by this limited

warranty and, instead, may be separately warranted by their manufacturer or seller. FSC hereby assigns such third party warranties to RACCA upon payment in accordance with this Agreement; however, FSC shall have no other obligation whatsoever under said warranties, and shall not assign any such warranties until such time as RACCA has paid all sums due hereunder.

14. MEDIATION AND ARBITRATION. Any controversy or claim arising out of or relating to this Agreement or breach thereof shall be settled by mediation conducted in Johnston County, North Carolina, under the Mediation Procedures of the American Arbitration Association. If within 30 days after service of a written demand for mediation, the mediation does not result in settlement of the dispute, then any unresolved controversy or claim arising from or relating to this Agreement or breach thereof shall be settled by expedited arbitration conducted in Johnston County, North Carolina, and administered by the American Arbitration Association in accordance with its Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

15. ATTORNEYS FEES. Should any litigation including mediation and/or arbitration be brought by any Party to this Agreement against any other Party to this Agreement, the prevailing Party shall be entitled to recover reasonable attorney's fees and costs, including but not limited to the costs of the mediation and/or arbitration.

16. HOLD HARMLESS. Except to the extent that any claim, damage or suit is the result of any breach of this Agreement or negligent, willful, reckless or intentional conduct of FSC, RACCA agrees to hold FSC, its employees, officers, assigns, and/or corporate affiliates engaged for the benefit of the RACCA harmless from all claims, damages or suits, including reasonable attorney fees and costs, in connection with providing the Management Services, CAM Services, Amenities and MFN Services pursuant to this Agreement and from liability for injuries, damages or claims suffered by an employee or other person whomever, and to carry, at its own expense, necessary public liability,

property and directors and officers insurance adequate to protect FSC in the same manner and to the same extent they protect the Board of the RACCA and/or the RACCA. The provisions of this paragraph shall survive the termination of this Agreement.

17. NOTICES. Except as expressly otherwise provided herein, all notices and other communications provided for herein shall be validly given if in writing and delivered personally or sent by registered or certified mail (return receipt requested), postage prepaid, to the parties hereto at the following addresses:

(a) If to FSC, to:

Fred Smith Company
Attn: Reid Smith
400 Riverwood Drive
Clayton, North Carolina 27520

(b) If to RACCA, to:

Riverwood Athletic Club Community Association
Attn: President
205 Athletic Club Boulevard
Clayton, North Carolina 27520

or to such other address for either Party as such Party may hereafter specify by notice to the other Party given in the manner herein provided. All such notices and other communications shall be deemed to have been given on the date delivered, or on the date of actual receipt if mailed as herein provided.

18. BREACH. In the event that RACCA contends that FSC has materially breached this Agreement, then RACCA shall give written notice to FSC of such alleged material default and provide a thirty (30) day right to cure any alleged material default. In the event that FSC fails to cure such alleged material default within the thirty (30) day right to cure period or otherwise fails to document how such alleged material default has not occurred, RACCA shall have the option to seek enforcement of this Agreement in accordance with the arbitration and mediation provisions of this

Agreement. In the event that FSC contends that RACCA has materially breached this Agreement, then FSC shall give written notice to RACCA of such alleged material default and provide a thirty (30) day right to cure any alleged material default. In the event that RACCA fails to cure such alleged material default within the thirty (30) day right to cure period or otherwise fails to document how such alleged material default has not occurred, FSC shall have the option to seek enforcement of this Agreement; provided, however, in the event that RACCA fails to pay to FSC the fees set forth above for Management Services, CAM Services, Amenities and/or MFN Services, FSC shall have the option to terminate this Agreement .

19. ENTIRE AGREEMENT. This Agreement shall constitute the entire agreement between the Parties with respect to the subject matter hereof and may not be amended by or modified in any respect or to any extent whatsoever, except by an instrument in writing executed by the Party against whom enforcement is sought.

20. FULL CAPACITY. All Parties hereby warrant and represent that they have full authority and representative capacity to execute this Agreement in the capacities indicated above and below; and that each has fully read and understands each of the terms of this Agreement.

21. BINDING EFFECT. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their legal representatives, successors and assigns.

22. VALIDITY AND ENFORCEABILITY OF AGREEMENT. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.

23. EXECUTION IN COUNTERPARTS. The Parties agree that two originals of this Agreement may be executed and the Agreement shall be effective as of the year and day first above written upon the execution of the Agreement by all Parties.

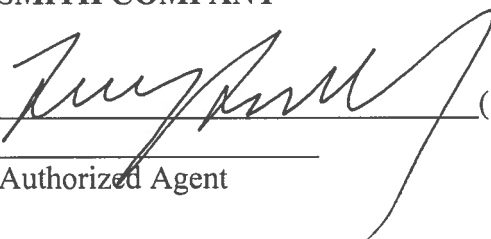
24. APPLICABLE LAW. This Agreement shall be interpreted in accordance with the laws of the State of North Carolina.

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the day and year written above, in duplicate, and have set forth their signatures and seals with the intention of executing this document under seal.

RIVERWOOD ATHLETIC CLUB COMMUNITY ASSOCIATION

By:  _____ (Seal)
Authorized Agent

FRED SMITH COMPANY

By:  _____ (Seal)
Authorized Agent