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(Top portion for recording purposes)

**THIS DECLARATION IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, S.C. CODE ANN. §§15-48-10, ET. SEQ., AS MAY BE AMENDED FROM TIME TO TIME, AS MODIFIED AND PROVIDED PURSUANT TO THIS DECLARATION**

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, RESTRICTIONS AND  
EASEMENTS  
FOR  
CREEKSIDE POINT**

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**NOTICE**

Pursuant to Section 16.1(a) hereof:

“From and after the filing Of Record of this Declaration of Covenants, Restrictions and Easements for Creekside Point, each and every conveyance of a Unit shall utilize a form of indenture deed, whereby the grantee thereof acknowledges being bound to all terms and conditions therein provided and incorporated therein by reference, including, but not limited to, all terms and conditions contained in this Declaration and the Exhibits, as amended from time to time; provided, however, that any failure or refusal to so utilize an indenture deed shall not affect the enforceability of this Declaration or any of the terms and conditions contained herein.”

Contact information for Creekside Homeowners Association, Inc. and return to address is Creekside Point Homeowners Association, Inc.; c/o Meritage Homes of the Carolinas, Inc., 505 Belle Hall Parkway, Suite 201, Mount Pleasant, South Carolina 29464.

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS  
FOR CREEKSIDE POINT**

**TABLE OF CONTENTS**

Article 1 Definitions .....	2
1.1 Definitions .....	2
1.2 Interpretation and Flexibility .....	6
Article 2 Plan of Development; Property Subject to this Declaration and Within Jurisdiction of Creekside Point .....	6
2.1 Plan of Development .....	6
2.2 Existing Property .....	7
2.3 Additional Property.....	7
2.4 Withdrawal of Property .....	8
Article 3 Membership And Voting Rights .....	8
3.1 Membership .....	8
3.2 Voting Rights.....	8
(a) Class A.....	8
(b) Class B.....	8
(c) Class C.....	9
(d) Special Declarant Voting Rights.....	9
Article 4 Property Rights .....	9
4.1 Owners' Easements of Enjoyment and Access.....	9
4.2 Delegation of Use .....	10
(a) Family.....	10
(b) Tenants.....	10
(c) Guests .....	10
(d) Suspension of Rights .....	10
4.3 Conveyance of the Common Areas to the Association.....	11
4.4 Regulation and Maintenance of Common Areas and Common Area Easements.....	11
(a) Regulation of Common Areas .....	11
(b) Rights and Responsibilities of the Owners as to Common Area Easements. .....	12
(c) Rights and Responsibilities of the Association as to the Common Areas .....	12
(d) Declarant's and Association's Right of Entry .....	12
4.5 Ponds; Restrictive Covenants .....	12
4.6 Drainage System .....	13
Article 5 Covenants for Assessments.....	14
5.1 Creation of the Lien and Personal Obligation of Assessments.....	14
5.2 Purposes of Assessments .....	14
5.3 Annual Assessments .....	15
(a) Establishment of Annual Assessment.....	15
5.4 Special Assessments .....	16
5.5 Assessment Rate; Collection Period .....	16
5.6 Declarant and Builders; Assessments for Units Owned .....	16

(a)	Assessment for Builder's Units	16
(b)	Declarant's Assessment Rights	16
(c)	A Declarant Subsidy	17
5.7	Notice for any Action Authorized Under Section 5.3 and Section 5.4	17
5.8	Date of Commencement of Annual Assessments; Amount of Initial and Subsequent Annual Assessments; Certificate of Amounts Due	17
5.9	Specific Assessments	17
5.10	Effect of Nonpayment of Assessments; Remedies	17
5.11	Subordination of the Lien to Taxes and First Mortgage	18
5.12	Working Capital Contribution	18
(a)	Amount of Working Capital; Person Obligated	18
(b)	Exemption from Payment of Working Capital	19
5.13	Resale Capital Contribution	19
Article 6	Rights Of Eligible Mortgagees	19
6.1	Books and Records	19
6.2	Notice to Eligible Mortgagees	19
6.3	Approval of Eligible Mortgagees	19
6.4	Payment of Taxes and Insurance Premiums	20
Article 7	Easements	20
7.1	Access and Utility Easements	20
7.2	Easements for Governmental Access	21
7.3	Easement and Right of Entry for Utilities and Maintenance	21
7.4	Easement Over Common Areas	21
7.5	Drainage Easement	21
7.6	Encroachments; Easements	22
7.7	Retaining Wall Maintenance Easement	22
7.8	General Maintenance Easement	22
Article 8	Architectural Control	22
8.1	Purpose	22
8.2	Architectural Review and Approval Process	23
(a)	ARC Functions	23
(b)	Composition of ARC	23
(c)	ARC Procedures; Submission, Review and Approval	23
8.3	Architectural Guidelines	24
(a)	Interior Improvements	24
(b)	Drainage	24
(c)	Other Guidelines	25
(d)	Guidance; Final Authority of ARC	25
(e)	Inspections and Permit and Certificate Issuance	25
(f)	Additional Fees, Deposits, Charges and Fines	25
8.4	Approval Not a Guarantee	25
8.5	No Waiver of Future Approvals	26
8.6	Non-Liability of Board Members	26
(a)	Indemnification	26
8.7	Restrictions on Contractors, Workers	26
8.8	Exemptions	26
8.9	Variances	26
8.10	Enforcement	27

Article 9 Rights And Responsibilities Of The Association .....	27
9.1 Responsibilities for Common Areas. ....	27
(a) General. ....	27
(b) Storm Water Management System. ....	28
(c) Owner Prohibitions. ....	28
9.2 Manager and Contractors. ....	28
9.3 Personal Property for Common Use. ....	29
9.4 Insurance; Bonds. ....	29
9.5 Implied Rights. ....	29
Article 10 Owners Maintenance Obligations. ....	29
10.1 Lawn Maintenance Standards. ....	29
(a) Landscaping. ....	29
10.2 Driveway Repair. ....	31
10.3 Roofs; Windows. ....	31
10.4 Painting. ....	31
10.5 Enclosed Common Area Adjacent to a Unit. ....	31
10.6 Owner's Landscape Maintenance between Lot Line and Adjacent Paving. ....	31
10.7 Owner's Failure to Maintain. ....	31
Article 11 Use Restrictions. ....	32
11.1 Residential Use Only. ....	32
(a) Single-family Occupancy. ....	32
11.2 Nuisances. ....	32
11.3 Building Setback Requirements. ....	32
11.4 Improvements and Lawns. ....	33
11.5 Walls, Fences and Screened Enclosures. ....	33
11.6 Animals. ....	33
11.7 Vehicles, Trailers, Campers and Boats. ....	34
(a) Parking and Storage. ....	34
(b) Operating Vehicles. ....	34
(c) Association Self Help. ....	34
(d) Waiver of Restrictions. ....	34
11.8 Operating Recreational Vehicles. ....	35
11.9 Units Adjacent to Storm Water Management System. ....	35
11.10 Substances. ....	35
11.11 Exclusion of Above Ground Utilities. ....	35
11.12 Drainage. ....	35
11.13 Signs and Flags. ....	35
11.14 Trees. ....	36
11.15 Garbage Disposal. ....	36
11.16 Games and Play Structures. ....	36
11.17 Clothes Hanging. ....	37
11.18 Auxiliary Structures Prohibited. ....	37
11.19 Antenna Devices. ....	37
11.20 Solar Collectors. This section applies to solar collectors that gather solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for the Unit that is serves ("Solar Collectors"). ....	37
11.21 Holiday Lights. ....	38
11.22 Development, Sales and Construction Activities. ....	39

11.23 Window Coverings; Storm Shutters. .... 39

11.24 Time Sharing and Vacation Multiple Ownership Plans..... 39

11.25 Additional Use Restrictions ..... 39

11.26 Exemption..... 40

11.27 Other Rights and Reservations..... 40

Article 12 Sale, lease or occupancy of units. .... 40

12.1 Notice of Sale or Lease..... 40

12.2 Leased Units. .... 40

12.3 Owner Responsible for Conduct of Tenants and Occupants. .... 41

12.4 Use of Common Areas..... 41

Article 13 Amendments ..... 41

13.1 Amendment by Board..... 41

13.2 Amendments After the Declarant Control Period..... 41

13.3 Corrective Amendments. .... 41

13.4 Amendments Required by Secondary Mortgage Market..... 42

13.5 Amendment Limitation in Favor of Eligible Mortgagees..... 42

13.6 Execution and Recording..... 42

Article 14 Additional Rights Of Declarant ..... 43

14.1 General..... 43

(a) Platting..... 43

(b) Construction..... 43

(c) Marketing..... 43

(d) Alteration of Common Areas..... 43

(e) Use of Common Areas..... 44

(f) Corrective Rights. .... 44

(g) Limit on Modification of Common Areas. .... 44

14.2 Assignment. .... 44

14.3 Association’s Obligation of Cooperation..... 44

14.4 Any Amendment Applicable to Declarant, a Declarant Affiliate or a Builder..... 45

14.5 Assignment of Declarant’s Rights to the Association. .... 45

14.6 Easement..... 45

14.7 Injunctive Relief for Interference..... 45

Article 15 Alternative Dispute Resolution & Litigation ..... 45

15.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes..... 45

15.2 Exempt Claims..... 45

15.3 Mandatory Procedures for Non-Exempt Claims..... 46

(a) Parties to be Joined. .... 46

(b) Mediation..... 46

(c) Arbitration..... 46

(d) The Arbitrator..... 47

(e) Arbitrability..... 47

(f) Situs of Mediation and Arbitration..... 47

(g) Judgment on the Award..... 47

15.4 Litigation..... 47

15.5 Miscellaneous Alternative Dispute Resolution Provisions..... 47

(a) Conflicting Provisions..... 47

15.6 TIME IS OF ESSENCE..... 48

15.7 Waiver of Jury Trial..... 48

15.8	Amendment of Article 15. ....	48
Article 16	General Provisions .....	48
16.1	Unit Deeds. ....	48
	(a) Form of Deed. ....	48
16.2	Enforcement. ....	48
16.3	Severability. ....	49
16.4	Termination. ....	49
16.5	Interpretation. ....	49
16.6	Subdivision of Units. ....	50
16.7	Rules and Regulations; Adoption and Publication. ....	50
16.8	Enforcement. ....	50
	(a) Procedure. ....	50
	(b) Self Help. ....	51
	(c) Association's Discretion. ....	52
16.9	Creation of New Board. ....	52
16.10	CPI-U. ....	52
16.11	Attorneys' Fees; Enforcement Costs. ....	52
16.12	Perpetuities. ....	52
16.13	No Affirmative Obligation Unless Stated. ....	53
16.14	No Implied Liabilities or Duties. ....	53
16.15	Rights of Third Parties. ....	53
16.16	Notice of Sale, Lease, or Mortgage. ....	53
16.17	No Trespass. ....	53
16.18	Notices and Disclaimers as to Water Bodies. ....	53
16.19	Wetlands, Lakes and Water Bodies. ....	54
16.20	COVENANTS RUNNING WITH THE LAND. ....	54
16.21	CONSTRUCTION AND OTHER ACTIVITIES. ....	54
16.22	Notices. ....	55
16.23	South Carolina HOA Act. ....	55
Article 17	Miscellaneous .....	55
17.1	Withdrawal of Property. ....	55
17.2	Amenities. ....	55

**AMENDED AND RESTATED**

**DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS**

**FOR CREEKSIDE POINT**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR CREEKSIDE POINT (this "Declaration") is made by MERITAGE HOMES OF THE CAROLINAS, INC., an Arizona corporation (hereinafter referred to as "Declarant") as of the date and time it is recorded "Of Record" (as defined below) in the Horry County, South Carolina office of Register of Deeds (ROD) Office.

**WITNESSETH:**

WHEREAS, Stonebridge Land Holdings, LLC, a South Carolina limited liability company ("Original Declarant") filed Of Record that certain Declaration of Covenants, Restrictions and Easements for Creekside Point in the Horry County, South Carolina office of Register of Deeds (ROD) Office in Book 4530, Page 2896 and re-recorded in Book 4533, Page 2717 (collectively, the "Original Declaration"); and

WHEREAS, by Assignment and Assumption of Declarant Rights filed Of Record in in the Horry County, South Carolina office of Register of Deeds (ROD) Office in Book 4564, Page 2972, Original Declarant assigned all its rights as "Declarant" to Declarant; and

WHEREAS, Declarant and Original Declarant executed and filed Of Record that certain Amended and Restated Declaration of Covenants, Restrictions and Easements for Creekside Point in the Horry County, South Carolina office of Register of Deeds (ROD) Office in Book 4572, Page 1 (the "Original Amended and Restated Declaration"); and

WHEREAS, Original Declarant and Declarant desire to terminate the effectiveness of the Original Amended and Restated Declaration and replace same with this Declaration by filing same Of Record; and

WHEREAS, Declarant and the Association are the owner of certain real property located in Horry County, South Carolina (hereinafter, the "County"), which is more particularly described on Exhibit "A" attached hereto and made a part hereof by reference (hereinafter sometimes referred to as the "Property"); and

WHEREAS, Declarant and the Association desire to subject the Property to the plan and operation of this Declaration to create on the Property a residential community to be known as Creekside Point (the "Community");

WHEREAS, Declarant desires to provide for the maintenance and upkeep of the Common Areas (as hereinafter defined) within the Property and to provide for enforcement of covenants and restrictions applicable to the Property, and, to that end, desires to subject all of the Property within the Property to the plan and operation of this Declaration and to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Property and each Owner thereof; and

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and administer the Common Areas, to administer and enforce covenants and restrictions applicable to the Property, and to collect and disburse the Assessments and charges hereinafter created, and Declarant has

therefore incorporated under South Carolina law a non-profit corporation, Creekside Point Homeowners Association, Inc. for the purpose of exercising the aforesaid functions.

NOW, THEREFORE, Original Declarant and Declarant hereby (a) declare that the Original Declaration and Original Amended and Restated Declaration are hereby terminated as of the filing of this Declaration Of Record; and (b) Declarant hereby declares that the Property (as defined herein) and such additions thereto or withdrawals therefrom as may hereafter be made pursuant to Article 2 of this Declaration, is and shall be owned, held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, all of which shall run with the land and be binding on all parties owning any right, title or interest in the Property or any part thereof, their heirs, personal representatives and administrators, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE 1

### DEFINITIONS

When used in this Declaration, unless the context will prohibit or otherwise require, the following words, will have all the following meanings, and all definitions will be applicable to the singular and plural forms of such terms:

#### 1.1 Definitions.

- (a) “Additional Property” shall have the meaning ascribed to the term in Section 2.3.
- (b) “Affiliate” means any person or entity who directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with a party. As used herein, the term “control” (including the terms “controlling”, “controlled by”, or “under common control with”) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such party, whether through ownership of voting securities or rights, by contract or otherwise.
- (c) “Architectural Review Committee” or “ARC” shall have the meaning ascribed to it in Section 8.1.
- (d) “Articles of Incorporation” means the Articles of Incorporation of the Association, as amended and/or restated from time to time, filed in the Office of the Secretary of State of the State of South Carolina in accordance with the Nonprofit Corporation Act.
- (e) “Assessment” means an Owner’s share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided. Assessments include Annual Assessments, Special Assessments and Specific Assessments, all as defined in Article 5.
- (f) “Association” means Creekside Point Homeowners Association, Inc., a South Carolina non-profit corporation, its successors and assigns. In exercising any right or easement granted or reserved to it hereunder, such right or easement shall be deemed to extend to its duly authorized directors, officers, agents, employees and contractors.
- (g) “Board of Directors” or “Board” means the Board of Directors of the Association, which is the governing body of the Association.

(h) "Builder" means any Person which acquires one or more unimproved Units from Declarant for the purpose of constructing a single-family residential dwelling on each such Unit for resale and who is designated as a Builder in a writing filed Of Record by Declarant.

(i) "Bylaws" means the Bylaws of the Association which govern the administration and operation of the Association, as the same may be amended from time to time. A copy of the original Bylaws is attached hereto as Exhibit "B".

(j) "Common Area" or "Common Areas" means all of the following: (i) any real property, together with any Improvements, landscaping and personal property thereon, shown on any Plat of the Property, with the exception of any Units, as said terms are defined in the Declaration, which are not dedicated or deeded to and actually maintained by a governmental entity; (ii) any real property, together with any Improvements, landscaping and personal property thereon dedicated to the Association on any Plat of the Property; (iii) any real property, together with any Improvements and personal property thereon deeded to or leased by the Association; and (iv) any portion of the Property together with any Improvements, landscaping and personal property thereon designed and intended for the common, non-exclusive use of the Owners and declared to be Common Areas in this Declaration or any Supplemental Declaration. The Common Areas include, without limitation, any open space noted on any subdivision plat of the Property or in an Supplemental Declaration as a Common Area; any USPS delivery center, Storm Water Management System, including private drainage easements ("Private D.E."), private lake maintenance easements and Ponds shown on the Plat, wetland buffers, landscape areas, entrance features, walls, monuments, columns, Common Area Improvements, mitigation areas, irrigation pumps, drainage swales, drainage structures, drainage ponds, irrigation areas, irrigation lines, commonly used utility facilities, project signage, street lights, monument signage, amenity or recreational areas and other areas shown on any Plat of the Property for common use or otherwise identified as or declared to be Common Areas. **Until turned over to and accepted by a public authority for ownership and maintenance, if at all, or if otherwise designated private on any Plat, all sidewalks, roads and rights-of-way within the Property shall constitute Common Areas and the maintenance expenses therefor shall be a Common Expense.** The designation of any land and/or Improvements as Common Areas will not mean or imply that the public at large acquires any easement of use or enjoyment therein. All Common Areas are to be devoted to and intended for the common use and enjoyment of the Declarant, a Builder Owners and Occupants and their respective Tenants, guests, and invitees. Except as otherwise provided in this Declaration, the Common Areas shall be maintained by the Association or its successors in interest unless dedicated to public use as set forth herein. NOTWITHSTANDING ANYTHING HEREIN CONTAINED TO THE CONTRARY, THE DEFINITION OF "COMMON AREAS" AS SET FORTH IN THIS DECLARATION IS FOR DESCRIPTIVE PURPOSES ONLY AND SHALL IN NO WAY BIND, OBLIGATE OR LIMIT THE DECLARANT TO CONSTRUCT OR SUPPLY ANY SUCH ITEM AS SET FORTH IN SUCH DESCRIPTION, WHICH SHALL INCLUDE, WITHOUT LIMITATION, THE CONSTRUCTION OR SUPPLY OF ANY RECREATIONAL AMENITIES IN ANY PORTION OF THE PROPERTY, THE CONSTRUCTION OR SUPPLYING OF ANY SUCH ITEM HEREINABOVE BEING IN DECLARANT'S SOLE DISCRETION. FURTHER, NO PARTY SHALL BE ENTITLED TO RELY UPON SUCH DESCRIPTION AS A REPRESENTATION OR WARRANTY AS TO THE EXTENT OF THE COMMON AREAS TO BE OWNED, LEASED BY OR DEDICATED TO ASSOCIATION, EXCEPT AFTER CONSTRUCTION AND DEDICATION OR CONVEYANCE OF ANY SUCH ITEM.

(k) "Common Expenses" means all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration for the maintenance, repair, operation, insurance, management and replacement of the Common Areas, Limited Common Areas (as hereinafter defined) or Improvements thereon, including the matters listed in Section 9.1 of this Declaration.

(l) "County" means Horry County, South Carolina.

(m) "Declarant" means MERITAGE HOMES OF THE CAROLINAS, INC., an Arizona corporation. In exercising any right or easement granted or reserved to Declarant hereunder, such right or easement shall be deemed to extend to Declarant's duly authorized directors, officers, members, managers, agents, employees and contractors.

(n) "Declarant Control Period" means the time period commencing on the date this Declaration is filed Of Record, and ending on the earlier of:

(i) The thirty (30) year anniversary of the date of this Declaration; or

(ii) The date on which Declarant has conveyed one hundred percent (100%) of the Property to a third party (including to a Builder or to the Association); or

(iii) The date the Declarant, in its sole discretion, terminates the Declarant Control Period by an instrument providing for same, executed by Declarant and filed Of Record.

(o) "Declaration" means this Declaration of Covenants, Restrictions and Easements for Creekside Point, as amended from time to time by any Supplemental Declaration filed Of Record.

(p) "Development Period" means the time period during which the Declarant may exercise development rights reserved to it hereunder, which will commence on the date of recording of this Declaration and end the date provided in this Declaration for such development right to terminate, or if no specific date is so provided, then the Development Period shall end on the earlier of:

(i) The date which is December 31, 2032; or

(ii) The date on which Declarant has conveyed one hundred percent (100%) of the Property to a third party (including to a Builder or to the Association); or

(iii) The date the Declarant surrenders the rights to develop hereunder by an express amendment to this Declaration executed and filed Of Record.

(q) "Eligible Mortgagee" means an Institutional Mortgagee which owns, services, insures or guarantees a first mortgage encumbering a Unit and has notified the Association in writing of its name and address and status as a holder, insurer or guarantor of a first mortgage.

(r) "Governing Documents" means collectively the Declaration (including any Supplemental Declaration), Articles, Bylaws, and the rules and regulations of the Association and all exhibits to any of the foregoing, all as they may be amended or supplemented from time to time.

(s) "Improvement" means any structure or artificially created condition or appurtenance located on the Property, including, but not limited to, any building constructed on any Unit or Common Areas, additions, exterior modifications or structural alterations to any Unit or Common Areas, walkway, irrigation pipe or equipment, road, driveway, parking area, fence, wall, screening wall, retaining wall, stairway, deck, landscaping, hedge, tree, planting, shrub, windbreak, pole, swimming pool, pool deck, spa, fountain, water feature, sign, screen enclosure, sewer, drain, disposal system, grading, paving, or exterior air-conditioning or water softener fixture or equipment.

(t) "Institutional Mortgagee" means the Declarant, Meritage, any federal or state commercial bank, federal or state savings bank, federal or state savings and loan association, federal or state trust company, life insurance company, casualty insurance company, agency of the United States government, mortgage banker, pension plan, REMIC trust, credit union, broker dealer, investment banking firm, commercial brokerage firm, real estate investment trust, or other financial institution or similar entity making loans in the United States and recognized as an institutional lender, or any affiliate, subsidiary, successor or assignee of any of the foregoing, owning, holding, serving as a trustee or servicer, insuring or guaranteeing a first mortgage (prior to all other mortgage liens) on a Unit or a collateral assignment of a first mortgage on a Unit, or an institutional or governmental insurer or purchaser of such a first lien mortgage in the secondary market, such as Federal National Mortgage Association ("Fannie Mae"), Federal Home Loan Mortgage Corporation ("Freddie Mac"), U.S. Department of Housing and Urban Development ("HUD") and U.S. Department of Veterans Affairs ("VA").

(u) The term "majority of the Voting Interests" means a majority of the votes entitled to be cast by the Owners present in person or by proxy or by electronic or written ballot and voting at any meeting of the Owners at which a quorum is attained. The term "majority of the Voting Interests" shall not mean a majority of the Units or Owners themselves or of the total votes entitled to be cast by all Owners. Similarly, if some greater percentage of Voting Interests is required herein or in the Bylaws or Articles, it shall mean such greater percentage of the votes entitled to be cast by the Owners present in person or by proxy or by electronic or written ballot and voting at any meeting of the Owners at which a quorum is attained and not of the number of Units or Owners themselves or the total votes entitled to be cast by all Owners.

(v) "Member" means every person or entity who or which holds membership in the Association.

(w) "Nonprofit Corporation Act" means the South Carolina Nonprofit Corporation Act of 1994, Title 33, Chapter 31 (Section 33-31-101 et seq.) as it may be amended or renumbered from time to time.

(x) "Occupant" means any person, including, without limitation, any Owner, occupying or otherwise using a Unit, Tenant and their respective families, servants, agents, guests, and invitees. Any person who is physically present in or occupies a Unit at the invitation of the Owner or Tenant for consideration shall be deemed a "Tenant".

(y) "Of Record" means the place of filing a writing in the applicable public records, currently being the Horry County, South Carolina office of Register of Deeds (ROD) Office, as will give legal notice to the world of the matters set forth in the writing so filed.

(z) "Owner" means the record owner, whether one or more persons or entities, of fee simple title to any Unit which is a part of the Property, including contract sellers, but excluding those having an interest in a Unit solely as security for the performance of an obligation.

(aa) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, limited liability company or other legal entity.

(bb) "Plat" shall mean one or more plats subdividing the Property and described in Exhibit "A" attached hereto and filed Of Record.

(cc) "Pond" shall mean any pond, lagoon, retention or detention area, or similar body of water shown on a Plat of the Property and constituting a Common Area, as provided in Section 1.1(j) above, and further described as a part of the Storm Water Management System under Section 1.1(ee) below.

(dd) "Property" means the property described in Exhibit "A" to this Declaration and all Improvements located or constructed thereon, being a part of the overall plan and scheme, from time to time existing hereunder, for the real estate development known as "Creekside Point."

(ee) "Storm Water Management System" means the system which is designed, constructed, and implemented for the Property to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over-drainage, environmental degradation and water pollution, or otherwise affect the quantity and quality of discharges from the system, as permitted or required pursuant to the applicable requirements of the applicable governmental authorities. Such system shall include any Pond shown on a Plat filed Of Record and located within the Property, drainage easements shown on any Plat of the Property and located within the Property, any outfall ditches and any storm water piping systems, drains, catch basins and other related apparatus and facilities located within the Property and intended to provide storm water management and control for the Property.

(ff) "Supplemental Declaration" means any amendment to this Declaration filed Of Record, which makes any changes hereto.

(gg) "Tenant" means the person or persons, entity or entities, which occupy or are entitled to occupy a Unit for consideration. Tenants shall not be members of the Association, but shall, through the Owner, be entitled to certain rights and undertake certain obligations with respect to the Unit.

(hh) "Unit" means a portion of the Property, whether improved or unimproved, which may be independently owned and conveyed as a single residential lot and dwelling. The term Unit shall be deemed to include the benefits and burdens applicable or appurtenant to a Unit, such as easements or maintenance obligations of the Owner. The term "Unit" does not include the Common Areas.

(ii) "Voting Interests" means the total amount of votes entitled to be cast by the Owners.

## 1.2 Interpretation and Flexibility.

In the event of any ambiguity or question as to whether any Person, property or improvement falls within any of the definitions set forth in this Article 1, the determination made by the Board in such regard (as evidenced by a recorded Supplemental Declaration stating same) shall be binding and conclusive. Moreover, the Board may also, by way of Supplemental Declaration, alter or amend the application of any portion of the Declaration as to any specified portion(s) of the Property in order to reflect any unique characteristics thereof.

## ARTICLE 2

### Plan of Development; Property Subject to this Declaration and Within Jurisdiction of Creekside Point

#### 2.1 Plan of Development.

The plan of development of the Property is to create within the Property a residential subdivision. Each lot shown on a Plat shall constitute a Unit hereunder. The subdivision Plat may also

include Common Areas, sidewalks and such private and public roads and rights-of-way (prior to the acceptance of such sidewalks and public roads and rights-of-way by a governmental authority), utility systems, drainage systems, and other Improvements serving the Property as are, from time to time, denominated as Common Areas in this Declaration, by the Declarant or by the Board on any Plat of the Property in furtherance of the development plan for the Property, as it exists from time to time, or in any deed, lease, easement, use agreement, Supplemental Declaration or memorandum thereof filed Of Record, and which are installed and existing or to be installed. All Units within the Property will be and are hereby restricted exclusively to residential use and will be subject to the standards and restrictions set forth in this Declaration.

Upon termination of the Development Period, any of the Property not then developed and/or not shown on any subdivision Plat as a defined or numbered lot (defined as an unimproved Unit under this Declaration), Common Area, or any other specifically identified use or purpose allowed and defined in the Declaration, shall constitute a Common Area subject to the Association's obligation to insure, maintain, and, if required, replace irrespective of whether title thereto has been conveyed to the Association by the Declarant or the Board. Every party acquiring a Unit or portion thereof, or any interest therein, within the Property, by acceptance of a deed conveying title thereto or by execution of a contract for the purchase thereof, whether from Declarant, a Builder or a subsequent Owner of such Unit, or any interest therein, shall for such grantee and such grantee's heirs, personal representatives, successors and assigns, be deemed to covenant, consent and agree to and with Declarant, the Association, and with current and successor Owners of other Units, to keep, observe, comply with and perform the obligations of such grantee under the Declaration, as amended and supplemented by any Supplemental Declaration, and any additions or amendments thereto and hereto.

2.2 Existing Property.

The real property described on Exhibit "A" attached hereto and incorporated herein by reference is and shall be held, transferred, sold, conveyed, used and occupied subject to this Declaration as of the date of recording hereof, and is within the jurisdiction of the Association.

2.3 Additional Property.

During the Development Period, additional property may be annexed to the Property by the Declarant without the consent of the Members, the Association or any mortgagee to include any real property that is contiguous to the boundaries of the Property described in Exhibit "A", and is owned or acquired by the Declarant or is owned by a third party and as to which the Declarant consents, during the Development Period, to its annexation and being made subject to this Declaration (collectively, "Additional Property"). The Additional Property shall become subject to the plan and operation of this Declaration by Declarant filing Of Record a Supplemental Declaration extending the operation and effect of this Declaration to the Additional Property to be annexed. Any Additional Property annexed pursuant to this Section 2.3 may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such Additional Property pursuant to this Section 2.3 may increase the cumulative number of Units within the Property and, therefore, may alter the relative voting strength of the various types of Members or extend the control period of the Declarant. A Supplemental Declaration may contain such additions to and modifications of the covenants and restrictions contained in this Declaration, including, without limitation, different voting rights and different Assessments for the Units so annexed, as Declarant, in its sole discretion, may deem necessary or appropriate to reflect the different character or use of the property added. A Supplemental Declaration annexing Additional Property need only be executed by the Declarant and, if applicable, by the owner of the property being annexed, and shall not require the joinder or consent of the Association or any of its Members. If a Supplemental Declaration also provides

for differing voting rights, the Declarant may also amend the Articles and Bylaws of the Association without the joinder or consent of the Association or any Member.

Nothing contained in this Section 2.3 shall be construed to obligate or require Declarant to make any additions to the Property.

2.4 Withdrawal of Property.

The Declarant reserves the unilateral right to amend this Declaration during the Development Period without the consent of any Owner, the Association or any mortgagee for the purpose of removing any portion of the Property then owned by the Declarant, its Affiliates, a Builder or the Association from the provisions of the Declaration for any of the following reasons: to the extent included originally in error; to the extent that Declarant is transferring that portion of the Property to any governmental entity, in which event Declarant shall be entitled to retain all consideration paid for any portion of the Property so conveyed; or as a result of any change whatsoever in the plans for Creekside Point desired to be effected by Declarant. Any withdrawal of land not owned by Declarant shall not be effective without the written consent or joinder of the then-owner(s) of the withdrawn land; provided, however, that any land owned by the Association may be withdrawn by the Association through the Board on the Association's behalf and on behalf of its Members, without the consent of or a vote by the Members, and same shall be effective if consummated by the Board.

**ARTICLE 3**

**Membership And Voting Rights**

3.1 Membership.

Every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

3.2 Voting Rights.

The voting rights of the Members shall be appurtenant to the ownership of a Unit and may not be separated from ownership of any Unit. There shall be three classes of membership with respect to voting rights:

(a) Class A.

Class A Members shall be all Owners (including the Declarant). A Class A Member will be entitled to one (1) vote for each Unit owned. When more than one person owns an interest (other than a leasehold or security interest) in any Unit, all such persons shall be Members and the voting rights appurtenant to their Units shall be exercised as they, among themselves, determine; but fractional voting shall not be allowed, and in no event shall more than one vote be cast with respect to any Unit owned by a Class A Member.

(b) Class B.

The Class B Member shall be the Declarant or its designated assignee. During the Declarant Control Period, the Class B Member will be entitled to three (3) votes for each vote held by Class A Members (including the Declarant). Thereafter, the Class B Member will exercise votes only as to its Class A Memberships for Units it owns.

(c) Class C.

The Class C Member(s) shall be Builder(s), other than Declarant. During the Declarant Control Period, the Class C Member(s) will be entitled to one (1) vote for each Unit owned.

(d) Special Declarant Voting Rights.

Notwithstanding anything to the contrary contained herein, until the expiration of the Declarant Control Period under this Declaration, Declarant shall be vested with the sole voting rights of the Association on all matters (including election and removal of directors and officers of the Association, except to the extent provided in Section 14.7 of this Declaration), except such matters as to which a specific vote of the Class A Members is otherwise required by the Declaration (including any Supplemental Declaration), the Articles of Incorporation, the Association Bylaws or the Nonprofit Corporation Act, all as they may be amended or supplemented from time to time as therein provided.

**ARTICLE 4**

**Property Rights**

4.1 Owners' Easements of Enjoyment and Access.

Except as limited by the provisions of this Section 4.1 and by the rules and regulations adopted by the Board of Directors, every Owner shall have a right and easement of enjoyment in, use of and access to, from, and over the Common Areas, which right and easement shall be appurtenant to and shall pass with title to every Unit, subject to:

(a) the right of the Association to limit the use of such facilities to Owners who occupy a residence on the Property and their Occupants, as provided in Section 4.2.

(b) the right of the Association to suspend the voting rights of an Owner and to prohibit use of the Common Areas (other than legal access) by an Owner and his Occupants during any period which the Assessment against his Unit remains unpaid, or for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

(c) the right of the Association to dedicate, sell or transfer all or any part of the Common Areas to any public or quasi-public agency, authority, utility or service provider for such purposes and subject to such conditions as may be agreed upon by a majority of the Voting Interests. After the expiration of the Declarant Control Period, no such dedication or transfer shall be effective unless the Board agrees to such dedication, sale or transfer. Nothing herein shall be deemed to prohibit the Board, without consent of the Members, from granting easements over and across the Common Areas to any public agency, authority, utility or service provider for the installation and maintenance of sewerage, utility (including telecommunications, cable television and broadband internet), drainage or other facilities or for the provision of any services when, in the opinion of the Board of Directors, such easements are necessary for the convenient use and enjoyment of Property.

(d) the right of the Association to borrow money. After the expiration of the Declarant Control Period, if the principal amount of the loan exceeds the 200% of amount of the annual Association budget and the Association is required to mortgage, pledge, grant a deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred then the loan shall require the approval of a majority of the Voting Interests.

In the event of such mortgage, pledge, deed in trust or hypothecation, the rights of any such lender or mortgagee shall be subordinate to the property rights of the Members and the Association as set forth herein.

(e) the right of the Association to exchange all or part of the Common Areas for other property and consideration of like value and utility, provided, however, that, after the expiration of the Declarant Control Period, any such dedication shall require the assent of the Board as set forth in Section 4.1(c) above, and further provided that, if the Board determines, in its sole discretion, that such exchange is necessary to cure an encroachment or setback violation on any Unit, the Board may effect such exchange without the consent of or approval by the Members.

(f) the right of the Association to open the Common Areas for use by non-members of the Association.

(g) the right of the Association to alter, modify, expand or add to the Common Areas and to improve, maintain and operate the Common Areas.

(h) the right of the Association to adopt, promulgate and enforce rules and regulations concerning the use of the Common Areas.

(i) the right of the Association to otherwise deal with the Common Areas as provided in this Declaration, the Articles and Bylaws of the Association.

#### 4.2 Delegation of Use.

(a) Family.

The right and easement of enjoyment and access granted to every Owner by Section 4.1 may be exercised by members of the Owner's family who occupy the Unit of the Owner as their residence in the County.

(b) Tenants.

The right and easement of enjoyment and access granted to every Owner by Section 4.1 may be delegated by such Owner to his Occupants or Tenants who occupy the Unit as their residence in the County.

(c) Guests.

The right and easement of enjoyment and access granted to every Owner by Section 4.1 may be delegated to guests of such Owners, Occupants or Tenants, subject to such rules and regulations as may be established by the Board of Directors. Notwithstanding the foregoing, the Association may adopt reasonable rules and regulations from time to time for the purpose of limiting the number of guests using the Common Areas at any given time.

(d) Suspension of Rights.

The rights of any delegate of an Owner shall be suspended by, upon and during suspension of such Owner's rights as provided in Section 4.1(b) and Section 16.8 of this Declaration.

4.3 Conveyance of the Common Areas to the Association.

No later than the expiration of the Development Period, the Declarant or other owner(s) of the Common Areas, including Builders, shall convey by quit claim deed, and the Association shall accept, fee simple title to all Common Areas within the Property, and shall assign, reserve for or grant to the Association all Common Area easements, all subject to such easements, reservations, conditions and restrictions as then may be Of Record, and the Association shall accept all such conveyances, grants, assignments and reservations. THE ASSOCIATION AGREES TO ACCEPT "AS IS" ANY CONVEYANCE OF THE COMMON AREAS AND THE PERSONAL PROPERTY AND IMPROVEMENTS APPURTENANT THERETO, WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, IN FACT OR BY LAW, AS TO THE CONDITION OR FITNESS OF THE COMMON AREAS OR PORTIONS THEREOF AND THE PERSONAL PROPERTY AND IMPROVEMENTS THEREON. So long as Declarant, an Affiliate of Declarant, or a Builder owns any Unit within the Property, Declarant reserves, for itself and any Builder who owns any Unit within the Property, an easement over and across any Common Areas deeded to the Association for the purpose of constructing and maintaining any Improvements on the Common Areas as it deems necessary or advisable, provided that any such Improvements must comply with the requirements of the appropriate governmental authority.

If the Common Areas have previously been conveyed to the Association, then any Improvements subsequently constructed or placed on the Common Areas by Declarant or a Builder shall become the property of the Association upon completion of such Improvements and such completed Improvements will be conveyed to the Association in accordance with the terms of this Declaration. If the Common Areas have not been conveyed to the Association, then any Improvements constructed or placed on the Common Areas by Declarant or a Builder shall be conveyed to the Association simultaneously with the conveyance of the Common Areas.

The Association shall become responsible for all maintenance, repair, replacement, operation and insuring of Common Areas upon such conveyance when Improvements thereto have been completed, which shall be the later of the date the required certificates or permits of occupancy or use are issued therefor. In consideration of the benefits accruing to the Association and to the Owners under this Declaration and in consideration of the covenants and agreements of the Declarant, an Affiliate of Declarant and/or a Builder, if applicable, the Association hereby agrees to accept title to any property, or to any interest in property, now or hereafter conveyed to it pursuant to the terms and conditions of this Declaration. Upon filing a deed, assignment, easement, lease or other instrument of conveyance Of Record to the Association, title or such other interest in property conveyed will vest in and to the Association without the necessity of any further act, deed or approval of any person, including the grantor, landlord and/or Association. Neither Declarant, an Affiliate of Declarant or a Builder shall be required to make any additional Improvements whatsoever to property to be conveyed and accepted pursuant to this Section 4.3 than shall exist at the date of conveyance. The Common Areas shall be conveyed to the Association without any express or implied warranties, which are hereby expressly disclaimed by Declarant, any Affiliate of Declarant, and any Builder.

4.4 Regulation and Maintenance of Common Areas and Common Area Easements.

It is the intent of the Declarant that the Common Areas be preserved for the perpetual benefit of the Owners.

(a) Regulation of Common Areas.

The Association may adopt and promulgate rules and regulations governing the use of the Common Areas by Owners and Occupants. No Owner or other Occupant shall use the Common

Areas or any portion thereof in violation of the rules and regulations contained in this Declaration or subsequently adopted by the Association.

Without limiting the generality of the foregoing, no Owner or Occupant shall, without the specific prior written consent of the Association: (i) damage or waste the Common Areas or Improvements thereon or remove any trees or vegetation therefrom; (ii) erect any gate, fence, structure or other improvement or thing on the Common Areas; (iii) place any garbage receptacle, trash or debris on Common Areas; (iv) fill or excavate any part of the Common Areas; (v) landscape or plant vegetation on Common Areas; or (vi) use the Common Areas or any part thereof in a manner inconsistent with or in any way interfering with the rights of other Owners.

So long as Declarant owns any of the Property for development and sale, no rule or regulation shall be adopted by the Board of Directors which would be binding upon the Owners of such Property to be developed by Declarant or a Builder without the prior written consent of Declarant, including, but not limited to any rule or regulation which would have the effect of discriminating against or in favor of (i) one type of Owner over another or (ii) one type of Tenant or Occupant over another.

(b) Rights and Responsibilities of the Owners as to Common Area Easements.

Each Owner of a Unit subject to a Common Area easement shall pay all property taxes, hazard and liability insurance and Assessments levied against his Unit, including such Common Area easement portion of his Unit. The Association shall have no liability for maintenance of or payment of property taxes, hazard and liability insurance and Assessments levied against such Common Area easement portion of a Unit.

(c) Rights and Responsibilities of the Association as to the Common Areas.

The Association shall have the right and obligation to ensure that the Common Areas owned by the Association are preserved for the perpetual benefit of the Owners, and, to that end, shall: (i) maintain the Common Areas in their natural or improved state, as appropriate, and keep them free of impediments to its use by the Owners, subject to the provisions of this Declaration; (ii) procure and maintain adequate commercial general liability insurance covering the Association and its Members, Directors and officers against any loss or damage suffered by any person, including the Owner of the Unit upon which a Common Area easement lies, resulting from use of the Common Areas, and adequate hazard insurance covering the real and personal property owned by the Association; (iii) procure and maintain adequate hazard insurance covering the real and personal property leased by the Association; and (iv) pay all property taxes and other assessments levied against all Common Areas owned by the Association.

(d) Declarant's and Association's Right of Entry.

The Declarant, Affiliates of Declarant, Builders, the Association and the employees, agents, contractors and subcontractors of each, shall have a non-exclusive, alienable, transferable, and perpetual right and easement at all times to enter upon any portion of a Unit reserved or designated as a Common Area easement for the purposes of: (i) installing and maintaining subdivision entrance signs, features, fencing and landscaping; and (ii) making such Improvements to the Common Areas; and (iii) maintaining the Common Area easement in its natural or improved state.

4.5 Ponds: Restrictive Covenants.

Units may contain portions of, be adjacent to or lie within proximity of any Pond located within the Property. The Board shall have the right to unilaterally and without need for consent of any Owner (other than each Builder, whose prior written consent shall in such event be required) or the

Association, place certain restrictive covenants on the Property by filing Of Record one or more Declaration(s) of Restrictions ("Restrictive Covenants") or Supplemental Declarations. The Restrictive Covenants or Supplemental Declarations shall run with the land and be binding on all heirs, successors, assigns, lessees, or other occupiers or users. The Restrictive Covenants or Supplemental Declarations may prohibit any or all of the following: filling, draining, flooding, dredging, impounding, burning, cultivating, excavating, erecting, constructing, releasing wastes, or otherwise doing any work on any Pond; introducing exotic species into a Pond, changing the grade or elevation, impairing the flow or circulation of waters, reducing the reach of waters and any other discharge or activity requiring a permit under clean water or water pollution control laws and regulations, as amended. Owners of Units containing portions of or abutting a Pond shall not remove native vegetation that becomes established within a Pond located within or abutting their Unit. The Association shall be responsible for the perpetual maintenance of the Ponds upon conveyance thereof to the Association. The cost of such maintenance shall be deemed a Common Expense of the Association. The Association has the right to take action against Owners as necessary to enforce the conditions, covenants and use restrictions placed on any Pond described in any Restrictive Covenants or Supplemental Declaration, or the Plat or any other subdivision plat of the Property filed or to be filed Of Record. Ponds are Common Areas; they shall be the perpetual responsibility of Association and may not be altered from their natural or permitted state. If any "best management practices" agreement or other agreement with the County or other governmental agency related to a Pond (if any, "BMP Agreement(s)") requires that the owner of a Pond post a bond or escrow funds for the maintenance, repair and/or rebuilding of a Pond, the Board shall, upon conveyance of the Pond to the Association, post such bond or escrow funds necessary to fulfill such requirement, and any such funds shall be a Common Expense. Upon conveyance of a Pond to the Association, Declarant may assign any BMP Agreement to the Association and may execute such assignment on the Association's behalf. The Association shall be required to accept such assignment without further action by Declarant or the Association.

#### 4.6 Drainage System.

Drainage facilities and systems which are located within any private drainage easement area depicted on a Plat of the Property shall be Common Areas. From and after the date such drainage systems or drainage facilities are installed and completed (which shall be the later of the date the required certificates or permits of occupancy or use are issued therefor) by the Declarant or any Builder, the maintenance of such systems and/or facilities within the drainage easement area thereafter shall be the responsibility of the Association. In the event that such drainage system or facilities are adversely affected by landscaping, fences, structures (including, without limitation, pavers), or additions by Owners or Occupants, or the landscaping, fencing, structures or additions of the Owner or Occupant within the designated drainage easement area are removed, altered or damaged by the Association in connection with its maintenance of such drainage systems or drainage facilities, the cost to correct, repair, or maintain such drainage system and/or facilities shall be the responsibility of the Owner of each Unit containing all or a part of such drainage system and/or facilities. If an Owner fails to correct, repair, or maintain the drainage system and/or facilities within the boundary of his Unit as set forth in this Section 4.6, after giving such Owner at least twenty four (24) hours' notice, the Association shall have the right, but not the obligation to undertake the correction, repair or maintenance at the Owner's expense. Each Owner, by accepting title to his Unit, grants the Association an easement over his or her Unit for the purpose of entry and monitoring compliance with the requirements of this Section 4.6, and such entry shall not constitute a trespass. The cost and expense of any correction, maintenance or repairs provided by or under the direction of the Association pursuant to this Section 4.6, plus an administrative and overhead fee equal to the greater of \$35.00 or twenty five (25%) percent of the cost of such correction, repair or maintenance (or such other amount determined by the Board of Directors in its sole discretion, subject to limitations contained in applicable law), shall be charged to the non-complying Owner as a Specific Assessment, secured by a lien against the Unit as provided in Article 5 of this Declaration. The Association shall have the right to enforce the provisions in this Section 4.6 by all necessary legal action. By acceptance of a deed, each Owner of a

Unit acknowledges that drainage systems and/or facilities serving the Property shall be located within certain easement areas described in on any Plat of the Property or in the Declaration.

## ARTICLE 5

### COVENANTS FOR ASSESSMENTS

#### 5.1 Creation of the Lien and Personal Obligation of Assessments.

Each Owner of a Unit by acceptance of title to the Unit shall be deemed to covenant and agree to pay all Assessments and charges assessed against the Owner's Unit. The Annual Assessments, Special Assessments, and Specific Assessments shall be established and collected as hereinafter provided. All Assessments which are unpaid when due, together with interest and late charges set forth in Section 5.10 and all costs of collection, including reasonable attorney's fees and costs, shall be a charge against and a continuing lien upon the Unit against which such Assessment is made. An Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all Assessments and charges coming due while the Person is the Owner.

Each such Assessment or charge, together with interest and costs of collection, including reasonable attorneys' fees and costs, shall also be the personal obligation of the Person(s) owning such Unit at the time when the Assessment fell due, but such personal obligation shall not be imposed upon such Owner's successors in title unless expressly assumed by them. Although unpaid Assessments and charges are not the personal obligation of such Owner's successors in title unless expressly assumed by them, the unpaid Assessments and charges shall continue to be a lien upon the Unit against which the Assessment or charge was made. The liability for Assessments may not be avoided by waiver of the use or enjoyment of any Common Areas or by the abandonment of the Unit against which the Assessments are made or for any other reason.

#### 5.2 Purposes of Assessments.

The Assessments levied by the Association shall be used to operate the Association, maintain, repair, operate, insure and replace the Common Areas, and to promote the recreation, health, safety and welfare of the Owners of the Property and, in particular, for: (i) improvement and maintenance of Improvements to the Common Areas and the provision of personal property, services and facilities, the establishment of operating reserves and capital reserve accounts related to the use and enjoyment of the Common Areas (if determined by the Board, or Declarant, during the Declarant Control Period, to be advisable and without the obligation to do so); (ii) maintenance, repair, replacement and reconstruction of Improvements on, the Common Areas, including, without limitation, the cost of labor, equipment, materials, management, inspection and supervision thereof; (iii) payment of taxes and public assessments levied against the Common Areas owned by the Association; (iv) procurement and maintenance of insurance; (v) employment of attorneys, accountants, consultants and other persons or firms to represent the Association when necessary; (vi) payment of principal and interest on funds borrowed for Association purposes; (vii) such other needs and reserves as may arise; (viii) payment for the maintenance and operation of street lights, water service and electric service to the Property (whether such service facilities are within the boundaries of the Property or off-site from same); (ix) shared costs and expenses of the Association and any other party or entity with which the Association (or Declarant) has a written agreement to share costs for facilities or other improvements benefitting such other party or entity and the Association and its Members; (x) any expenses necessary or desirable to carry out the duties of the Association under the Governing Documents or at law, and (xi) any other Common Expenses of the Association.

5.3 Annual Assessments.

(a) Establishment of Annual Assessment.

The Board will prepare an initial budget of the Association for the period commencing with the date the first Unit is conveyed to a purchaser by any Builder and ending on the last day of the Association's fiscal year, and a copy thereof will be made available to any Owner upon written request. It will be the duty of the Board of Directors at least sixty (60) days prior to the first day of the Association's fiscal year following the fiscal year in which the Board established the initial budget, and each fiscal year thereafter, to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include reserve accounts, if necessary, for the deferred maintenance, replacement costs and capital improvements for the Association. In calculating the budget, the Board shall have the power to use any surplus amount collected in any fiscal year either to reduce the budgeted expenses for the fiscal year being budgeted or to set aside such surplus in such operating and/or reserve accounts as the Board, in its sole discretion, shall determine. The Board will determine the amount of the Assessments to be levied against the Units subject to this Declaration. The Board shall deliver a notice of the Annual Assessments for the following year to each Owner at least thirty (30) days prior to the first day of the fiscal year for which the budget and Assessments are established. Each Unit shall be equally responsible for its proportionate share of the total Annual Assessments, unless otherwise determined by the Declarant, during the Declarant Control Period, or by the Board thereafter.

(i) Disapproval of Annual Assessments.

The annual budget and Annual Assessments, as determined by the Board of Directors, as hereinabove provided, will become effective unless disapproved (i) solely by the Board of Directors during the Declarant Control Period, and (ii) thereafter by a vote of fifty one percent (51%) or more of the Voting Interests. Notwithstanding the foregoing, in the event the proposed budget and Annual Assessments are disapproved or in the event the Board of Directors fails for any reason to determine an annual budget and to set the Annual Assessments, then and until such time as a budget and Annual Assessment will have been determined as provided herein, the budget and Annual Assessments will be the Default Budget and Default Annual Assessments calculated in accordance with Section 5.3(a)(iv) of this Declaration. Notwithstanding anything contained in this Section 5.3(a)(i), during the Declarant Control Period, Declarant shall have the unilateral right to approve or disapprove of the annual budgeted and Annual Assessments.

(ii) Special Board Action to Increase.

If the Board of Directors, the Declarant, during the Declarant Control Period, determines that the important and essential functions of the Association budgeted for the year will not be properly funded in any year by the Annual Assessment herein provided, such Assessment may be increased without the consent of the Members and without a vote thereon.

(iii) Rounding.

All Annual Assessments charged by the Association may be rounded off to the nearest dollar.

(iv) Determination of Default Budget and Default Annual Assessment.

Upon the failure of the Board of Directors to adopt a budget, or upon the disapproval of any budget pursuant to Section 5.3(a)(i), the Default Budget and Default Annual Assessments will be the then existing budget and Annual Assessments, increased in proportion to the percentage increase, if any, in the CPI-U from December of the preceding year to November of the then

current year in which the maximum budget and Annual Assessment is being determined, or by ten (10%) percent, whichever is greater.

5.4 Special Assessments.

In addition to the Annual Assessments authorized above, the Board of Directors may levy, in any fiscal year, Special Assessments for: (a) unbudgeted expenses or expenses in excess of the amounts budgeted; (b) expenses incurred by the Association for replacement or reconstruction of any Improvements on any portion of the Common Areas including fixtures and personal property related thereto; (c) expenses incurred by the Association for installation or construction of any Improvements in the nature of a capital improvement on any portion of the Common Areas including fixtures and personal property related thereto; (d) repayment of indebtedness and interest on any funds borrowed by the Association; or (e) any other purpose, including the Association's Common Expense.

5.5 Assessment Rate; Collection Period.

Except as provided in Section 5.6(a), Section 5.6(b) and Article 17 hereof, the Annual and Special Assessments shall be fixed at a uniform rate for all Units. Assessments may be collected on a yearly, semi-annually, quarterly or monthly basis, as determined by the Board of Directors.

5.6 Declarant and Builders; Assessments for Units Owned.

(a) Assessment for Builder's Units.

The Board may, but shall not be required to, exempt a Builder from the payment of Assessments on such terms and conditions as the Board shall provide in a written certificate. Such certificate may also provide alternative rules and exemption provisions applicable the grantee of a Unit from a Builder. Further, the Declarant or the Board may establish differing amounts of Assessments for Class A Members and Class C Members, in their sole discretion. A certificate by the Board and applicable to a Builder and/or its respective grantees may or may not be filed Of Record as the Declarant or the Board may, in their sole discretion, decide.

(b) Declarant's Assessment Rights.

Notwithstanding any provision that may be contained to the contrary in the Governing Documents, during the Development Period, the Declarant shall have no obligation to pay Assessments on any Units owned by it. Declarant may, but shall not be obligated to, fund any "shortfall." The "shortfall" to be paid, if Declarant elects to do so, shall be the difference between (i) actual operating expenses of the Association (exclusive of capital improvement costs, reserves and management fees), and (ii) the sum of all monies receivable by the Association (including, without limitation, Assessments, interest, late charges, fines, rents and incidental income) from Owners other than the Declarant and any surplus carried forward from the preceding year(s). The shortfall shall not include expenses incurred by the Association as a result of a natural disaster, casualty or an act of God which are not covered by the proceeds of insurance. The Declarant may from time to time change the options under which the Declarant is making payments to the Association by written notice to such effect to the Association.

(i) Shortfall Funding by Declarant.

Any payment of the shortfall, if at all, will be characterized, in the Declarant's sole and absolute discretion and election, as (a) a contribution to the Association, (b) in-kind services, or (c) a loan to the Association. The amount and character (contribution, advance, in-kind services or loan) of such payment by the Declarant will be conspicuously disclosed in the financial records of the Association. The payment of the shortfall in any year will under no circumstances obligate the Declarant

to continue payment of such shortfall in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

(c) A Declarant Subsidy.

So long as the Declarant owns any portion of the Property, the Declarant may, but will not be obligated to, reduce the Annual Assessment for any year to be paid by Owners of Units so identified by the Declarant, by payment of a subsidy, such subsidy to be characterized by Declarant in accordance with Section 5.6(b)(i) above. The amount of such subsidy payments will be conspicuously disclosed as a line item in the budget and will be made known to the Owners. The payment of such a subsidy in any year will not create an obligation to continue payment of a subsidy in future years, unless otherwise provided in a written agreement between Association and the Declarant.

5.7 Notice for any Action Authorized Under Section 5.3 and Section 5.4.

After the expiration of the Declarant Control Period, written notice of any meeting of the Board of Directors called for the purpose of taking any action authorized under Section 5.3 or Section 5.4 shall be sent to all Members not less than fourteen (14) days nor more than sixty (60) days prior to the meeting.

5.8 Date of Commencement of Annual Assessments; Amount of Initial and Subsequent Annual Assessments; Certificate of Amounts Due.

Unless a different commencement date is set by the Board of Directors, the Annual Assessments provided for herein shall commence as to a Unit on the date of the first conveyance of a Unit to an Owner other than a Builder.

At least thirty (30) days before January 1 of each year, the Board of Directors shall send written notice of such Assessment to every Owner subject thereto. The due dates for the payment of Annual and Special Assessments shall be established by the Board of Directors.

Within fifteen (15) days after written request by an Owner or mortgagee of a Unit and payment of a reasonable charge determined by the Board of Directors, the Association shall provide a certificate stating all Assessments and other moneys owed to the Association by the Owner with respect to the Unit. Any person other than the Owner who relies upon such certificate shall be protected thereby.

5.9 Specific Assessments.

Any expenses incurred by the Association because of the actions of one or more Owners or Occupants, or because of their failure to act, and with respect to which such expenses are chargeable thereto and recoverable therefrom pursuant to any provision of this Declaration, including, but not limited to, recoverable expenses incurred as a result of work performed in behalf of an Owner, and any fines as may be imposed against an Owner in accordance with Section 16.7 of this Declaration or the Bylaws of the Association will be specially assessed as a Specific Assessment against each such Owner and the Owner's Unit.

5.10 Effect of Nonpayment of Assessments; Remedies.

Any Assessment not paid within ten (10) days after the due date shall incur such late charge as the Board of Directors may from time to time establish, and, if not paid within thirty (30) days after the due date, shall also commence to accrue simple interest at the rate set by the Board of Directors from time to time. A lien and equitable charge as herein provided for each Assessment installment shall attach

simultaneously as the same will become due and payable, and if an Assessment installment has not been paid as aforesaid, the entire unpaid balance of the Assessment installments remaining to be paid during the fiscal year may be accelerated by the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such Assessment will include all costs of collection (including reasonable attorneys' fees and court costs), and any other amounts provided or permitted hereunder or by law. In the event that the Assessment remains unpaid sixty (60) days following the date when so due, the Association may institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Section will be in favor of the Association, and each Owner, by his acceptance of a deed or other conveyance to a Unit, vests in the Association and its agents the right and power to bring all actions against him personally for the collection of such Assessments as a debt and/or to foreclose the aforesaid lien in like manner as a mortgage of real property. The Association will have the power to bid on the Unit at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein, including by way of illustration but not limitation, non-use of the Common Areas or abandonment of his Unit, and an Owner will remain personally liable for Assessments, including interest and late charges which accrue prior to a sale, transfer, or other conveyance of his Unit.

5.11 Subordination of the Lien to Taxes and First Mortgage.

The liens provided for herein shall be subordinate only to liens for unpaid taxes and any first mortgage on a Unit recorded prior to the date the Association's claim of lien attached, being the date the Assessment became due and payable. Sale or transfer of a Unit shall not affect any Assessment lien; however, the sale or transfer of a Unit pursuant to foreclosure of a first mortgage, or any deed in lieu of foreclosure thereof, shall extinguish the lien of any Assessment which became due prior to the date of such conveyance. No such sale or transfer shall relieve such Unit from liability for any Assessment thereafter becoming due or from the lien thereof. When the holder of the first mortgage of record or other purchaser of such a Unit obtains title pursuant to judicial or non-judicial foreclosure of the first mortgage or a deed in lieu of foreclosure, it shall not be liable for the Assessments chargeable to such Unit which became due prior to the acquisition of title to such Unit. Such unpaid Assessments shall become a Common Expense divided among, payable by and assessed against all Units, including the Unit as to which the foreclosure (or deed in lieu of foreclosure) took place.

5.12 Working Capital Contribution.

Notwithstanding anything to the contrary in this Declaration, a working capital fund will be established for the Association by collecting from each Owner who acquires title to a Unit from Declarant or a Builder a working capital amount, which will be due and payable at the time of transfer of each Unit by Declarant or a Builder to any other Owner. Each such Owner's share of working capital, as aforesaid, will be transferred to the Association at the time of closing the conveyance from Declarant or a Builder to the Owner. Such sum is and will remain separate and distinct from the Annual Assessment and will not be considered advance payment of the Annual Assessment. The working capital receipts may be used by the Association in covering operating expenses as well as any other expense incurred by the Association pursuant to this Declaration and the Bylaws, including for capital projects or dedication to reserves. For the avoidance of doubt, Builders shall have no obligation to pay any working capital contribution of any kind.

(a) Amount of Working Capital: Person Obligated.

During the Declarant Control Period, the working capital amount shall be set by the Declarant in its sole discretion and, thereafter, by the Board of Directors in its sole discretion. The working capital amount shall be the obligation of the grantee of the Unit.

(b) Exemption from Payment of Working Capital.

Builders shall be exempt from the payment of the working capital amount upon acquisition of title from Declarant; provided, however, that the working capital amount shall be collected from the purchaser at the closing of the sale of the Unit from a Builder. Furthermore, any conveyance to a mortgagee following foreclosure or by a deed-in-lieu thereof shall be exempt, but shall be payable in conjunction with conveyance of the Unit by the mortgagee to a subsequent Owner.

5.13 Resale Capital Contribution.

In addition to the Working Capital Contribution set forth in Section 5.12, at the closing of each resale of any Unit by a Person other than a Builder, the purchaser of the Unit shall pay a resale capital contribution to the Association in an amount set by the Declarant in its sole discretion during the Declarant Control Period and, thereafter by the Board of Directors in its sole discretion (the "Resale Capital Contribution"), which the Association may use for any purpose. The Resale Capital Contribution shall not be refundable to the purchaser and shall not be applied and/or considered as a credit or an advance against any Assessments (including any Annual Assessments). Notwithstanding anything to the contrary contained in this Declaration, no Resale Capital Contribution shall be due and/or payable at the time of purchase of a Unit from Declarant or from a Builder.

**ARTICLE 6**

**Rights Of Eligible Mortgagees**

6.1 Books and Records.

Any Eligible Mortgagee shall have the right, during normal business hours, to examine copies of the Governing Documents, and the books and records of the Association and, upon written request to the Association, to receive a copy of the financial statement for the immediately preceding fiscal year.

6.2 Notice to Eligible Mortgagees.

(a) Eligible Mortgagees shall, upon specific written request to the Association for any of the matters set forth below, be entitled to timely written notice of:

(b) Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of the Unit securing its loan.

(c) A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

(d) Any proposed action that requires the consent of a specified percentage of Eligible Mortgagees.

6.3 Approval of Eligible Mortgagees.

After the expiration of the Declarant Control Period, unless at least a majority of the Eligible Mortgagees based on the original principal amount of their first mortgages encumbering Units have given their prior written approval, the Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, sell or transfer any real estate or Improvements thereon which are owned, directly or indirectly, by the Association. The granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this

subsection. Nothing herein shall be deemed to prohibit the Association from exchanging Common Area for other real property of like utility and value as provided in Section 4.1 of this Declaration, or to require the approval of such exchange by the holders of first mortgages on the Units;

(b) Change the method of determining the obligations, Assessments, dues or other charges which may be levied against a Unit;

(c) Fail to maintain hazard insurance on insurable Improvements on the Common Area on a current replacement cost basis in an amount not less than one hundred (100%) percent of the insurable value; or

(d) Use the proceeds of any hazard insurance policy covering losses to any part of the Common Area for other than the repair, replacement or reconstruction of the damaged Improvements.

6.4 Payment of Taxes and Insurance Premiums.

After not less than fifteen (15) days prior notice to the Association, Eligible Mortgagees, jointly or singularly, may pay taxes or other charges which are in default and which have or may become a charge or lien against any of the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy covering property owned by the Association. The persons, firms or corporations making such payments shall be owed immediate reimbursement therefor by the Association.

**ARTICLE 7**

**Easements**

7.1 Access and Utility Easements.

Easements for the installation and maintenance of driveways, walkways, water, gas, telecommunications, cable television and electric power transmission lines, sanitary sewer and storm water drainage facilities and for other utility or service facilities are reserved as shown on any Plat of the Property. The Association may reserve or grant easements over the Common Areas as provided in Section 4.1 of this Declaration. Within any such easement herein provided, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation, maintenance, repair or replacement of the utilities or services installed thereon, or which may change the direction of flow or drainage of water through drainage pipes or channels constructed in such easements.

For a period of five (5) years from the date this Declaration is filed Of Record, Declarant reserves, for the Association, any Builder and/or a Builder's employees, agents, successors and assigns, an easement upon and a right of access, ingress and egress on, over and under the Property for the purposes of constructing, maintaining, repairing, replacing or relocating water, sewer, gas, storm water drainage and retention, telecommunications, cable television, and electric, and other utility or service facilities to the extent required by any applicable governmental entity or deemed by Declarant or the Association to be necessary or convenient for the development, use and enjoyment of the Property and the Common Areas and for the conduct of construction, sales, leasing, resales and marketing activities. Such right expressly includes the right to cut any trees, bushes or shrubbery, grade the soil or take any other similar action that it deems reasonably necessary or appropriate.

7.2 Easements for Governmental Access.

An easement is hereby established over the Common Areas and every Unit within the Property for the benefit of applicable governmental agencies or public or private utilities or service providers for installing, reading water and electric meters, maintaining, repairing, inspecting, testing, removing and replacing electric, water or sewer facilities, accessing, identifying, delivering and picking up mail to and from the gang/cluster mailboxes and mailbox shelters within the Common Areas, and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, emergency medical, garbage collection and the delivery of mail.

7.3 Easement and Right of Entry for Utilities and Maintenance.

There is hereby reserved for the benefit of Declarant and any Builder, the Association, and the employees, agents, contractors and subcontractors and invitees of each the alienable, transferable, and perpetual right and blanket easements upon, across, above and under all property within the Property, including all Units, for (i) access, ingress, egress, installing, repairing, maintaining, relocating and replacing all utilities and services serving the Property or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telecommunications and electricity, as well as storm drainage and any other service such as, but not limited to, a cable television system, broadband internet or monitoring system, which a Builder or the Association might decide to have installed to serve the Property, and (ii) undertaking any responsibilities of the Association listed in Section 9.1 of this Declaration, which easements may be for the individual benefit of individual Owners. It shall be expressly permissible for Declarant, a Builder, the Association, and/or the employees, agents, contractors and subcontractors, invitees, or designees of such parties, as the case may be, to install, repair, replace, maintain and relocate or to authorize the installation, repair, replacement, maintenance or relocation of such wires, conduits, cables and other equipment related to the providing of such utility or service, and all other matters necessary to undertake the responsibilities of the Association listed in Section 9.1 of this Declaration. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board of Directors shall have the right to grant such license or easement without the consent of any Owner. Any such maintenance shall be performed with a minimum of interference to the quiet enjoyment of the Units. The easements shall be used only for such period of time as is reasonably necessary in order to complete the needed maintenance or repair.

7.4 Easement Over Common Areas.

A perpetual, non-exclusive easement over the Common Areas is hereby granted to each Unit, and the Owners and Occupants of such Unit, for the purpose of providing pedestrian and vehicular access, ingress and egress to and from streets, parking areas and walkways serving the Property.

7.5 Drainage Easement.

The Declarant hereby reserves for the benefit of the Declarant, any Builder and the Association during the Development Period, and the Association thereafter, a perpetual, non-exclusive easement over any drainage easements identified on the Plat as a private drainage easement, as may be reasonably necessary for accessing, operating, maintaining, repairing and replacing the drainage facilities and systems therein. The Owners and Occupants of any Units encumbered by a public or private drainage easement shall not obstruct access thereto or install or remove any Improvement or installation placed therein by the Declarant, a Builder or the Association, except as provided herein. No walls, fences or screened enclosures shall be erected or installed in a public drainage easement or, without the prior written consent of the ARC and compliance with Article 8, in any private drainage easement. In the event a wall, fence or screened enclosure is installed within a private drainage easement area, with prior ARC approval, the Owner will be solely responsible for the repair or replacement of such wall, fence or screened enclosure

if the Declarant, a Builder or the Association, as applicable, requires access to the private drainage easement or as otherwise provided in Section 4.6 of this Declaration.

7.6 Encroachments; Easements.

If (1) any Improvement on the Common Areas encroaches upon any other portion of the Property or a Unit; (2) any Improvement on any Unit encroaches upon the Common Areas; or (3) any encroachment shall hereafter occur as a result of (a) construction of any Improvements; (b) settling or shifting of any Improvement; (c) any alteration or repair to an Improvement on the Common Areas after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Improvement, then, in such event, a valid easement is granted and shall exist for such encroachment and for the maintenance of the same so long as the Improvements causing the encroachment shall stand. This provision shall not entitle any Owner to intentionally construct Improvements which encroach upon any other portion of the Property and no easement for encroachment shall exist if such encroachment occurred due to the willful and knowing conduct on the part of, or with the knowledge and consent of, an Owner, Occupant or the Association.

7.7 Retaining Wall Maintenance Easement.

There is hereby reserved for the benefit of the Declarant, any Builder and the Association an alienable, transferable, and perpetual right and easement to enter upon any area within the Property containing a wall or walls installed for purposes of retaining earthen materials or water ("Retaining Walls"), and the areas within twenty-five feet (25') of same for purposes of maintaining, repairing and replacing any such Retaining Walls. Notwithstanding anything in this Declaration to the contrary, the Association shall maintain, repair and, if necessary, replace all Retaining Walls within the Property and the costs and expenses of same shall be a Common Expense.

7.8 General Maintenance Easement.

There is hereby reserved for the benefit of Declarant, any Builder and the Association an alienable, transferable, and perpetual right and easement to enter upon any Property subject to this Declaration for the purpose of providing insect, rodent and reptile control, mowing, removing, clearing, cutting, or pruning underbrush, weeds, stumps, or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety, and appearance within the Property, provided that such easements will not impose any duty or obligation upon Declarant, any Builder or the Association to perform any such actions, or to provide garbage or trash removal services. The costs thereof incurred as a result of the action or inaction of any Owner shall be a Specific Assessment to be paid by such Owner, and until paid shall be a continuing lien upon the Owner's Unit.

**ARTICLE 8**

**Architectural Control**

8.1 Purpose.

In order to preserve the natural setting and beauty of the Community, to establish and preserve a harmonious and aesthetically pleasing design therefor, and to protect and promote values in the Community, the Units and all improvements located therein or thereon, including landscaping, grading, excavation, or filling of any nature whatsoever, outside lighting, driveways, mail boxes, decks, patios, courtyards, swimming pools, playhouses, awnings, walls, fences, garages, guest or servants' quarters, or other outbuildings will be subject to the prior review and approval of an Architectural Review Committee ("ARC") and in accordance with design and development guidelines, as well as the form of application and

review procedures therefor (collectively, the "Design Guidelines") for such improvements or construction or development work which is published, from time to time, by the ARC, and no such improvements of any nature whatsoever will be undertaken or maintained upon any part of the Property, except in accordance with such Design Guidelines and approval of the ARC. The ARC will be the governing body charged with using its best efforts to promote and ensure a high level of design, quality, harmony and conformity throughout the Property consistent with this Declaration, and to administer the architectural and aesthetic processes of review and approval of house plans (to include elevations, building materials, colors, etc.), landscape plans and all design and graphics for permitted signage (collectively, "plans and specifications"). No site work will be undertaken upon a Unit (including staking, clearing, excavation, grading and other site work, exterior alteration of existing improvements, and planting or removal of landscaping materials) nor any structures placed, erected, or installed upon any Unit or adjacent to any Unit where the purpose of the structure is to service the Unit, except in accordance with this Article 8 and upon approval as herein provided unless specifically exempted from the application and approval requirements hereof by specific terms and conditions hereof pursuant to this Declaration or pursuant to a written approval of plans and specifications by Declarant pursuant to a contract prior to the Owner's acquisition of title.

8.2 Architectural Review and Approval Process.

(a) ARC Functions.

The Declarant shall constitute the ARC during the Declarant Control Period, and the Declarant, in such function, may approve plans and submissions or take other actions on behalf of the ARC in Declarant's own name or in the name of the ARC. In addition, during the Declarant Control Period, the Declarant shall have the unilateral right to appoint the members of the ARC in its sole discretion. The ARC need not be composed of Members. The ARC shall have the sole and absolute right to determine the style and appearance of the residential dwellings, and any other Improvements initially constructed or placed on the Property, including, but not limited to, fences, walls, buildings, outbuildings, garages, storage sheds, mailboxes, lawn decorations, yard art, structures of any type or color thereof, grading, landscaping, patio covers and trellises, plans for off-street parking of vehicles and utility layout. Prior to commencement of any land disturbance or other work on an unimproved Unit, the Owner shall submit to the ARC for its written approval copies of house plans (to include elevations, building materials, colors, etc.), landscape plans and all design and graphics for permitted signage (collectively, "plans and specifications").

(b) Composition of ARC.

After the termination of Declarant's right to function alone as the ARC or to otherwise unilaterally appoint the members of the ARC, the ARC under this Declaration will consist of not more than five (5) nor less than three (3) members, who need not be Unit Owners, appointed by the Board. The terms of office for each member and other matters of governance to be applicable to the ARC, will be established by the Board prior to the time any review and approval process hereunder would otherwise have to take place by the ARC to be established by the Board.

(c) ARC Procedures: Submission, Review and Approval.

No Unit, fence, wall or other Improvement (including, but not limited to, landscaping, basketball hoops, birdhouses, pet house, paving or other improvements or changes thereto of any kind) shall be commenced, altered, removed, renovated, painted, erected, constructed or reconstructed on the Property, nor shall any addition, removal, renovation, construction, reconstruction, change or alteration (including paint or exterior finishing) visible from the exterior of any Unit be made, nor shall any awning, canopy or shutter be attached to or placed upon outside walls or roofs of Units or other Improvements, until the plans and specifications showing the nature, color, kind, shape, height, materials and location of the same have been submitted to, and approved in writing by the ARC. The ARC may

condition its approval of proposals and plans and specifications as it deems appropriate, and may require submission of additional plans and specifications or other information prior to approving or disapproving the material submitted. The ARC may also issue rules or guidelines setting forth procedures for the submission of plans for approval. The ARC may require such detail in plans and specifications submitted for its review as it deems proper, including, without limitation, floor plans, site plans, drainage plans, elevation drawings and descriptions or samples of exterior materials and colors. Until receipt by the ARC of any required plans and specifications, the ARC may postpone review of any plans submitted for approval.

(i) ARC Fees and Charges.

The Association shall have the right to charge a reasonable fee, determined by the Board of Directors from time to time, for receiving and processing each application. The ARC may require, at its sole discretion, a structural engineer, architect, or other professional to review the proposed additions, alterations and Improvements, with such review to be at the Owner's sole expense. Without limiting the generality of the foregoing, the Association's review of any plans shall not be deemed approval of, any plans from the standpoint of structural safety, soundness, workmanship, materials, usefulness, conformity with building or other codes or industry standards, or compliance with governmental requirements.

8.3 Architectural Guidelines.

The Board shall have the right to prepare, amend and make available the initial written architectural standards and construction specifications (hereinafter the "Architectural Guidelines") which may establish, define and expressly limit the standards and specifications which will be approved, including, but not limited to, architectural style, exterior color or finish, roofing material, siding material, driveway material, landscape design and construction technique. The ARC shall not approve any Improvements which it determines, in its sole discretion, not to be in harmony of external design, construction and/or location in relation to the surrounding structures, topography or the general plan of development of the Property. All additions, alterations and Improvements shall also be subject to all applicable permit requirements and all applicable governmental laws, statutes, ordinances, rules, regulations, orders and decrees.

(a) Interior Improvements.

Generally speaking, the Design Guidelines will not cover interior improvements, which will, generally, not be subject to review and approval by the ARC, unless the review and approval may otherwise be required because the interior improvements are made within an area plainly within view of adjacent properties. In particular, any sign or object posted inside a residence and viewable from outside the residence is subject to the prior written approval of the ARC, which it may grant or deny in its sole discretion; provided, however, the ARC will not, under any circumstances, approve any such sign that disparages or is intended to disparage any person or entity.

(b) Drainage.

The Design Guidelines may provide that, in connection with the ARC's approval and to prevent excessive drainage or surface water runoff, the ARC may have the right to establish a maximum percentage of property which may be covered by buildings, structures, or other improvements, which guidelines may be promulgated on the basis of topography, percolation rates of the soil, soil types and conditions, vegetation cover, and other environmental factors, or to impose guidelines for the installation of storm water management facilities deemed appropriate to limit or control runoff.

(c) Other Guidelines.

The Design Guidelines may, in the sole discretion of the ARC, also provide applicable guidelines (i) prohibiting or restricting the erection and use of temporary structures; (ii) setting permissible times of construction and requirements concerning construction debris; (iii) covering the allowance of and, where allowed, the content, size, style and placement location for, signage; (iv) requiring or encouraging visually screened service yards; (v) establishing exterior lighting design and location criteria; (vi) prohibiting or limiting installation and use of wells; (vii) and setting conditions for property subdivision or consolidation, and for subjecting the Property to further covenants, conditions, restrictions and easements. The within listing of possible guidelines is not an exhaustive listing and is intended merely to provide an example of the diversity of guidelines as may be incorporated in the Design Guidelines, and will not act as a limitation upon guidelines and guidelines as may or may not be implemented.

(d) Guidance: Final Authority of ARC.

The Design Guidelines are intended to provide guidance, and will not be the exclusive basis for decisions of the ARC, and compliance with the Design Guidelines may not guarantee approval of any application. The ARC will have the sole discretion to determine whether plans and specifications submitted for approvals are acceptable to it, and the refusal of approval of any plans and specifications may be based by the ARC upon any ground which is consistent with the objects and purposes of this Declaration, as may be supplemented by the Design Guidelines, including purely aesthetic considerations.

(e) Inspections and Permit and Certificate Issuance.

The Design Guidelines may also provide procedures for ARC inspection of work, for the issuance of a permit to commence work and for the issuance of a certificate following completion thereof, in addition to any such permits and certificates as may be issued by governmental authority with jurisdiction thereof, which may constitute conditions precedent to use or occupancy.

(f) Additional Fees, Deposits, Charges and Fines.

In addition to application fees and charges pursuant to Section 8.2(c)(i) above, the Design Guidelines may provide a schedule of fees, charges, required damage or other deposits, fines for noncompliance, and other amounts due and payable by an Owner as part of the application, review and approval processes, which schedule the ARC may increase, modify and amend at any time. All fees, charges and fines provided herein will constitute Specific Assessments and a lien upon the Unit to which the fees and charges relate.

8.4 Approval Not a Guarantee.

No approval of plans and specifications and no publication of Design Guidelines and architectural guidelines thereunder will be construed as representing or implying that the plans, specifications, or guidelines will, if followed, result in properly designed improvements. Such approvals and guidelines will in no event be construed as representing or guaranteeing that any dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither the Association, nor the ARC is responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article 8, or any defects in construction undertaken pursuant to the plans and specifications.

8.5 No Waiver of Future Approvals.

The approval of the ARC of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval of the ARC shall not be deemed to constitute a waiver of any right to withhold approval as to any similar proposals, plans and specifications, drawings or matters whatever subsequently or additionally submitted for approval.

8.6 Non-Liability of Board Members.

Neither the Board nor any member thereof, nor any member of its designated ARC shall be liable to the Association or to any Owner or any other person for any loss, damage or injury arising out of or in any way connected with the performance or non-performance of their duties hereunder. The ARC shall review and approve, approve with conditions or disapprove all plans submitted to it for any proposed Improvement. In rendering its decisions, the ARC may take into consideration the aesthetic aspects of the architectural designs, placement of buildings, landscaping, color schemes, exterior finishes and materials.

(a) Indemnification.

The Association will, to the full extent permitted by law, indemnify all persons designated from time to time by the Board to serve as members of the ARC from and against any liability, including attorney fees, as may be incurred by the members contrary to the provisions of this Section 8.6.

8.7 Restrictions on Contractors, Workers.

The Association shall have the right to adopt restrictions and conditions relating the terms on which construction, restoration or maintenance of a Unit can be performed, including without limitation, the review and approval of plans, design, structural integrity, aesthetic appeal, construction details, lien protection, Association oversight, contractor's access, deliveries, and storage of materials and hours of construction and other matters relating to such work. The Association shall have the right to approve the contractor performing the work, to require that the work be performed only during certain specified hours or only on certain days so as to minimize the disruption and inconvenience to the other Owners, and to require that the contractor fulfill such bonding and insurance requirements as the Board may reasonably require. Any contractor, worker or other person who does not comply with the Association's regulations and requirements regarding construction in and about a Unit shall be denied access to the Property and shall not be permitted to perform further work at the Property.

8.8 Exemptions.

Whether or not expressly stated anywhere else in the Declaration, and even if stated in some places and not others, Declarant shall in any event be exempt from all provisions of this Article 8 (and any Design Guidelines of other Board or ARC submittal and approval requirements described in this Declaration) with respect to Improvements, alterations and additions and removals desired to be effected by Declarant and Declarant shall not in any event be obligated to submit any plans and specifications to or obtain any Association or Board of Directors or ARC approval for any construction or changes which it may elect to make at any time under any provision of the Declaration. It is specifically contemplated that the Board may, from time to time, exempt Owners from all or some of the provisions of this Article and all or some of the procedures set forth herein.

8.9 Variances.

The ARC may recommend to the Board of Directors, and the Board of Directors may, by the vote or written consent of a majority of the members thereof, allow reasonable variances as to the covenants, conditions or restrictions contained in this Declaration, on such terms and conditions as it shall

require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Property. Variances contained in plans that are inadvertently approved by the ARC as part of the proposed Improvements shall not be considered as having been approved unless specifically identified in the application and approved by the Board in accordance with the provisions of this Section 8.9. All variances shall be in writing and maintained in the books and records of the Association.

8.10 Enforcement.

There is specifically reserved unto the ARC the right of entry and inspection upon any Unit or other portion of the Property for the purpose of determining whether there exists any unapproved improvement or whether any improvement violates the terms of any approval by the ARC or the terms of this Declaration. Except in emergencies, any exercise of the right of entry and inspection by the ARC hereunder should be made only upon reasonable notice given to the Owner at least twenty-four (24) hours in advance of such entry. The Association, by acting upon the recommendation of the ARC, is specifically empowered to enforce the provisions of this Article 8 by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to determine the propriety of any improvement, or to remove any unapproved improvements, the prevailing party in such litigation shall be entitled to recover all legal fees and costs incurred in connection therewith.

**ARTICLE 9**

**Rights And Responsibilities Of The Association**

9.1 Responsibilities for Common Areas.

(a) General.

The Association, subject to the rights of the Owner set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Areas and shall keep the Common Areas in good, clean and proper condition, order and repair, which responsibility will include the maintenance, repair, and replacement of (i) the portions of the Storm Water Management System which are not maintained by a governmental entity, located within the Common Areas including, without limitation, any private drainage easement shown on a Plat, (ii) all roads, streets, swales, berms, sidewalks within or abutting Common Areas of the Property which are not maintained by a governmental entity, (iii) all walks, paths, landscaped areas, and other Improvements situated within the Common Areas or easements, (iv) utility lines, pipes, plumbing, wires, conduits, and related systems which are a part of the Property or which service the Property and which are not maintained by a governmental entity, public service district, public or private utility, or other person, (v) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within or upon the Common Areas or easement areas, (vi) any Common Area Pond, (vii) any mail kiosk originally installed by Declarant or any Builder and any comparable replacement thereof, whether on a Unit or in the Common Areas, and (viii) Retaining Walls. The Association will not be liable for injury or damage to any person or property (i) caused by the elements or by any Owner or any other person, (ii) resulting from any rain or other surface water which may leak or flow from any portion of the Common Areas or any other portion of the Property, or (iii) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system, or utility line or facility, or other equipment or action the responsibility for the maintenance of which is that of the Association, becoming out of repair. Nor will the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored in or upon any portion of the Common Areas or any other portion of the Property. No diminution or abatement of Assessments can be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law,

ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such Assessments being a separate and independent covenant of each Owner. The Association shall be responsible for the payment of all costs, charges and expenses incurred in connection with the operation, administration, maintenance, management, insurance, repair and replacement of the Common Areas and the performance of its other obligations hereunder. The Association shall operate, maintain, insure, repair and replace at the Association's sole cost and expense, areas designated by the Board as Common Areas, whether or not title to such areas has been formally conveyed to the Association. The Association shall also be responsible for enforcement of the covenants and restrictions contained in this Declaration.

(b) Storm Water Management System.

The Association shall be responsible for (1) maintaining, repairing and replacing those portions of the Storm Water Management System; including, but not limited to, the Ponds, which are located within the Common Areas including, without limitation, any drainage easement shown on a Plat of the Property, (2) maintaining the water quality and quantity standards of the approved plans, to the extent required by law, and (3) complying with any applicable current or future governmental laws, rules or regulations (or any agreements entered into by Declarant, a Builder or the Board under/pursuant to the same) with respect to such portions of the Storm Water Management System; including, but not limited to, pursuant to BMP Agreements. The Association is hereby granted an easement over the Property for the purpose of maintaining, repairing and replacing those portions of the Storm Water Management System not maintained by the County. The Association or its agent shall have a right of access over each Unit to maintain, repair and replace drainage facilities, and to remove any improvements interfering with or impairing such facilities or easements reserved herein. Such right of access, except in the event of an emergency, shall not unreasonably interfere with the Owner's use of the Unit as a single family residence. Except in the event of an emergency (which shall not require prior notice), entry shall be made on not less than one (1) days' notice (which notice shall not, however, be required if the Owner is absent when the giving of such notice is attempted).

(c) Owner Prohibitions.

No Owner shall do anything within or outside his or her Unit that interferes with or impairs, or may interfere with or impair, the Storm Water Management System or the provision of drainage facilities for the Property.

9.2 Manager and Contractors.

The Association may employ and pay for the services of a Person, including Declarant or an Affiliate thereof, to assist the Association in managing its affairs and carrying out its responsibilities hereunder (the "Manager") and such other Persons, including attorneys, accountants and other consultants, as the Association deems necessary or advisable, whether such Persons are engaged, furnished or employed by the Manager or directly by the Association. The Association may enter into a management agreement for such management services upon such terms as the Board of Directors may deem appropriate. The management fees and fees of the consultants shall be a Common Expense paid from the Annual Assessments provided in Article 5 of this Declaration.

Furthermore, the Association may employ and pay for the services of a Person, including Declarant or an Affiliate thereof, to assist the Association in undertaking the maintenance and repair responsibilities of the Association provided in Section 9.1 of this Declaration (the "Contractor"), and such other Persons, as the Association deems necessary or advisable, whether such Persons are engaged, furnished or employed by the Contractor or directly by the Association. The Association may enter into maintenance service agreements for such maintenance and repair responsibilities of the Association provided in Section 9.1 of this Declaration, upon such terms as the Board of Directors may deem

appropriate. Such fees shall be a Common Expense paid from the Assessments provided in Article 5 of this Declaration.

9.3 Personal Property for Common Use.

The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise, subject to such restrictions, if any, as may from time to time be provided in the Articles or Bylaws of the Association.

9.4 Insurance: Bonds.

The Association shall procure and maintain adequate commercial general liability insurance covering the Association and the Common Areas. The Association shall also procure and maintain full insurable replacement value hazard insurance on the Common Areas and other real or personal property owned by the Association (subject to reasonable deductibles), and shall procure and maintain officers' and directors' and the ARC liability insurance and errors and omissions liability insurance, and shall also procure such other insurance as it deems necessary or advisable, including, without limitation, workers' compensation insurance. The premiums for such insurance shall be a Common Expense paid from the Assessments provided in Article 5 of this Declaration. The Association may cause any or all persons responsible for collecting and disbursing monies of the Association to be bonded and the premium for such bonds shall be a Common Expense. All insurance policies described herein purchased by the Association shall be issued by an insurance company authorized to do business in South Carolina or by reputable surplus lines carriers offering policies for property in South Carolina and rated, at minimum, A-VII by A.M. Best, if available. If not, then the next highest rating available.

9.5 Implied Rights.

The Association may exercise any other right or privilege and take any action authorized by this Declaration, the Association's Articles or Bylaws, or the Nonprofit Corporation Act, as from time to time amended, and every other right or privilege reasonably necessary to effectuate the exercise of any right or privilege or the taking of any action authorized herein or therein.

**ARTICLE 10**

**Owners Maintenance Obligations**

10.1 Lawn Maintenance Standards.

All lawns, landscaping and any Improvements not maintained by Association shall be well maintained and kept in first class, good, safe, clean, neat and attractive condition consistent with the general appearance of the Property by the Owner of each Unit. All improved Units must have grass lawns; no gravel or similar type lawns are permitted. The grass to be maintained on each Unit must be of a turf type consistent with that originally installed by the Builder from which such Owner acquired the Unit. Each Owner is specifically responsible for maintaining all grass, exposed dirt, landscaping and Improvements within any portion of the yard of a Unit in accordance with the following standards (the "Lawn Maintenance Standards").

(a) Landscaping.

No Owner shall plant landscaping of any kind including, without limitation, trees, bushes, flowers, and plants which encroach upon any Common Area easement portion of a Unit. Each Owner shall be responsible to remove any landscaping, not including grass or sod, planted by such Owner

in any such Common Area easement portion of a Unit upon ten (10) days' notice by the Association. If Owner does not remove such landscaping installed by such Owner within such area within ten (10) days of receipt of notice, the Association may, but is not obligated to, remove such landscaping and assess Owner the cost thereof, plus the reasonable administrative expenses of the Association in the form of a Specific Assessment.

(i) Trees. Trees are to be pruned as needed.

(ii) Shrubs. All shrubs are to be trimmed as needed.

(iii) Grass.

(A) Cutting Schedule. Grass shall be maintained in a neat and appropriate manner. In no event shall the grass on an Owner's lawn exceed four inches (4") in height.

(B) Edging. Edging of all streets, curbs, beds and borders shall be performed as needed. Chemical edging shall not be permitted.

(C) Dead Grass. Each Owner shall be responsible to replace dead grass with Bermuda-style grass. The Association shall not be responsible to replace dead grass.

(D) Landscape Replacement. Each Owner shall be responsible for replacing any dead, dying, diseased or removed landscaping within such Owner's Unit, at such Owner's sole cost and expense.

(iv) Mulch. Mulch shall be replenished as needed.

(v) Insect Control and Disease. Disease and insect control shall be performed on an as needed basis.

(vi) Fertilization. Fertilization of all turf, trees and shrubs shall be performed approximately two (2) times a year, during Spring and Fall.

(vii) Irrigation. Owners shall be responsible for irrigating grass as needed and maintaining sprinkler heads.

(viii) Weeding. All beds are to be weeded upon every cut. Weeds growing in joints in curbs, driveways, and expansion joints shall be removed as needed. Chemical treatment for weed removal is permitted.

(ix) Trash Removal. Dirt, trash, plant and tree cuttings and debris resulting from all landscaping maintenance operations shall be removed and all areas left in clean condition before the end of the day.

(x) Owner's Landscaping between lot line of the Unit and Adjacent Paving. Each Owner of a Unit will be responsible for maintaining on a regular basis the landscaping, if any, and ground cover along the right-of-way roadside or sidewalk, as applicable, bordering the Owner's Unit, whether or not such area is a part of the Owner's Unit. Each Unit Owner will perform such maintenance within the unpaved area of right-of-way immediately adjacent to a Unit's lot line, and will be of such quality of maintenance as is required to maintain a Development consistency in appearance and cleanliness.

10.2 Driveway Repair.

Each Owner shall be responsible for the timely repair, maintenance and/or replacement of the driveway comprising part of the Unit and the driveways in the Common Areas between the lot line of each Unit and the roadways within the Property. Each Owner shall repair or replace all damage to such driveway whether caused by a Builder the Association or holder of any easement over which such driveway is constructed or otherwise.

10.3 Roofs: Windows.

Each Owner shall be obligated to maintain, repair, replace, reconstruct or restore all roofs, exterior walls, interior walls, party walls, party fences, windows, doors, structural elements, mechanical, electrical, plumbing and life safety systems of his or her Unit, including without limitation, all mortar, tie beams, roof trusses, joists, decking, roof tiles, shingles, fascia, soffits, cementitious siding (e.g. Hardiboard siding), framing, insulation, cleaning or painting of exterior paintable surfaces of exterior walls and doors of a Unit, all of which shall be solely the Owner's responsibility. In addition, each Owner shall be obligated to maintain, repair, replace, reconstruct any fence, decorative wall, spa, pool, fountain, patio, courtyard paving, hot tub, barbecue, outdoor furnishings, additional landscaping, screening or other Improvements installed or constructed on a Unit by its Owner or Occupant, all of which shall be solely the Owner's responsibility. This provision shall not be construed as allowing for the construction or installation of any such Improvements without the prior written consent of the ARC.

10.4 Painting.

Each Owner shall be obligated to periodically paint and caulk the exterior paintable surfaces of exterior walls and entry doors of his or her Unit, at his or her sole cost and expense. If the ARC determines in its sole discretion that a Unit needs to be repainted, Owner shall repaint his or her Unit within forty-five (45) days' written notice by the ARC.

10.5 Enclosed Common Area Adjacent to a Unit.

If an Owner, with ARC approval, has enclosed the yard of a Unit, or any portion thereof or has blocked access to any portion of the yard of a Unit, then such Owner must maintain any portion of the Common Areas that is no longer readily accessible to Association from such Unit yard. The foregoing shall not be deemed to permit the making of any such enclosure.

10.6 Owner's Landscape Maintenance between Lot Line and Adjacent Paving.

Each Owner will be responsible for maintaining on a regular basis the landscaping, if any, and ground cover along the right-of-way roadside or sidewalk, or located between the paving and sidewalk, bordering an Owner's Unit, whether or not such area is a part of the Owner's Unit. Each Owner will perform such maintenance within the unpaved area of right-of-way immediately adjacent to a Unit's lot line, and will be of such quality of maintenance as is required to maintain a consistency in appearance and cleanliness throughout the Property. An Owner's responsibility under this Section 10.6 to provide regular maintenance will be fulfilled regardless of whether or not an Owner has constructed improvements upon his unimproved Unit or whether or not the Owner permanently resides in the Development.

10.7 Owner's Failure to Maintain.

If an Owner fails to maintain or repair the Unit or the Improvements thereon in accordance with this Article 10, including, without limitation, such Owner's compliance with the Lawn Maintenance Standards in Section 10.1 and the driveway maintenance provisions in Section 10.2, the Association, after giving such Owner at least ten (10) days' written notice, shall have the right, but not the obligation, to

undertake such maintenance at the Owner's expense. Each Owner, by accepting title to his Unit, grants Association an easement over his or her Unit for the purpose of verifying compliance with the requirements of this Article 10 and such entry shall not constitute a trespass. The cost and expense of any maintenance or repairs provided by or under the direction of the Association pursuant to this Section 10.7 plus an administrative and overhead fee equal to the greater of \$35.00 or twenty five (25%) percent of the cost of such maintenance or repairs (or such other amount determined by the Board of Directors in its sole discretion, subject to limitations contained in applicable law), shall be charged to the non-complying Owner as a Specific Assessment, secured by a lien against the Unit as provided in Article 5 of this Declaration. Association shall have the right to enforce the provisions in this Article 10 by all necessary legal action.

## ARTICLE 11

### Use Restrictions.

#### 11.1 Residential Use Only.

Use and occupancy of the Units is restricted to residential uses only and for single-family occupancy. Notwithstanding the foregoing, and subject to applicable statutes and ordinances, an Owner may maintain a home business office within a Unit for such Owner's personal use; provided, however, business invitees, customers and clients shall not be permitted to meet with an Owner or Occupant in a Unit unless the Board provides otherwise in the rules and regulations. Notwithstanding the foregoing, Declarant or a Builder shall be permitted to use Units which Declarant or the Builder owns or leases as model homes, and for offices for sales, leasing, construction, management or related services.

#### (a) Single-family Occupancy.

When used herein, "single-family occupancy" shall mean occupancy by (i) an individual and the individual's children and/or parents, or (ii) two or more persons related by blood, marriage, adoption, guardianship, or duly-authorized custodial relationship and their children and/or parents, or (iii) any two unrelated persons and the children and/or parents related to either of them, or (iv) a group of no more unrelated persons than the number of bedrooms in the residence located on the Unit, living together as a single housekeeping unit. A group of unrelated persons will be deemed to be living together as a "single housekeeping unit" when the occupants have a family-like structure, and/or a sharing of responsibility associated with the household such as equitable rent, use of space, etc. This definition is intended to exclude (A) any group whose association is temporary or seasonal in nature, such as a group of college students sharing a house, and (B) any group providing a framework for transients or transient living.

#### 11.2 Nuisances.

No noxious or offensive trade or activity shall be carried on upon any Unit or the Common Area, nor shall anything be done thereon which may be or become an annoyance or nuisance to other Owners and Occupants of the Property.

#### 11.3 Building Setback Requirements.

All setback requirements for Units within the Property, as indicated on the recorded Plat(s) for the Property, shall be the same as those imposed by governmental authority having jurisdiction over the Property.

11.4 Improvements and Lawns.

Unless specifically identified and provided for in this Declaration as the responsibility of the Association, all maintenance and repair of Units, together with all other Improvements thereon or therein and all lawns, landscaping, grounds and irrigation on and within a Unit will be the responsibility of the Owner thereof. Each Owner will be responsible for maintaining his Unit in a neat, clean, and sanitary condition, and such responsibility will include the maintenance and care of all exterior surfaces of all dwellings, buildings, and other structures on the Unit and all lawns, trees, shrubs, hedges, grass, and other landscaping in accordance with the Lawn Maintenance Standards set forth in Section 10.1(a). Each Unit on which there is a completed residential dwelling shall be maintained in a neat condition by the Owner thereof. In this context, the word "Unit" shall include that portion of the property from the outside of the residential dwelling on the applicable lot to the adjacent paved road surface. Notwithstanding the foregoing, no Owner shall permit any Improvement to encroach from its Unit upon any right-of-way area shown on a Plat.

11.5 Walls, Fences and Screened Enclosures.

No walls, fences or screened enclosures shall be erected or installed within a Unit without the prior written consent of the ARC. In the event a wall, fence or screened enclosure is installed within a drainage easement area with prior ARC approval, the Owner will be solely responsible for the repair or replacement of such wall, fence or screened enclosure as provided in Section 4.6 of this Declaration. No pressure treated wood, shadow box, split rail or chain link fencing of any kind shall be allowed. Notwithstanding anything contained herein to the contrary, any fencing on a Unit which is a corner lot must be installed no closer to the roadway on the side lot line of the Unit than the applicable set back line shown on a Plat for the Unit.

11.6 Animals.

No animals, insects, livestock or poultry of any kind shall be raised, bred, or kept on any Unit or Improvement located thereon, except that cats, dogs or other common household pets (the types and breeds of which may be limited to those determined to be acceptable by the Board) may be kept on or within a Unit, provided they are not kept, bred, or maintained for any commercial purposes or in unreasonable numbers, as determined by the Board. Notwithstanding the foregoing, no animals or fowl may be kept on any Unit which results in a nuisance to, which is an annoyance to, or which are otherwise obnoxious to other Owners or tenants in the vicinity of such Unit. All pets must be kept within a fenced yard or on a leash under the control of the Owner at all times. No structure for the care, housing or confinement of any animal or fowl shall be maintained so as to be visible from any adjacent or neighboring Unit, Common Area or street. No animals shall be permitted on or in the Common Areas at any time except as permitted by the rules and regulations of the Association or by applicable law. The Board may establish reasonable rules to limit the number of allowed pets. At any time and in its sole and absolute discretion, the Board may require the owner of any prohibited animal or any permitted animal which interferes with, intimidates or threatens any person or other pet at the Property or which causes or results in an unreasonable disturbance, to permanently remove such animal from the Property promptly after notice by the Association. Neither the Declarant, the Board, any Builder nor the Association shall be liable for any personal injury, death or property damage resulting from a violation of the foregoing and any Owner or Occupant of a Unit committing such a violation shall fully indemnify and hold harmless the Board, the Declarant, any Builder, each Owner and the Association in such regard.

11.7 Vehicles, Trailers, Campers and Boats.

(a) Parking and Storage.

No commercial vehicles, all-terrain vehicles, campers, mobile homes, motor homes, house trailers, or trailers of any other description shall be permitted to be parked or to be stored at any place on any Unit, except (a) during the periods of approved construction on a Unit if used in connection with the approved construction, or (b) when parked out of view in an enclosed garage on such Unit. Notwithstanding the foregoing, boats, boat trailers, watercraft and watercraft trailers shall be permitted to be parked or stored in the driveway of a Unit provided same are neat and sightly and are not in a state of disrepair. The term "commercial vehicle" shall include all equipment, automobiles, trucks, vehicles, including station wagons or SUVs, which bear a sign, lettering, graphics, logo or equipment or have printed on same some reference to any commercial undertaking or enterprise. This restriction on parking shall not apply to temporary parking of commercial vehicles, such as for pick-up, delivery, and other commercial services, during the period reasonably necessary to load, unload or perform the commercial service, as applicable. Nor shall this restriction apply to the temporary parking of public service vehicles, including, without limitation, law enforcement vehicles, for purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, emergency medical, garbage collection and the delivery of mail, or to the permanent parking of passenger type public service vehicles of an Owner or Occupant of a Unit. No vehicle which is unlicensed or inoperable may be kept or stored on the Property except out of view in an enclosed garage on a Unit. No repair work to any type of motor vehicle, boat or trailer shall be conducted on any Unit other than minor repairs, cleaning or waxing which is completed in less than 24 hours.

(b) Operating Vehicles.

The Board of Directors may at any time prohibit or write specific restrictions with respect to the operating of mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts, golf carts and other vehicles, or any of them, upon any portion of the Property if in the opinion of the Board of Directors such prohibition or restriction will be in the best interests of the Property. Such policies may change from time to time with changing technology. The storage of any such vehicles within a garage will be permitted, even if operating the same is prohibited.

(c) Association Self Help.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed, booted or immobilized by the Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of two or more hours from the time a notice of violation is placed on the vehicle. The Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing, booting or immobilizing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any other reason, shall be grounds for relief of any kind. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

(d) Waiver of Restrictions.

Notwithstanding anything contained herein to the contrary, the Board of Directors shall have the authority to waive any of the provisions of this Section 11.7 on a case-by-case basis due to hardship.

11.8 Operating Recreational Vehicles.

There shall be no driving or parking of any all-terrain vehicles (ATVs), golf carts or go-carts upon the sidewalks within the Property. Furthermore, although not expressly prohibited hereby, the Board of Directors may at any time prohibit or write specific restrictions with respect to the operating of mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, golf carts and other vehicles, or any of them, upon any portion of the Property if in the opinion of the Board of Directors such prohibition or restriction will be in the best interest of the Property. Such policies may change from time to time with changing technology. The storage of any such vehicles within a garage will be permitted, even if operating the same is prohibited.

11.9 Units Adjacent to Storm Water Management System.

Each Owner of a Unit which borders any portion of the Storm Water Management System shall maintain any portion of that Owner's Unit lying within such portion of the Storm Water Management System free of debris but shall not remove any wetlands species or do anything that would affect adversely water quality within the Storm Water Management System. Swimming, bathing, fishing and boating in the Storm Water Management System is prohibited. All other uses of Storm Water Management System shall be subject to the prior written approval of the Association and such rules and regulations as the Association may adopt from time to time.

11.10 Substances.

No flammable, combustible or explosive fuel, fluid, chemical, hazardous waste, or substance shall be kept on any portion of Property or within any Unit, except those which are required for normal household use. All propane tanks and bottled gas for household and/or pool purposes (excluding barbecue grill tanks) must be installed underground or in a manner to be screened from view by landscaping or other materials approved by the ARC and in accordance with all applicable federal, state, and local laws, rules, and regulations.

11.11 Exclusion of Above Ground Utilities.

All electrical service, telecommunications, cable television and broadband internet lines shall be placed underground; provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Property. Overhead utilities shall be permitted during the construction period and until utility companies can place them underground.

11.12 Drainage.

No Owner shall channel or direct drainage water onto a neighboring Unit or Common Areas except in accordance with a drainage plan approved by Horry County. No Owner shall make any change to or modification of the originally established grades, swales and slopes on a Unit in any way that changes or impedes the originally established flow of storm water drainage.

11.13 Signs and Flags.

No sign (including brokerage or for sale/lease signs), flag, banner, sculpture, fountain, outdoor play equipment, artificial vegetation, sports equipment, advertisement, notice or other lettering shall be exhibited, displayed, inscribed, painted or affixed in, or upon any part of the Property that is visible from the outside of a Unit or vehicle parked within the Property without the without obtaining the prior approval of the ARC; provided however, signs required by governmental agencies and approved by the ARC may be displayed (e.g. permit boards). Furthermore, the ARC may adopt guidelines for a uniform size, composition, color, allowed location and/or duration of placement of signage that may be installed for

the sale or rental of any Unit, and may condition its approval upon the Unit Owner strictly following such guideline. Only one such approved sign may be installed upon a Unit. No sign may be placed in the window of a Unit or vehicle parked within the Property. Declarant shall be exempt from this Section. No in-ground flag poles (except as a Builder may use) shall be permitted within the Property without obtaining the prior approval of the ARC. Notwithstanding the foregoing, flags which are no larger than 24" x 36" attached to a Unit and displayed for the purpose of a holiday or sporting event, and United States of America flags shall be permitted without ARC approval. Any such flag displayed for a holiday or sporting event may be installed up to seventy-two (72) hours prior to and must be removed no later than forty eight (48) hours following such holiday or sporting event, or as the Board of Directors may otherwise determine. Notwithstanding the foregoing, no ARC approval is necessary for the installation of a United States of American flag, up to two feet (2') by four feet (4') in size, posted on a three foot (3') pole and attached at a forty five degree (45°) angle from the Unit.

11.14 Trees.

No Owner, other than Declarant or a Builder, shall be entitled to cut, remove, or mutilate any trees that are part of the Property's street tree plan or mitigation plan approved by Horry County; nor shall there be any cutting, removing or mutilation of any Unit's trees, shrubs, bushes, or other vegetation having a trunk diameter of six (6) inches or more at a point of four and one-half (4-1/2') feet above the ground level, or other significant vegetation as designated, from time to time, by the ARC, without obtaining the prior approval of the ARC, provided that dead or diseased trees which are inspected and certified as dead or diseased by the ARC, as well as other dead or diseased shrubs, bushes, or other vegetation, shall be cut and removed promptly from any Unit by the Owner thereof. Nothing herein shall be construed so as to limit any applicable law or ordinance.

11.15 Garbage Disposal.

Each Owner shall maintain all trash receptacles, racks or similar facilities in a sanitary condition, and in accordance with such reasonable standards as established by the ARC. Except when placed curb-side on the day of or the night before regularly scheduled garbage and trash pick-up days, all garbage and trash containers and bags and the like shall be kept in a closed garage or other approved building within the Unit or placed inside of or behind opaque walls, fences or hedges attached to and made part of the Unit or any garage or other building or otherwise in conformity with applicable provisions of the Architectural Guidelines, if any. Garbage and trash containers and bags and the like shall in no event be visible from any adjacent or neighboring Unit, Common Area or street. No garbage or trash incinerator shall be permitted upon the Property. No burning, burying or other disposal of garbage on any Unit or within the Property shall be permitted (except licensed contractors may burn construction debris if, and only if, permitted to do so by the ARC alone and if such is permitted by federal, state, and local laws, rules and regulations, but only during the period of construction of Improvements on the Unit); provided, however, the Board shall be permitted to modify the requirements of this Section 11.15 where necessary to comply with orders of governmental bodies.

11.16 Games and Play Structures.

No play or game structures, including basketball hoops, soccer goals or tennis courts, shall be located on any Unit or Common Areas without the prior written consent of the ARC and compliance with Article 8. Portable basketball poles are prohibited. Play structures made of metal materials are prohibited. Except as permitted in this Section 11.16, there shall be no permanent athletic equipment (e.g., hockey or soccer nets or goals; skateboard, bicycle or rollerblade ramps, etc.) placed on any portion of a Unit that is visible from any adjacent or neighboring Unit, Common Area or street. Temporary skateboard, bicycle and rollerblade ramps may not cause the user to be propelled onto any street or sidewalk. All portable athletic equipment shall be removed from driveways and placed in a home, garage or rear yard of

the Unit each night. Outdoor trampolines and above-ground pools (excluding "kiddie" pools which are readily movable) are prohibited within the Property.

11.17 Clothes Hanging.

No laundry or clothes-drying lines or areas shall be permitted outside of any building on any Unit unless the same shall be placed inside of walls, fences, landscaping screens or similar type enclosures in conformity with applicable provisions of the Architectural Guidelines, if any, or rules and regulations adopted and promulgated by the Association with respect thereto. In no event shall any laundry or clothes-drying lines or areas be permitted if visible from any adjacent or neighboring Unit, Common Area or street.

11.18 Auxiliary Structures Prohibited.

No platform, doghouse, playhouse or auxiliary structure of any kind or nature shall be constructed on any part of a Unit which is visible from any street or neighboring Unit unless the exterior thereof is consistent with the color and materials of the dwelling located on the Unit and same is approved by the ARC.

11.19 Antenna Devices.

An antenna device that is (a) designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or (b) designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or (c) designed to receive television broadcast signals (hereinafter, "antenna device") should be placed on the rear of a dwelling or other location that minimizes visibility from the street fronting the Unit, or from the front yard of the Unit. It is also recommended that any such antenna device be screened from street view where applicable, though screening may not be a requirement unless otherwise determined by the ARC after final installation. No Owner or Occupant shall operate any antenna device which will interfere with the radio or television reception of others. All antenna devices not permitted by the Federal Communications Commission ("FCC") rules are prohibited. Installation, maintenance, and use of all antenna devices shall comply with the then current rules of the FCC. Notwithstanding the foregoing, the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other antenna device for a master antenna, cable, or other communication system for the benefit of all or a portion of the Property, should any antenna device, or other master system or systems be utilized by the Association and require such antenna device.

11.20 Solar Collectors. This section applies to solar collectors that gather solar radiation as a substitute for traditional energy for water heating, active space heating and cooling, passive heating, or generating electricity for the Unit that it serves ("Solar Collectors").

(A) "Regulated Solar Collectors" means Solar Collectors subject to any applicable federal, state or local law, ordinance or regulation ("Solar Laws") that would render the restrictions in this section on Unregulated Solar Collectors (hereinafter defined) invalid or unenforceable as to a particular Solar Collector. "Unregulated Solar Collector" means all Solar Collectors that are not Regulated Solar Collectors.

(B) Unless installed by Declarant or a Builder, or approved in writing by the ARC, no Unregulated Solar Collectors shall be permitted on any Unit, whether attached to a building or structure or on any Unit, unless approved in writing by the ARC, with such screening as the ARC may require.

Unregulated Solar Collectors must be façade or roof mounted and not visible from areas open to common or public access.

(C) Regulated Solar Collectors that are not installed by Declarant or a Builder shall be subject to the following requirements:

(a) If permitted by applicable Solar Laws, no Regulated Solar Collector shall be permitted on any Unit, whether attached to a building or structure or on any Unit, unless approved in writing by the ARC, in a location or with such screening as the ARC may require. If such restriction is not so permitted, the provisions of subsections (ii) and (iii) below shall apply.

(b) A Regulated Solar Collector shall be placed so as not to be visible by a person on the ground (i) on the façade of a structure that faces areas open to common or public access, (ii) on a roof surface that slopes downward towards the same areas open to common or public access that the façade faces, or (iii) within an area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those area of common or public access faced by the structure.

(c) A Regulated Solar Collector shall be placed and screened as directed by the ARC if such placement and screening will not have the effect of preventing the reasonable use of a Solar Collector.

(d) Owners shall install and maintain screening improvements (“Screening”) around Solar Collectors to screen items that would otherwise be visible from a neighboring Unit or a street unless such requirement would violate the requirements of subsection (iii) above, if an Owner is not required to install and maintain Screening due to an unreasonable delay in installation of the Solar Collector that such Screening would cause, the Owner shall install such screening within thirty (30) days following installation of the Solar Collector and shall thereafter maintain such Screening, unless such Screening installation or maintenance will violate the provisions of subsection (iii) above. If an Owner is not required to install Screening due to an unreasonable increase in the cost of installing the Solar Collector caused by the cost of such Screening, the Association shall have the right, at the option of the Association, to enter onto the Unit and install such Screening and, in such event, the Owner shall maintain the Screening following installation, unless such Screening installation or maintenance will violate the provisions of subsection (iii) above.

The provisions of this section are severable from each other; the invalidity or unenforceability of any provision or portion of this section shall not invalidate or render unenforceable any other provisions or portions of this section, and all such other provisions or portions shall remain valid and enforceable. The invalidity or unenforceability of any provisions or portions of this section to a particular type of Solar Collector or to a particular Solar Collector on a particular Unit shall not invalidate or render unenforceable such provisions or portions regarding other Solar Collectors on other Units.

11.21 Holiday Lights.

A reasonable number of holiday and religious lights and decorations may be displayed on any Unit for up to thirty (30) days prior to a publicly observed holiday or religious observance and up to ten (10) days thereafter without prior approval, subject to the right of the Association to require removal of any such decorations which it deems to (i) be excessive in number, size, or brightness, relative to other Units in the area; (ii) draw excessive attention or traffic; (iii) unreasonably interfere with the use and enjoyment of neighboring properties; or (iv) cause a dangerous condition to exist. The Association shall have the right, upon fifteen (15) days prior written notice, to enter upon any Unit and summarily remove exterior lights or decorations displayed in violation of this Section 11.20. The Association, and the

individuals removing the lights and decorations, shall not be liable to the Owner for trespass, conversion, or damage of any kind except intentional misdeeds and gross negligence.

11.22 Development, Sales and Construction Activities.

Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, Declarant and Builders are permitted to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the development, completion, improvement, sale, lease or resale of the whole or any portion of the Property, including, without limitation, the installation and operation of development, sales, leasing, resales and construction trailers and offices, signs and models. The rights under this Section 11.22 to maintain and carry on such facilities and activities will include specifically the right to use a Unit's dwelling as a model and as offices for sales, leasing, construction, management or related activities.

11.23 Window Coverings; Storm Shutters.

Unless the Board of Directors otherwise agrees, the only acceptable window coverings that may be affixed to the interior of any windows visible from any street, adjacent Unit, or from the Common Areas are drapes, blinds, shades, shutters and curtains. The side of such window coverings that is visible from the exterior of any Improvements must be white, off-white or, if blinds or shutters, a natural wood color, unless otherwise approved by the ARC and in compliance with Article 8. Only clear glass is permitted in any window and no window tinting or reflective coating may be affixed to any window that is visible from any street, adjacent Unit, or from the Common Areas, unless otherwise approved by the ARC and in compliance with Article 8. Installation of storm shutters is permitted. Any storm shutters installed on a Unit shall be attached to the residence to cover windows and sliding glass doors and shall be removable. The color of the storm shutters must be as close to the color of the residence as possible. Storm shutters may be put up forty-eight (48) hours prior to a predicted landfall of a named storm and must be removed within forty-eight (48) hours after a named storm passes, or, in the event access to the Unit is blocked by storm debris or other storm damage, within forty-eight (48) hours after access to the Unit is open. Color, size, style and all other specifications of storm shutters installed in the Property shall be subject to review and approval of the ARC and compliance with Article 8.

11.24 Time Sharing and Vacation Multiple Ownership Plans.

No part of the Property subject to this Declaration, including any improvements thereon or to be built thereon, will be used for or subject to any type of Vacation Time Sharing Plan or Vacation Multiple Ownership Plan as defined by the 1976 Code of Laws for the State of South Carolina, as amended, Section 27-32-10, et. seq., or any subsequent laws of this State dealing with that or similar type of ownership by a Unit Owner, or which is used for, in conjunction with and/or as an advertised part of any time share exchange program which makes available as accommodations the Unit and which is not otherwise registered as a Vacation Time Sharing Plan or Vacation Multiple Ownership Plan or which utilizes the Unit as accommodations for time share sale prospects of any Person, without the prior written consent of the Board, which it may grant or deny in whole, or may grant to some and deny to others, in its sole discretion.

11.25 Additional Use Restrictions.

The Board of Directors may adopt such additional use restrictions, rules or regulations, applicable to all or any portion of the Property as permitted by applicable law. The Association may waive or modify application of those use restrictions which it has authority to enforce with respect to Unit(s) as the Board deems appropriate.

11.26 Exemption.

The restrictions or approvals in this Article 11 shall apply to all of the Property and the use thereof but shall not apply to the Declarant or any Builder, or to Property owned by the same.

11.27 Other Rights and Reservations.

THE OMISSION OF ANY RIGHT OR RESERVATION IN THIS ARTICLE WILL NOT LIMIT ANY OTHER RIGHT OR RESERVATION BY THE BOARD WHICH IS EXPRESSLY STATED IN OR IMPLIED FROM ANY OTHER PROVISIONS IN THIS DECLARATION.

**ARTICLE 12**

**Sale, lease or occupancy of units.**

No Owner other than Declarant or a Builder may sell, occupy or lease a Unit unless the Owner complies with the following provisions (it being express that he restrictions in this Article 12 shall not apply to Declarant or to a Builder or to any portion of the Property owned by the same):

12.1 Notice of Sale or Lease.

In the event an Owner sells or leases or otherwise transfers or disposes of any Unit, the Owner must furnish to the Association in writing the name and address of such purchaser, Tenant, or transferee at least fifteen (15) days prior to such sale, lease or transfer; provided, however, that such requirement shall not apply to Declarant or any Builder.

12.2 Leased Units.

An Owner may lease his Unit after the Owner has owned the Unit for a period of not less than six (6) months; provided, however, that any such permitted lease must be for a term of not less than six (6) months. No leases for commercial purposes are allowed (for example, no Unit shall be leased for office purposes). Only entire Units may be leased. In no event shall occupancy of a leased Unit (except for temporary occupancy by visiting guests) exceed two (2) persons per bedroom. No subleasing or assignments of leases of a Unit are allowed. Notwithstanding the foregoing, from time to time, Declarant or a Builder may market and sell Units to investors who acquire a Unit for the purpose of leasing same to occupants or to buyers who may not occupy the dwellings constructed on such Unit as their primary residence ("Investors"). Declarant or a Builder may also elect to lease, rather than sell, some or all of the dwellings constructed within the Property and which either of them own. Consequently, dwellings in the Property may be leased to or occupied by persons other than Owners. The requirement that an Owner own a Unit for a period of six (6) months prior to leasing same and the requirement that a lease be for a term of at least six (6) months shall not apply to Declarant, any Builder or to Investors.

All leases shall be in writing and shall expressly state that each Tenant shall comply with the covenants, terms, conditions and restrictions of the Governing Documents. A violation of any of the terms of any of the Governing Documents shall constitute a material breach of the lease and shall constitute grounds for damages, termination of the lease and eviction by the Owner or Association.

This Declaration and the rules and regulations then in effect must be provided to the Tenant by or on behalf of the Owner at or before the commencement of the lease term; provided, however, that such Tenant's obligations under this Section 12.2 shall not be affected by the failure to receive such notice. All leases are hereby subordinated to any lien filed by the Association, whether prior or subsequent to such lease.

If an Owner fails to include the foregoing provisions in any lease, the provisions shall be deemed to be included and part of the lease. An Owner shall furnish the Association with a copy of each lease of his Unit prior to the date the Tenant takes possession of the Unit.

12.3 Owner Responsible for Conduct of Tenants and Occupants.

The Owner of a Unit is responsible for all conduct of each Occupant of the Unit, including without limitation, any claim for injury or damage to persons or property caused by the acts or omissions of the Owner's Occupants. Regardless of whether or not expressed in the lease, each Owner shall be jointly and severally liable with the Tenant to the Association for any amount incurred by the Association to repair any damage to any Common Area resulting from acts or omissions of the Tenant or its family, Occupants, guests or invitees, or for the acts and omissions of the Tenant or its family, Occupants, guests or invitees which constitute a violation of, or non-compliance with, the provisions of this Declaration or any other Governing Documents or any rules and regulations adopted by the Association from time to time (before or after the execution of the lease) and for payment of any claim for injury or damage to property caused by the negligence of the Tenant or its family, Occupants, guests or invitees, and the Association may levy an Specific Assessment against the Unit therefor.

12.4 Use of Common Areas.

When a Unit is leased, the Tenant shall have all use rights in Common Areas otherwise readily available for use generally by Owners, and the Owner of the leased Unit shall not have such rights, except as a guest of another Owner or the Tenant. Nothing herein shall interfere with the access and eviction rights of the Owner as a landlord pursuant to South Carolina law.

**ARTICLE 13**

**Amendments**

13.1 Amendment by Board.

During the Declarant Control Period, this Declaration and the other Governing Documents may be amended or supplemented by the Declarant alone without the consent or joinder of any other Owner, the Association or any mortgagee. Following the Declarant Control Period and prior to expiration of the Declarant's Development Period, this Declaration, the Articles of Incorporation and the Bylaws may be amended solely by the Declarant if such amendment is necessary in the reasonable determination of the Declarant. Each Owner by acceptance of a deed or other conveyance of a Unit agrees to be bound by amendments permitted by this Section 13.1, and further agrees, if requested by the Declarant, such Owner will consent in writing to such amendment.

13.2 Amendments After the Declarant Control Period.

After the Declarant Control Period and the expiration of the Declarant's Development Period, the Declaration may be amended by not less than two-thirds of the Voting Interests. No amendment shall be permitted which changes the rights, privileges and obligations of the Declarant, a Builder or any Affiliate of the Declarant respectively without the prior written consent of whichever of them is affected.

13.3 Corrective Amendments.

Amendments for correction of scrivener's errors or other nonmaterial changes may be made by the Declarant alone during the Development Period and thereafter by the Board of Directors without the need for approval of the Owners.

13.4 Amendments Required by Secondary Mortgage Market.

The Declarant shall have an absolute right to make any amendments to the Declaration and other Governing Documents (without any other party's consent or joinder including without limitation the Association or any Owners) that are requested or required by Fannie Mae, Freddie Mac, HUD and VA, or any other governmental, quasi-governmental or government-chartered entity which owns, guarantees, services or securitizes, or expects to own, guarantee, service or securitize one or more Mortgages on Units or other portions of the Property or to insure the payment of one or more such mortgages or that are requested or required or necessitated by a change in the guidelines or requirements of any Institutional Mortgagee to enhance the salability of its mortgages on Units or other portions of the Property to one or more of the foregoing.

13.5 Amendment Limitation in Favor of Eligible Mortgagees.

No amendment may be adopted which changes the rights of an Eligible Mortgagee set forth in Article 6, or which would eliminate, modify, prejudice, abridge or otherwise materially adversely affect any rights, benefits or priorities granted or reserved to mortgagees of Units or make any materially adverse change in the insurance provisions of this Declaration unless a majority of the Eligible Mortgagees (based on the original principal amount of their first mortgages) approve the amendment.

Except as specifically provided herein, the consent or approval of any lien or mortgage holder on a Unit shall not be required for the adoption of any amendment to this Declaration, and whenever the consent or joinder of the holder of any lien or mortgage is required, such consent or approval shall not be unreasonably withheld or delayed. Whenever the consent or approval of an Eligible Mortgagee or a mortgagee is required by this Declaration, any other Governing Documents, or any applicable statute or law to any action of the Association or to any other matter relating to the Property, the Association, the Board, this Declaration or any other Governing Documents, the Association shall request such consent or approval of such Eligible Mortgagee or other mortgagee by written request addressed to the Eligible Mortgagee or other mortgagee at the most recent address provided in writing by such mortgagee. In the event a mortgagee whose consent is required has not provided an address to the Association, the Association shall be entitled to rely on the identity and address of the holder of the mortgage set forth in the mortgage or assignment thereof filed Of Record in the County. Any Eligible Mortgagee or other mortgagee receiving such request shall be required to consent to or disapprove the matter for which the consent or approval is requested in writing, by certified mail, return receipt requested (or equivalent delivery evidencing such request was delivered to and received by the Association), which response must be received by the Association within sixty (60) days after the Eligible Mortgagee or other mortgagee receives such request. If the Association does not receive the response in a timely manner, the Eligible Mortgagee or other mortgagee shall be deemed to have consented to and approved the matter for which such approval or consent was requested. Such consent or approval given or deemed to have been given, where required, may be evidenced by an affidavit signed by a majority of the Members of the Board of Directors or by the President and Secretary of the Association, which affidavit, where necessary, may be filed Of Record in the County. Such affidavit shall be conclusive evidence that the applicable consent or approval was given as to the matters therein contained.

13.6 Execution and Recording.

An amendment, other than amendments made by the Declarant alone pursuant to this Declaration, shall be evidenced by a certificate of the Association, executed either by the President or Vice President of the Association or a majority of the members of the Board of Directors which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. An amendment of the Declaration is effective when the applicable certificate is filed Of Record.

ARTICLE 14

Additional Rights Of Declarant

14.1 General.

Notwithstanding any other provision in the Declaration or other Governing Documents to the contrary, until such time as Declarant, an Affiliate of Declarant, or a Builder have completed all of the contemplated Improvements in the Property and have sold all of the Units within the Property, Declarant shall have, in addition to their other rights, and without limiting the same, the rights described below:

(a) Platting.

The right to plat, re-plat, subdivide and re-subdivide any portion or portions of the Property owned or controlled by such party.

(b) Construction.

The right to construct and maintain, on any portion of the Property owned or controlled by it or the Common Areas, any Improvements it considers desirable; the right to construct walks, drives, ramps and parking facilities flush against and as a continuance of similar Improvements located on portions of the Property not owned or controlled by it even if doing so entails an encroachment upon the latter property; and the right to construct and maintain temporary sales, resales and leasing offices, temporary construction offices, storage facilities and general business offices. The rights shall include but not be limited to a right of ingress and egress by any and all types of vehicles and equipment to, through, over and about the Common Areas during whatever period of time Declarant is engaged in any development, construction or improvement work on or within the Property as well as an easement over the Common Areas for the parking and storage of materials, vehicles, tools, equipment and the like which are being utilized in such work.

(c) Marketing.

The right to sell, lease, resell, market, promote, operate, and manage existing and planned Units (and portions thereof), which right shall include (though not be limited to) the right to construct and maintain marketing, sales, resales, leasing and management offices and models and to be open for business seven (7) days per week on any portion of the Property owned or controlled by it and the Common Areas, to solicit and receive the visits of unlimited numbers of prospective purchasers and Tenants (all of whom shall have the right while visiting to use parking spaces on the Common Areas), and to place signs, lighting, flags, banners and other promotional devices on any portion or portions of the Property owned or controlled by it or the Common Areas without regard to the size or aesthetic appeal of such signs or devices.

(d) Alteration of Common Areas.

The right, without the vote or consent of the Association or Owners, to expand, alter, modify or add to all or any part of the Common Areas or any Improvements thereon. Declarant shall also have the right to alter the boundaries of the Common Areas, whether or not they have been previously deeded to the Association, provided that such alteration does not substantially, materially and adversely affect the function and use of the Common Areas. Subject to the limitations contained herein, each Owner hereby irrevocably appoints the Board as his attorney-in-fact to execute and/or deliver any documents, plats, deeds, or other written matters necessary or convenient to expand, reduce, alter, modify or add to the

Common Areas or Property, or both, to create easements as deemed necessary by the Board, and to alter the boundary or boundaries of the Common Areas.

(e) Use of Common Areas.

Declarant shall have the right to non-exclusive use of the Common Areas, without charge, for sales, resales and leasing activities, promotions, special events, signage, display, access, ingress, egress, construction and exhibit purposes during the period of construction, development, sale and leasing of any of the land or Units owned by Declarant within the Property. Further, Declarant shall have the right to permit Persons other than Owners to use certain portions of the Common Areas under such terms as Declarant, its successors and assigns, may from time to time desire without interference from the Association. Without limiting the foregoing, Declarant shall have the right to maintain or permit others to maintain marketing, sales, leasing and management offices, Unit models, administrative offices, and construction offices (which may be trailers or temporary or permanent buildings), or any or all of same, on Units or the Common Areas. Declarant shall also have the right to grant the right to use the Common Areas to a prospective purchasers, in Declarant's sole discretion, and to conduct any and all other marketing, sales, leasing and management activities deemed appropriate by Declarant, and to permit others to exercise such rights in conjunction with or separate from Declarant.

(f) Corrective Rights.

The right for itself, and others it may designate, but not the obligation, to inspect, monitor, test, redesign, and/or correct, any structure, Improvement, or condition (including any retaining wall, swale or lack thereof) which may exist on any portion of the Property (including on any Unit), and a perpetual, nonexclusive easement of access throughout said Property, all to the extent reasonably necessary to exercise the rights described in this subsection (f). Except in an emergency, entry onto a Unit for a purpose under this subsection (f) shall be only after reasonable notice to the Owner and no entry into a house shall be permitted without the consent of the Owner. The person exercising the rights under this subsection (f) shall promptly repair, at such person's own expense, any damage resulting from such exercise.

(g) Limit on Modification of Common Areas.

In exercising any of the rights provided or granted under this 0, neither Declarant nor the Association shall revoke, modify or amend this Declaration in a manner that reduces the size of the Common Areas to less than the area required by the appropriate governmental authority as of the date of this Declaration.

14.2 Assignment.

Without limiting the generality of Section 14.1 hereof, Declarant shall have the right to assign the rights reserved to it in this Declaration or other Governing Documents, in whole or in part, to any one or more Builders in a writing filed Of Record.

14.3 Association's Obligation of Cooperation.

The Association shall accept conveyance of any Common Areas conveyed to it, in fee or by easement, by Declarant, an Affiliate of Declarant or by a Builder granted such right in a writing filed Of Record and, upon request of any such grantor, and without further consideration, the Association shall execute any document necessary to evidence such acceptance. Neither the Association nor its Members, nor the use of the Common Areas by the Association and its Members, shall interfere with or impede the

construction or completion of the Improvements or the marketing, sale, resale or leasing of Units by Declarant or any Builder.

14.4 Any Amendment Applicable to Declarant, a Declarant Affiliate or a Builder.

In addition to all other rights of the Declarant, and by way of emphasis rather than limitation of other rights already reserved, no amendment shall be made to this Declaration, and no rule or regulation shall be adopted, interpreted or enforced by the Association, so as to modify the Assessments or other charges applicable to the Declarant, an Affiliate of Declarant or a Builder or assessed against the Units owned by any of them, or which shall restrict, impair, or, in Declarant's and/or a Builder's sole judgment, materially adversely affect the rights and activities of the Declarant, an Affiliate of Declarant or a Builder with regard to construction, use of Common Areas, where permitted hereunder, and delegation of the right to use the Common Areas, or the use, construction, marketing, sale, resale, leasing or management of Units by the Declarant, an Affiliate of Declarant or a Builder, whether or not such activities are enumerated in the preceding paragraphs, without the express prior written consent of Declarant.

14.5 Assignment of Declarant's Rights to the Association.

The Declarant reserves the right to assign to the Association, at its sole discretion, all or a portion of its rights reserved in this Declaration. The Association hereby agrees to accept any and all assignments of rights hereunder, and no further action will be required by the Association.

14.6 Easement.

There is hereby created and reserved a blanket easement for Declarant to enable it or any Builder to exercise the rights set forth in the Governing Documents free of any interference by the Association or by any Owner.

14.7 Injunctive Relief for Interference.

The Declarant and each Affiliate or assignee of Declarant shall be entitled to injunctive relief for any actual or threatened interference with its or their rights under this Article, in addition to whatever remedies at law it or they might be entitled to.

## ARTICLE 15

### Alternative Dispute Resolution & Litigation

15.1 Agreement to Avoid Costs of Litigation and to Limit Right to Litigate Disputes.

The Declarant, Association and Owners (collectively, the "Parties" and singularly, a "Party"), agree that any dispute, controversy or claim among them, including counterclaims and crossclaims, whether based upon contract, tort, statute, common law or otherwise (collectively, a "Dispute"), arising from or relating directly or indirectly to the Declaration or the Property, including, without limitation, the interpretation, application or enforcement of the Declaration, the Association's Articles of Incorporation or Bylaws, except for "Exempt Claims" under Section 15.2, are subject to arbitration, as defined under South Carolina law and the Federal Arbitration Act, in lieu of civil proceedings and governed by the procedures set forth in Section 15.3.

15.2 Exempt Claims.

The following Claims ("Exempt Claims") are exempt from the provisions of Section 15.3:

(a) any suit by the Association against a Party to enforce any Assessments or other charges hereunder; and

(b) any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and other relief the court may deem necessary in order to maintain the status quo and preserve any enforcement power of the Association hereunder until the matter may be resolved on the merits pursuant to Section 15.3 below; or

(c) any suit between Owners which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Declaration and the Property; or

(d) any suit which otherwise would be barred by any applicable statute of limitation;  
or

(e) any suit in which an indispensable party is not a Party, as defined in Section 15.1 above; or

(f) any suit involving a matter that is not an Exempt Claim under sub-Sections (a) through (e) above, but as to which matter the Party against whom the Claim is made waives the mandatory provisions of Section 15.3 below.

Any Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 15.3, but there is no obligation to do so.

### 15.3 Mandatory Procedures for Non-Exempt Claims.

Any Party having a Claim ("Claimant") against another Party involving this Declaration or the Property, or all or any combination of them ("Respondent"), other than an Exempt Claim under Section 15.2 above, will not file suit in any court or initiate any proceeding before any administrative tribunal seeking redress or resolution of the Claim until it has complied with these alternative dispute provisions, and then only to enforce the results hereof:

(a) Parties to be Joined.

The Parties agree to arbitrate all Disputes with each other and with any other person or entity to the extent any or all such other persons and entities have agreed to participate in and be subject to arbitration of all Disputes.

(b) Mediation.

Prior to arbitration, if the Dispute cannot be settled through direct discussions, the Parties shall endeavor to resolve the Dispute between themselves, by participating in mediation before a mediator mutually agreed upon by the Parties.

(c) Arbitration.

Any Dispute that cannot be settled by negotiation or mediation shall be settled by binding arbitration. If the amount claimed by the Claimant, or by the Respondent in a counterclaim, exceeds \$250,000, as adjusted by CPI-U, the Claim shall be heard and determined by three arbitrators. Otherwise, unless the Parties otherwise agree, the Claim shall be heard and determined by one arbitrator mutually agreed upon by the Parties. The arbitrator(s) shall have expertise in the areas of the Claim, which may include legal expertise if legal issues are involved. Arbitration will be governed by the commercial or

construction arbitration rules of the American Arbitration Association (AAA), whichever is applicable, but will not be administered by the AAA unless the Parties so agree.

(d) The Arbitrator.

If the Parties cannot agree on a single arbitrator, or if the claimed amount exceeds \$250,000, as provided above and as adjusted, each Party will pick an arbitrator with expertise in the subject matter of the Dispute. Those two arbitrators will then pick a third arbitrator with expertise in the subject matter of the Dispute, and the panel of three (3) arbitrators will decide the arbitration. If there is an impasse in the selection of arbitrators, any Party may make a motion to compel arbitration with the court of competent jurisdiction for Horry County, South Carolina and ask the court to resolve the selection of arbitrators.

(e) Arbitrability.

The issue of whether or not a Dispute is within the scope of this arbitration requirement (or "arbitrability") will be decided by an arbitrator or arbitrators selected pursuant to the terms of this Article 15.

(f) Situs of Mediation and Arbitration.

All mediation and arbitration proceedings will be conducted in Charleston, South Carolina. The participating Parties shall share the costs and expenses of mediation and arbitration, other than the Parties' respective legal fees, equally.

(g) Judgment on the Award.

Judgment on the award rendered by the arbitrator(s) shall be final and binding, shall not be appealable, and may be entered in any court having jurisdiction, as provided in the applicable state and federal statutes.

15.4 Litigation.

No judicial or administrative proceeding with an amount in controversy exceeding \$100,000.00, adjusted for CPI-U, will be commenced or prosecuted by the Association unless approved by 75% or more of the Voting Interests of the entire Association, by Referendum or at a duly held meeting of Members called for the purpose of approving the proceeding, which percentage will also constitute the quorum required for any such meeting. This Section will not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitations, the foreclosure of liens); (b) the imposition and collection of Assessments; (c) proceedings involving challenges to ad valorem taxation; (d) counterclaims brought by the Association in proceedings instituted against it; or (e) actions brought by the Association to enforce written contracts with its suppliers and service providers. This Section will not be amended unless the amendment is approved by the requisite percentage of votes of Members, and pursuant to the same procedures, necessary to institute proceedings as provided above. This provision will apply in addition to the alternative dispute resolution provisions of this Article 15, if applicable.

15.5 Miscellaneous Alternative Dispute Resolution Provisions.

(a) Conflicting Provisions.

Any conflict or discrepancy between the terms and conditions set forth in this Article 15 and any term, condition or procedure of the American Arbitration Association, or any remedy allowed at law or in equity, the terms, conditions, procedures and remedies set forth herein will control.

15.6 TIME IS OF ESSENCE.

All periods of time set forth herein or calculated pursuant to provisions of this Article 15 will be strictly adhered to, TIME BEING OF THE ESSENCE hereof.

15.7 Waiver of Jury Trial.

Notwithstanding the Parties' obligation to submit any Dispute to mediation and arbitration, in the event that a particular dispute is not subject to the alternative dispute resolution provisions of this Article 15, then the Bound Parties agree to the following provisions: Neither the Association, Declarant, Declarant's Affiliates, any Builder, Owner, Tenant, Occupant or any other Bound Party nor any successor, heir, executor or personal representative of such party, or any such other person or entity shall seek a jury trial in any lawsuit, proceeding, counterclaim or any other litigation procedure based upon or arising out of the Governing Documents. Nor shall the Association, Declarant, Declarant's Affiliates, any Builder, Owner, Tenant, Occupant or any other Bound Party seek to consolidate any such action, in which a jury trial has been waived, with any other action in which a jury trial cannot or has not been waived.

15.8 Amendment of Article 15.

Notwithstanding any other provision of this Declaration, this Article 15 may not be amended prior to the expiration of thirty (30) years from the date this Declaration is filed Of Record without the prior written consent of Declarant.

**ARTICLE 16**

**General Provisions**

16.1 Unit Deeds.

In accepting a deed to any Unit, the grantee will be deemed to have accepted and agreed to all terms and conditions contained in this Declaration and the Exhibits, as amended, and further agrees to execute any and all documents reasonably requested by the Declarant or the Association from time to time to expressly evidence the foregoing.

(a) Form of Deed.

From and after the filing Of Record of this Declaration of Covenants, Restrictions and Easements for Creekside Point, each and every conveyance of a Unit shall utilize a form of indenture deed, whereby the grantee thereof acknowledges being bound to all terms and conditions therein provided and incorporated therein by reference, including, but not limited to, all terms and conditions contained in this Declaration and the Exhibits, as amended from time to time; provided, however, that any failure or refusal to so utilize an indenture deed shall not affect the enforceability of this Declaration or any of the terms and conditions contained herein.

16.2 Enforcement.

The Declarant, the Association or any Owner shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, Association or an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Further, the Board of Directors shall have the right to file Of Record a notice of violation of this Declaration or the Bylaws of the Association, or any rules, regulations, use restrictions, or design guidelines

promulgated by the Association and to assess the cost of recording and removing such notice against the Owner in violation of the Declaration.

16.3 Severability.

Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property will be prohibited or held invalid, such prohibition or invalidity will not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

16.4 Termination.

The covenants and restrictions of this Declaration are appurtenant to and shall run with and be binding upon the Property and the Owners thereof for a term of thirty (30) years from the date this Declaration is filed Of Record, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated by a vote of the Owners as set forth below. This Declaration may be terminated during the first thirty (30) year period commencing with the effective date of this Declaration with a vote of eighty (80%) percent of the Voting Interests; provided, however, that until Declarant and any Builder no longer owns any Units within the Property, no termination adopted by the Owners shall be effective unless and until such termination is approved in writing by Declarant. Termination shall be evidenced by a certificate of the Association, executed either by the President or Vice President of the Association or a majority of the members of the Board of Directors which shall include recording data identifying the Declaration and shall be executed with the same formalities required for the execution of a deed. A termination of the Declaration is effective when the applicable certificate is filed Of Record, and upon recordation, it shall be binding on all Units within the Property and the Owners thereof, without regard to whether the Owner of such Unit voted for or against the termination.

The termination of this Declaration as provided in this Section 16.4 shall not, by itself, terminate the Association. The Members and their successors and assigns shall continue to be members of the Association, and the members of the Board of Directors and the officers of the Association shall continue to have the powers granted in the Governing Documents and the Nonprofit Corporation Act, to the extent necessary for winding up the affairs of the Association.

Upon the dissolution of the Association, and after discharging all the liabilities and obligations of the Association and consistent with law, the remaining assets shall, at the discretion of the Board of the Association, be (i) distributed to the Members of the Association, (ii) distributed to the Association's successor nonprofit corporation or its affiliated nonprofit organization, (iii) distributed to another eleemosynary corporation, preferably one similar to the Association, or (iv) distributed any other manner permitted under the Nonprofit Corporation Act.

16.5 Interpretation.

In all cases, the provisions set forth or provided for in this Declaration will be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof will be liberally interpreted and, if necessary, they will be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration will be given full force and effect notwithstanding the existence of any zoning ordinance or building codes that are less restrictive. The effective date of this Declaration will be the date of its filing Of Record. The captions of each Article and Section hereof as to the contents of each Article and Section are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to

which they refer. This Declaration will be construed under and in accordance with the laws of the State of South Carolina. Unless the context otherwise requires, the use herein of the singular shall include the plural and vice versa; the use of one gender shall include all genders; and the use of the word "including" means "including, without limitation".

16.6 Subdivision of Units.

No Unit within the Property may be subdivided by sale or otherwise so as to reduce the Unit's total lot area shown on the recorded plat, except by or with the consent of Declarant and, if required, by the appropriate governmental authority.

16.7 Rules and Regulations: Adoption and Publication.

The Board of Directors shall have the authority to adopt, amend, modify and expand rules and regulations governing the use of the Common Areas, or any portions thereof, and shall furnish a written copy of said rules and regulations to the Owners of each Unit at least thirty (30) days before such rules and regulations become effective.

16.8 Enforcement.

Subject to the provisions of Section 16.8(a) hereof, upon the violation of this Declaration, the Bylaws, or any rules and Regulations duly adopted hereunder, including, without limitation, the failure to timely pay any Assessments, the Board will have the power (A) to impose reasonable monetary fines which will constitute an equitable charge and a continuing lien as a Specific Assessment, (B) to suspend an Owner-Member's right to vote in the Association, (C) to suspend an Owner's right, or the right of any occupant of Owner's Unit, to use any of the Common Areas which are available to or for the benefit of some, but not all Owners ("Limited Common Areas"), or (D), in the case of a default in payment of any Assessment due, to suspend an Owner's or applicable occupant's cable TV service if such is provided by the Association or by a service provider under contract with the Association and for which payment thereunder is a Common Expense of the Association. The Board will have the power to impose all or any combination of these sanctions, and may establish each day a violation remains uncured as a separate violation for which a fine is due; provided, however, an Owner's access to its property over the roadways and streets that may be maintained by the Association in the manner of Limited Common Areas until dedicated to governmental authority will not be terminated hereunder. An Owner or applicable occupant will be subject to the foregoing sanctions in the event of such a violation by such Owner or occupant. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days.

(a) Procedure.

Except with respect to the failure to pay Assessments, including late charges and interest, the Board will not suspend voting rights, or infringe upon or suspend any other rights of an Owner or other occupant for violations of the Declaration, By-Laws, or any rules and Regulations of the Association, or impose a fine in excess of \$100 per occurrence of the event or condition giving rise to the imposition of a fine for each day more than five (5) days after a decision is rendered following the hearing provided in Section 16.8(a)(iii), unless and until the following procedure is followed:

(i) Demand to Cease and Desist.

Written demand to cease and desist from an alleged violation will be served upon the Owner responsible for such violation specifying:

- (A) The alleged violation;
- (B) The action required to abate the violation; and

(C) A time period of not less than five (5) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

(ii) Notice of Hearing.

Within twelve (12) months of such demand, if the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs, the Board may serve such Owner with written notice, in accordance with Section 0 of this Declaration, of a hearing to be held by the Board in executive session. The notice will contain:

- (A) The nature of the alleged violation;
- (B) The action required to abate the violation; and;

(C) A time period of not less than ten (10) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions after notice and hearing.

(iii) Hearing.

The hearing will be held in executive session by an adjudicatory panel appointed by the Board, or if no adjudicatory panel is appointed by the Board, the hearing will be before the Board itself sitting as the adjudicatory panel. The party charged will be afforded an opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if the officer, director, or other individual who delivered such notice enters a copy of the notice together with a statement of the date and matter of delivery. The notice requirement will be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting will contain a written statement of the results of the hearing and the sanction imposed, if any. The decision shall be final.

(b) Self Help.

The Association may exercise self-help to cure violations (specifically including, but not limited to, the towing, booting or immobilization of Owner and Tenant vehicles that are in violation of parking rules pertaining to the Units, the Common Areas and any private sidewalks, roads and rights-of-way within the Common Areas, and sidewalks, roads and rights-of-way prior to their turnover to and acceptance by a public authority for ownership and maintenance) and may suspend the right of an Owner to use any Common Areas (except legal access to the Owner's Unit) within the Property if the Owner is more than thirty (30) days delinquent in paying any Assessment or other charge due to the Association.

(i) Easement in Support of Self Help.

The Association shall at all times have the right and easement to go upon any Unit for the purposes of exercising its rights hereunder, including, but not limited to, enforcement of the Architectural Guidelines applicable to the Property. Any entry onto any Unit for purposes of exercising this power of self-help shall not be deemed as trespass. All remedies set forth in this Declaration and the Bylaws shall be cumulative of any remedies available at law or in equity.

(c) Association's Discretion.

The Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions, or in any case in which the Board reasonably determines that it is not in the best interest of the Association to pursue its remedies at law or in equity. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

16.9 Creation of New Board.

Upon the expiration of the Declarant Control Period, control of the Board will pass to the Owners as provided in the Bylaws. Following election of a new Board of Directors, Manager will deliver all property, books, accounts, records and accounts or funds, which Manager has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Manager has in its possession or control.

16.10 CPI-U.

Whenever a specific dollar amount is recited in this Declaration or the other Governing Documents, unless limited by law or by the specific text hereof or unless held to be unconscionable, such amounts shall be increased from time to time by application of a nationally recognized consumer price index using the date of recordation of the Declaration as the base month and year. The index used shall be that published by the United States Department of Labor, Bureau of Labor Statistics, designated as "Consumer Price Index, all urban consumers, United States, 1982-84 = 100, all items". If the Bureau of Labor Statistics shall change the method for determining the consumer price index or in the event the Bureau of Labor Statistics shall cease to publish said statistical information and it is not available from any other source, public or private, then the Board shall choose a reasonable alternative to compute such increases.

16.11 Attorneys' Fees; Enforcement Costs.

Except as otherwise provided in the Declaration, if any legal action or other proceeding is brought for the enforcement of the Governing Documents, including without limitation, because of any Assessments, fines, or any alleged dispute, breach, default or misrepresentation in connection with any provisions of the Governing Documents, the successful or prevailing party shall be entitled to recover reasonable attorney's fees, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

16.12 Perpetuities.

If any of the covenants, conditions, restrictions, or other provisions of this Declaration will be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions will

continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Mrs. Rose Kennedy, mother of U. S. Senator Edward Kennedy, deceased.

16.13 No Affirmative Obligation Unless Stated.

ANY RESERVATION OR RIGHT OF THE DECLARANT OR A BUILDER WHICH IS STATED IN OR IMPLIED FROM THIS DECLARATION WILL NOT GIVE RISE TO ANY AFFIRMATIVE OBLIGATION OR DUTY ON THE PART OF THE DECLARANT OR A BUILDER UNLESS EXPRESSLY STATED IN THIS DECLARATION.

16.14 No Implied Liabilities or Duties.

ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT OR THE BOARD PURSUANT TO THIS DECLARATION WILL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY PROPERTY OWNER.

16.15 Rights of Third Parties.

This Declaration will be filed Of Record for the benefit of the Declarant, the Owners, and their mortgagees as herein provided, and by such recording, no adjoining property owner or third party will have any right, title or interest whatsoever in the Property, except as expressly provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof. Subject to the rights of the Declarant, Builder(s) and mortgagees as herein provided, the Owners will have the right to extend, modify, amend, or otherwise change the provisions of this Declaration without the consent, permission, or approval of any adjoining owner or third party.

16.16 Notice of Sale, Lease, or Mortgage.

In the event an Owner sells, leases, or otherwise disposes of any Unit, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, Tenant or transferee prior to such sale, lease or transfer.

16.17 No Trespass.

Whenever the Association, the Declarant, Affiliate of Declarant, Builder or ARC is permitted by this Declaration to enter upon, correct, repair, clean, maintain, preserve, or do any other action within any portion of the Property, the entering thereon and the taking of such action will not deem to be trespass.

16.18 Notices and Disclaimers as to Water Bodies.

NEITHER DECLARANT, THE ASSOCIATION, NOR ANY OF THEIR OFFICERS, DIRECTORS, COMMITTEE MEMBERS, EMPLOYEES, MANAGEMENT AGENTS, CONTRACTORS OR SUB-CONTRACTORS (COLLECTIVELY, THE "LISTED PARTIES") SHALL BE LIABLE OR RESPONSIBLE FOR MAINTAINING OR ASSURING THE WATER QUALITY OR LEVEL IN ANY STORMWATER MANAGEMENT SYSTEMS, PONDS OR WATER BODIES WITHIN THE PROPERTY, EXCEPT AS SUCH RESPONSIBILITY MAY BE SPECIFICALLY IMPOSED BY OR CONTRACTED FOR WITH AN APPLICABLE GOVERNMENTAL OR QUASI-GOVERNMENTAL AGENCY OR AUTHORITY. ALL PERSONS ARE HEREBY NOTIFIED THAT FROM TIME TO TIME WILDLIFE MAY INHABIT OR ENTER INTO STORMWATER MANAGEMENT SYSTEMS, PONDS AND WATER BODIES WITHIN THE PROPERTY AND MAY POSE A THREAT TO PERSONS, PETS AND PROPERTY, BUT THAT THE LISTED PARTIES ARE

UNDER NO DUTY TO PROTECT AGAINST, AND DO NOT IN ANY MANNER WARRANT AGAINST, ANY DEATH, INJURY OR DAMAGE CAUSED BY SUCH WILDLIFE.

16.19 Wetlands, Lakes and Water Bodies.

All wetlands, lakes, ponds and streams within the Property, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, boating, hunting, or use of personal flotation devices, shall be permitted without the prior approval of the Board of Directors. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds or streams within the Property. No docks, piers or other structures shall be constructed on or over any body of water within the Property, except such as may be constructed by the Declarant or a Builder. No pumps shall be placed in a lake, pond or creek for the purpose of removing water for irrigation purposes, except as approved in writing by the Declarant.

16.20 COVENANTS RUNNING WITH THE LAND.

IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THE COVENANTS IN THE GOVERNING DOCUMENTS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTY. IF ANY PROVISION OR APPLICATION OF THE COVENANTS IN THE GOVERNING DOCUMENTS WOULD PREVENT THE COVENANTS FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THE COVENANTS IN THE GOVERNING DOCUMENTS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES AFFECTED HEREBY (THAT THE OTHER COVENANTS IN THE GOVERNING DOCUMENTS RUN WITH THE LAND) BE ACHIEVED.

16.21 CONSTRUCTION AND OTHER ACTIVITIES.

ALL OWNERS AND THEIR FAMILY MEMBERS, TENANTS AND OCCUPANTS ARE HEREBY PLACED ON NOTICE THAT DECLARANT OR BUILDERS AND/OR THEIR AGENTS, CONTRACTORS, SUBCONTRACTORS, LICENSEES AND OTHER DESIGNEES MAY BE FROM TIME TO TIME, CONDUCTING EXCAVATION, CONSTRUCTION AND OTHER ACTIVITIES WITHIN OR IN PROXIMITY TO THE PROPERTY. BY THE ACCEPTANCE OF THEIR DEED OR OTHER CONVEYANCE OR MORTGAGE, LEASEHOLD, LICENSE OR OTHER INTEREST, AND BY USING ANY PORTION OF THE PROPERTY, EACH SUCH OWNER AND THEIR FAMILY MEMBERS, TENANTS AND OCCUPANTS AUTOMATICALLY ACKNOWLEDGE, STIPULATE AND AGREE (1) THAT NONE OF THE AFORESAID ACTIVITIES SHALL BE DEEMED NUISANCES OR NOXIOUS OR OFFENSIVE ACTIVITIES, HEREUNDER OR AT LAW GENERALLY, (2) NOT TO ENTER UPON, OR ALLOW THEIR CHILDREN OR OTHER PERSONS UNDER THEIR CONTROL OR DIRECTION TO ENTER UPON (REGARDLESS OF WHETHER SUCH ENTRY IS A TRESPASS OR OTHERWISE) ANY PROPERTY WITHIN OR IN PROXIMITY TO THE PROPERTY WHERE SUCH ACTIVITY IS BEING CONDUCTED (EVEN IF NOT BEING ACTIVELY CONDUCTED AT THE TIME OF ENTRY, SUCH AS AT NIGHT OR OTHERWISE DURING NON-WORKING HOURS), (3) THAT THE AFORESAID PARTIES WILL NOT BE LIABLE BUT, RATHER, SHALL BE HELD HARMLESS, FOR ANY AND ALL LOSSES, DAMAGES (COMPENSATORY, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURIES OR DEATHS ARISING FROM OR RELATING TO THE AFORESAID ACTIVITIES, (4) THAT ANY

PURCHASE OR USE OF ANY PORTION OF THE PROPERTY HAS BEEN AND WILL BE MADE WITH FULL KNOWLEDGE OF THE FOREGOING, AND (5) THAT THIS ACKNOWLEDGMENT AND AGREEMENT IS A MATERIAL INDUCEMENT TO DECLARANT AND/OR ANY BUILDER TO SELL, CONVEY, LEASE OR ALLOW THE USE OF THE APPLICABLE PORTION OF THE PROPERTY.

16.22 Notices.

Notices required hereunder will be in writing and will be delivered by hand or sent by United States Mail, postage prepaid or delivered by a nationally recognized delivery service. All notices to Owners will be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the address of such Owner's respective Unit. All notices to the Association will be delivered or sent to the Association at such address as the Association may from time to time notify the Owners. All notices to the Declarant will be delivered or sent to the Declarant's main office, 8800 E. Raintree Drive, Scottsdale, AZ 85260, or to such other address as Declarant may from time to time notify the Association. Notices to Eligible Mortgagees will be delivered or sent to such Eligible Mortgagees as provided in Section 6.2. Notices to any other person or persons entitled to same hereunder will be delivered or sent to such address or addresses as such person or persons specify, from time to time, in writing to the sender, or, in the absence thereof, to such address or addresses as will, in the exercise of reasonable judgment by the sender, reasonably expected to be received by such person or persons.

16.23 South Carolina HOA Act.

To the extent required (if required) under the South Carolina Homeowners Associations Act, Section 27-30 of the South Carolina Code (the "HOA Act"), and/or for avoidance of doubt in any event, Declarant and/or the Association shall, in the future and after the recording of this Declaration, record Of Record certain governing documents, guidelines, rules, regulations, bylaws, and any amendments to the same, applicable to the Property (collectively, the "Supplemental Documents"). The Supplemental Documents, if any are in existence as of the date hereof, are attached hereto as exhibits. If no such Supplemental Documents are attached hereto, no such Supplemental Documents have been adopted as of the date hereof. Notwithstanding anything contained herein to the contrary, the Association may, through an action by the Board of Directors and after expiration of the Declarant Control Period, record the Supplemental Documents Of Record without the consent or joinder of the Declarant, but not before.

**ARTICLE 17**

**Miscellaneous**

17.1 Withdrawal of Property. All property encumbered by the Original Declaration is hereby withdrawn from the encumbrance of the Original Declaration and this Declaration, shall not be a part of the Property or the Association, and only the Property, as described in this Declaration, shall be deemed part of the Property, unless and until any portion of the Additional Property is annexed as provided in Section 2.3 hereof. Original Declarant and the Association join into this Declaration to evidence their consent to the foregoing.

17.2 Amenities.

It is anticipated, but Declarant makes no representation, warranty, guarantee or otherwise, that same will occur and/or be available, as applicable, that certain amenities for the use and enjoyment of the Owners may be constructed within the Property (collectively, the "Amenities"). Declarant and/or the Association shall have the right to establish rules and regulations with respect to the use and enjoyment of the Amenities; including, without limitation, establishing a fee for use of same. If constructed, the Amenities shall be

Common Areas upon the conveyance thereof to the Association and the Association shall be responsible for the operation and maintenance of same, all costs and expenses incurred by the Association in performing such activities being Common Expenses chargeable as Assessments, all as more specifically set forth in the rules and regulations established by the Governing Documents.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the undersigned Declarant has hereby caused this instrument to be signed, sealed, and delivered as of day and year written below.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

DECLARANT:

MERITAGE HOMES OF THE CAROLINAS,  
INC., an Arizona corporation

[Signature]  
Witness #1

By: [Signature] (SEAL)  
Name: Vernica Perez  
Title: Division President

Jamie Moran  
Witness #2

STATE OF South Carolina )  
COUNTY OF Charleston )

I, Laura Crawford, a notary public duly commissioned, qualified and acting within and for the aforesaid County, and State, do hereby certify that Vernica Perez, as the Division President of Meritage Homes of the Carolinas, Inc., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 29<sup>th</sup> day of September, 2022

Laura Crawford (L.S.)  
Notary Public Laura Crawford  
Printed Name of Notary Public

Notary Public for Charleston County

My commission expires: 5/18/2032



IN WITNESS WHEREOF, the Association has hereby caused this instrument to be signed, sealed, and delivered as of day and year written below.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

ASSOCIATION:

CREEKSIDE POINT HOMEOWNERS ASSOCIATION, INC., a South Carolina non-profit corporation

[Signature]  
Witness #1

By: [Signature] (SEAL)  
Name: Samuel Bellock  
Title: Vice President / Treasurer

Jamie Mome  
Witness #2

STATE OF South Carolina )  
COUNTY OF Charleston )

I, Laura Crawford, a notary public duly commissioned, qualified and acting within and for the aforesaid County and State, do hereby certify that Samuel Bellock, as the Vice President of Creekside Point Homeowners Association, Inc., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 29th day of September, 2022

Laura Crawford (J.S.)  
Notary Public Laura Crawford  
Printed Name of Notary Public

Notary Public for Charleston County

My commission expires: 5/18/2032



IN WITNESS WHEREOF, the undersigned Original Declarant has hereby caused this instrument to be signed, sealed, and delivered as of day and year written below.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

ORIGINAL DECLARANT:

STONEBRIDGE LAND HOLDINGS, LLC, a South Carolina limited liability company

Witness #1 E. A. Mer

By: SM (SEAL)  
Name: GEORGE MOSES  
Title: Owner

Witness #2 Jamie Moon

STATE OF South Carolina  
COUNTY OF Charleston )

I, Laura Crawford, a notary public duly commissioned, qualified and acting within and for the aforesaid County and State, do hereby certify that George Moses, as the owner of Stonebridge Land Holdings, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 29th day of September, 2022

Laura Crawford (L.S.)  
Notary Public Laura Crawford  
Printed Name of Notary Public

Notary Public for Charleston County

My commission expires: 5/18/2032



**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

BEING those lots, tracts or parcels of land lying, being and situate in Horry County, South Carolina and more particularly described as follows:

**BEING all of Lot 1 through and including Lot 27; Lot 56 through and including Lot 66; and Lot 83 through and including Lot 135**, all as same are shown and described on a map thereof entitled "**SUBDIVISION SURVEY OF STONEBRIDGE FARMS PHASE I**" prepared by F. William Fairey IV (PLS #27446) of Spartina Land Surveying, dated December 17, 2021 and recorded in the ROD Office for Horry County in Plat Book 304, Pages 262 and 263, reference to said map made hereby for a more complete and accurate description of the lots listed herein.

*Derivation: This being the same property conveyed to Meritage Homes of the Carolinas, Inc. by deed of Stonebridge Land Holdings, LLC dated June 17, 2022 and recorded on June 22, 2022 in Book 4564, Page 2964, Office of the Register of Deeds for Horry County.*

PIN Number	Lot Number	PIN Number	Lot Number
30612020014	1	30612020035	92
30612020015	2	30612020035	93
30612020016	3	30612020036	94
30612020017	4	30612020037	95
30612020018	5	30612020038	96
30612020019	6	30612020039	97
30612020020	7	30709010033	98
30605030023	8	30709010034	99
30708040014	9	30709010035	100
30708040015	10	30709010036	101
30708040016	11	30709010037	102
30708040017	12	30709010038	103
30708040018	13	30709010039	104
30709010015	14	30709010040	105
30709010016	15	30709010041	106
30709010017	16	30709010042	107
30709010018	17	30612020040	108
30709010019	18	30612020041	109
30709010020	19	30616020042	110
30709010021	20	30612020043	111
30709010022	21	30612020044	112
30709010023	22	30612020045	113
30709010024	23	30612020046	114
30709010025	24	30612020047	115
30709010026	25	30612020048	116
30709010027	26	30612020049	117
30709010028	27	30612020050	118

30709040013	56	30612020051	119
30612030003	57	30612020052	120
30610230004	58	30612020053	121
30612030005	59	30709010043	122
30612030006	60	30709010044	123
30612030007	61	30709010045	124
30612030008	62	30709010046	125
30612030009	63	30709010047	126
30612030010	64	30709010048	127
30612030011	65	30709010049	128
30612030012	66	30709010050	129
30612020025	83	30709010051	130
30612020026	84	30709010052	131
30612020027	85	30709010053	132
30612020028	86	30709010054	133
30612020029	87	30612020054	134
30612020030	88	30612020055	135
30612020031	89		
30612020032	90		
30612020033	91		

AND, TOGETHER WITH that certain parcel containing 3.57 acres identified as "Open Space #1" on the plat entitled "Subdivision Survey of Stonebridge Farms Phase 1" and recorded in Map Book 304, Page 262 of the Office of the Horry County, SC Register of Deeds.

TMS/PIN: 30709010055

AND that certain parcel containing 1.16 acres identified as "Open Space #2" on the plat entitled "Subdivision Survey of Stonebridge Farms Phase 1" and recorded in Map Book 304, Page 262 of the Office of the Horry County, SC Register of Deeds.

TMS/PIN: 30612020056

AND that certain parcel containing 3.00 acres identified as "Open Space #3" on the plat entitled "Subdivision Survey of Stonebridge Farms Phase 1" and recorded in Map Book 304, Page 262 of the Office of the Horry County, SC Register of Deeds.

TMS/PIN: 30612020057

AND that certain parcel containing 3.85 acres identified as "Open Space #4" on the plat entitled "Subdivision Survey of Stonebridge Farms Phase 1" and recorded in Map Book 304, Page 262 of the Office of the Horry County, SC Register of Deeds.

TMS/PIN: 30709040014

AND that certain parcel containing 0.2 acres identified as "Open Space #5" on the plat entitled "Subdivision Survey of Stonebridge Farms Phase 1" and recorded in Map Book 304, Page 262 of the Office of the Horry County, SC Register of Deeds

TMS/PIN: 3070910056

AND that certain parcel containing 0.14 acres identified as "Open Space #7" on the plat entitled "Subdivision Survey of Stonebridge Farms Phase 1" and recorded in Map Book 304, Page 262 of the Office of the Horry County, SC Register of Deeds.

TMS/PIN: 30612020058

AND that certain parcel containing 0.14 acres identified as "Open Space #8" on the plat entitled "Subdivision Survey of Stonebridge Farms Phase 1" and recorded in Map Book 304, Page 262 of the Office of the Horry County, SC Register of Deeds.

TMS/PIN: 30612020059

*Derivation: This being the same property conveyed to Creekside Point Homeowners Association, Inc. by deed of Stonebridge Land Holdings, LLC dated June 17, 2022 and recorded on June 22, 2022 in Book 4564, Page 2959, Office of the Register of Deeds for Horry County.*