

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS APPLICABLE TO A SUBDIVISION KNOWN AS THE VINEYARDS AT
STONECREEK FALLS,**

THIS AMENDED AND RESTATED DECLARATION (hereinafter the "Declaration") made on the date hereinafter set forth by **Westchester Vineyards, LLC**, a South Carolina Corporation, hereinafter referred to as "**Declarant**", and **Kenneth Eric Lapolla and Lee Lapolla, Randall H. Smith and Mandy L. Smith, Brent Galloway and Vicki Swofford** (collectively the "Existing Owners").

WITNESSETH

WHEREAS, the Declarant is the owner of certain property in Spartanburg County, South Carolina, more particularly described as: Lots 1 through 13, Lots 15 and 15-A, Lots 16 through 25, Lot 28, Lots 42- 64, Lots 66 and 67, Lots 69 through 73, Lot 75, Lots 77 through 87 and Lot 89 ("Declarant's Lots"), as shown on plat entitled "Final Plat for The Vineyards at Stonecreek Falls, Phase 1, dated October 17, 2005 ("Plat"), a copy of which plat is recorded in Plat Book 158 at Page 980 in the Land Records of Spartanburg County and reference to which Plat is hereby craved for a complete-metes and bounds description;

WHEREAS, the Existing Owners are the owners of certain property in Spartanburg County, South Carolina, more particularly described as: Lots 26, 27, 65, 68, 74 and 76, as shown on the Plat.

WHEREAS, Declarant has purchased the Declarant's Lots and certain of the Common Areas from The Palmetto Bank who obtained title to the lots from Stonecreek Falls, LLC, in a foreclosure proceeding.

WHEREAS, Declarant and Existing Owners desire to adopting a new set of covenants, conditions and restrictions for the The Vineyards at Stonecreek Falls in order to facilitate new development within the subdivision.

NOW, THEREFORE, Declarant and Existing Owners hereby declare that the Declaration of Covenants, Conditions and Restrictions Applicable to a Subdivision known as The Vineyards at Stonecreek Falls recorded on December 22, 2005, in Deed Book 84-S, Page 18, in the Land Records for Spartanburg County are hereby rescinded and are of no further force and effect and further declare that all of the properties described above shall be held, sold, and conveyed subject to this Amended and Restated Declaration subject to following easements, restrictions, covenants, and conditions, which are for the purpose of facilitating new development within the Subdivision, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner (as hereinafter defined) thereof.

ARTICLE I

DEFINITIONS

Section 1. "**Association**" shall mean and refer to **The Vineyards at Stonecreek Falls Owners Association, Inc.**, a South Carolina non-profit corporation, its successors and assigns.

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Section 2. **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding the developer and builders holding property for resale and those having such interest merely as security for the performance of an obligation.

Section 3. **"Property"** and **"Properties"** shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association in compliance with the provisions of this Declaration.

Section 4. **"Lot"** shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Subdivision.

Section 5. **"Declarant"** shall mean and refer to **Westchester Vineyards, LLC**, its successors and assigns, for so long as Westchester Vineyards, LLC or a Declarant-Related Entity owns property within the Subdivision, or any assignee of Declarant who holds or takes title to any portion of the Subdivision and who is designated as the successor to Declarant in a recorded instrument executed by the immediately preceding Declarant.

Section 6. **"Declarant-Related Entity"** shall mean any Person or entity that is a parent, subsidiary or affiliate of the Declarant, and/or in which the Declarant or any parent, subsidiary or affiliate of the Declarant or any officer, director, shareholder, partner, member, manager or trustee of any of the foregoing owns, directly or indirectly, not less than ten percent (10%) of such entity.

Section 7. **"Builder"** shall mean and refer to any builder licensed by and in good standing with Declarant.

Section 8. **"Common Area"** shall mean and refer to all real property hereinafter conveyed to the Association for the common use, enjoyment and maintenance by of the Owners. Once any such property is conveyed to the Association, such Common Area shall be owned by the Association for the common use and benefit of the owners, subject to the easements, terms, conditions and restrictions described in this Declaration. Responsibility for the maintenance of the Common Areas, including any paved, landscaped, lighted or other improved areas located within the Common Area shall be the responsibility of the Association. The Common Area shall not include the Club House as that term is defined herein.

Section 9. **"Club House"** shall mean and refer to that land and those improvements and facilities that may be hereinafter erected by Declarant within or without the Subdivision for the non-exclusive use, enjoyment and benefit of the Owners (as that term is defined herein) and other adjacent neighborhoods which Club House is separate and apart from the Common Areas (as that term is defined herein).

Section 10. **"Club House Assessments"** shall mean and refer to the assessments provided for hereunder attributable to the use, maintenance and operation of the Club House which assessments are separate and apart from the Assessments provided for under Article III, Section 1 hereof.

Section 11. **"Subdivision"** shall mean and refer to property described on the Plat of The Vineyards at Stonecreek Falls prepared by George B. Souther, PLS #21232 dated October 17, 2005, a copy of which is recorded in Plat Book 158 at page 980 in the Land Records for Spartanburg County, South Carolina, and any new property

annexed into the Subdivision as allowed hereunder, which collectively shall be known as The Vineyards at Stonecreek Falls.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall be a member of the Association, which memberships shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the maintenance of lighting entrances, roads, common areas, fences, landscaping, sprinkler systems, light fixtures and related bulbs and other reasonable expense.

(b) The right of the Association to suspend the voting rights of an Owner for any period not to exceed (sixty) 60 days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority or authority for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3) of each class of members and has been recorded;

(d) The right of the Association to impose regulations for the use and enjoyment of the Common Area and Improvements thereon;

(e) The right of the Association, in accordance with its Amended Articles and Amended and Restated By-laws, to borrow money for the purpose of improving the Common Area and facilities thereon. No such mortgage of the Common Area shall be effective unless an instrument agreeing to such mortgage of Common Area is signed by two-thirds (2/3) of each class of members. Also, so long as there is Class B Membership, mortgage of any Common Area must also be approved by the U.S. Department of Veterans Affairs; and

(f) The right of the Association to exchange portions of Common Area with the Declarant for substantially equal areas of the properties for the purpose of eliminating unintentional encroachments of Improvements onto portions of the Common Areas or any other purpose or reason. As long as there is Class B Membership, no such exchange of portions of Common Area with the Declarant shall be effective unless an instrument agreeing to such exchange has been approved by the U.S. Department of Veteran Affairs.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The Vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Members shall be the Declarant. The B member(s) shall be entitled to three

(3) votes for each Lot owned by Declarant or a Declarant-Related Entity, respectively. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 2043, or
- (c) when Declarant and any Declarant-Related Entity elects by notice to the Association in writing to terminate their Class B membership.

Class B Membership shall be reinstated in the event that additional real property is annexed into the Subdivision causing the total votes outstanding in the Class A membership to be less than the total votes outstanding in the Class B Membership when counting the new lots annexed into the Subdivision.

Section 3. Leases of Lots. Any lease agreement between an Owner and a lessee for the Lease of such Owner's residence on its Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing. Other than the foregoing, there is no restriction on the right of any owner to lease his Lot.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as herein provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and in particular for the improvement and maintenance of services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials management and supervision, the payment of taxes assessed against the Common Area; the maintenance of water and sewer mains in and upon the Common Area; the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and

islands located in dedicated right-of-way), drives and parking areas within the Common Area, the procurement and maintenance of insurance in accordance with the Amended a Restated By-Laws; the maintenance of lakes, ponds, retention areas or other bodies of water located within the Common Area if any; the maintenance of dams and areas surrounding such water; the maintenance of any easement areas located on any Lot and held in favor of the Association, as shown on a recorded plat; the maintenance of entranceways, landscaping and lighting of Common Area, road medians and islands and entranceways, the lighting of streets (whether public or private); the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area; the costs associated with duties of the Architectural Control Committee; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association may establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Area and those other portions of the Subdivision which the Association may be obligated to maintain. Such reserve fund can be established out of regular assessments for common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Subdivision, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the Amended and Restated By-Laws of the Association. As monies for any assessment are paid to the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of Subdivision.

Section 3. Maximum Annual Assessment. Once the initial assessment has been established hereunder, such assessment shall not increase each year by more than fifteen (15%) percent above the maximum assessment for the previous year without by approval of the vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose. The Declarant, or the Board of Directors, as the case may be, may fix the annual assessment at an amount not in excess of ten percent (10%) above the previous year's assessment.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement in the Subdivision, provided that any such assessment shall have the assent to two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot or otherwise.

Section 5. Notice and Quorum for any Action Authorized under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Owners in good standing with the Association not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The Declarant, or the Board of Directors, as the case may be, shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Declarant or Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate often (10%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot in the same manner that a real estate mortgage is foreclosed and interests, costs and attorneys' fees shall be added to the amount of such assessment. The lien of the Association against the property must be established by, and shall be effective from the time of filing of a Notice of Lien in the Office of the Register of Deeds for Spartanburg County. Failure by the Association to enforce any covenant or lien herein contained shall in no event be deemed a waiver of its right to do so.

Section 9. Club House Assessments. In order to (1) fulfill the terms, provisions covenants and conditions contained in this Declaration; and (2) maintain, operate, and preserve and improve the Club House for the recreation, use, safety, welfare, and benefit of the Owners and their guests, invitees, lessees and licensees, there is hereby imposed upon each Owner the affirmative covenant and obligation to pay to the Declarant or then owner of the Club House (in the manner herein set forth) an assessment for the cost and expense to maintain, operate, and preserve and improve the Club House for the recreation, use, safety, welfare, and benefit of the Owners. The Club House Assessment shall not become an assessment against a Lot until the Club House is erected by the Declarant and this amount shall be in addition to, not in lieu of, the regular annual assessment due hereunder. The Club House Assessment shall be fixed at a uniform rate for all lots (whether within the Subdivision or without) designated by Declarant as having the right to use and enjoy the Club House and may be collected on a monthly basis. The Association shall have the obligation to collect the Club House Assessment from each Owner and shall pay same to the Declarant or then owner of the Club House when such Club House Assessment is due in accordance with the terms hereof, provided however, that the Declarant or then owner of the Club House may, in its sole discretion elect to collect or not collect the Club House Assessments directly from each Owner. Each Owner by acceptance of a deed or other instrument of conveyance conveying a Lot, and each Builder by acceptance of a deed or other instrument of conveyance conveying a Lot, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Declarant or then owner of the Club House all Club House Assessments in accordance with the provisions of this Declaration and consents and agrees to the lien

rights set forth hereunder against such Lot. The liability for the Club House Assessment may not be avoided by waiver of the use or enjoyment of the Club House or by abandonment of the Lot for which the Club House Assessment are made. The Declarant or then owner of the Club House shall have the right to impose regulations for the use and enjoyment of the Club House and to bar and Owner's use of the Club House for failure to pay the Club House Assessment. Any Club House Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate often (10%) percent per annum. The Declarant, the then owner of the Club House or the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot in the same manner that a real estate mortgage is foreclosed and interests, costs and attorneys' fees shall be added to the amount of such assessment. The lien of the Declarant, the then owner of the Club House or the Association against the property must be established by, and shall be effective from the time of filing of a Notice of Lien in the Office of the Register of Deeds for Spartanburg County. Failure by the Declarant, the then owner of the Club House or the Association to enforce any covenant or lien herein contained shall in no event be deemed a waiver of its right to do so.

Section 10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to or for the benefit of the Common Area, which default shall continue for a period of six (6) months, each owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments (including any late payment penalties) in an amount determined by dividing the total taxes and/or assessments and/or penalties due the governmental authority by the total number of Lots in the development. If such sum is not paid by an Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his/her/their heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner. This Section shall not become applicable until Class B membership ceases to exist.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be superior to all other liens, except (a) the liens of taxes, bonds, assessments and other levies which by law are superior, and (b) the lien of any first mortgage of record against a lot made in good faith and for value. Such lien may be enforced by suit, judgment and judicial foreclosure. The Declarant or Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage and convey the Lot. While a Lot is owned by the Association following a lien foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its prorated share of the assessments allocated to the Lot owned by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same. The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. A bona fide mortgagee or other purchaser of a Lot who obtains title pursuant to the foreclosure of a mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall remain the personal obligation of the owner of the Lot prior to the mortgage foreclosure, and, unless and until collected from such prior owner, shall be deemed to be a common expense to be allocated and collected from owners of all Lots subject to assessments hereunder, including such acquirer at the mortgage foreclosure, its successors and assigns.

Section 12. Declarant Assessment Rights. As long as Declarant or a Declarant Related Entity owns any unsold Lots, Declarant shall have the option to pay any deficiency arising as a result of the costs incurred by the Association in fulfilling its obligations hereunder exceeding the amount of regular annual assessments payable

by the Owners of Lots within the Subdivision; provided, however, in such event, Declarant shall not otherwise be required to pay regular or special assessments hereunder with respect to Lots owned by Declarant; and further provided, however, in no event shall Declarant be required to pay an amount which is in excess of one hundred percent (100%) of the established regular annual assessment for each Lot it owns. Notwithstanding any provision contained herein to the contrary, the amount of the deficiency which Declarant is responsible for pursuant to the preceding sentence shall not include any deficiency or deficit resulting from or attributable to the amount of delinquent assessments which are due and owing by any Lot Owner to the Association (an "Owner Delinquency"); however, the Declarant may, at the Declarant's option, advance to the Association such amounts as may be necessary to fund any Owner's Delinquency and the amount thereof, together with interest thereon at the rate of twelve percent (12%) per annum, shall be a demand obligation owing by the Association to the Declarant, and may be deducted by the Declarant from any of the Association's funds in the possession of Declarant, or may be offset against Declarant's future obligations with respect to assessments.

Section 13. Capitalization of Association. The Association may, but shall not be obligated to, levy against each Lot, upon acquisition of record title by the first Owner thereof other than the Declarant or any Declarant-Related Entity, a one-time contribution to the working capital of the Association in an amount equal to one-sixth (1/6th) of the regular annual assessment for such Lot for that year. This amount shall be in addition to, not in lieu of, the regular annual assessment due hereunder and shall not be considered an advance payment of such regular annual assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Lot for use in covering operating expenses and other expenses incurred by the Association.

ARTICLE IV

ARCHITECTURAL CONTROL

Until such time as the Class B membership expires, Declarant shall annually appoint the members of the Architectural Committee which will be comprised of at least one (1) individual and not more than three (3) individuals. The members of the Architectural Committee need not be Owners or Members of the Association.

Section 1. Initial Plan of Design Approval. All residences, outbuildings, and other structures initially constructed within the Subdivision by a Builder (collectively, "Initial Improvements") shall be built in accordance with plans and specifications which have been previously approved by Declarant. Under no circumstances shall any additional architectural approval be required as to the Initial Improvements. Other than the Initial Improvements, no building, fence, wall, porch, deck, or any other structure or improvement (collectively, "Improvements"), including, without limitation, the alteration or painting of the exterior surface of any existing Improvement or Initial Improvement, shall be undertaken upon any Lot unless the plans and specifications and location of the proposed Improvement shall have been expressly approved in writing by the Architectural Committee.

Section 2. Architectural Committee. Until such time as the Class B membership expires, Declarant shall annually appoint the members of the Architectural Committee and the exact number of members of the Architectural Committee being designated by Declarant from time to time. Each member shall be generally familiar with residential and community development design matters and knowledgeable about the Declarant's concern for design standards within the Property. In the event of the death or resignation of any member of the Architectural Committee, Declarant, for so long as it has the authority to appoint the members of the Architectural Committee, and thereafter the Board, shall have full authority to designate and appoint a successor. Members of

the Architectural Committee may be removed and replaced at any time with or without cause, and without prior notice, by Declarant, for so long as Declarant has the right to appoint the members thereof, and thereafter by the Board. Subsequent to the expiration of Class B membership (and earlier if Declarant specifically assigns this right to the Board), the Board shall designate the number of and appoint the members of the Architectural Committee on an annual basis. At any time, Declarant may elect not to designate the number of and/or appoint the members of the Architectural Committee and may assign this right to the Board.

Section 3. Subsequent Plan of Design Approval. No building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Subdivision, nor shall any exterior addition to, or change, or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee.

Section 4. Approval Standards. The Architectural Committee shall have the right to refuse to approve any plans, specifications, and/or plot plans, taking into consideration the suitability of the proposed building or other Improvements, the materials of which it is to be built, whether or not it is in harmony with the surroundings, and the effect it will have on other residences already constructed.

Section 5. Materials to be Submitted. Prior to the commencement of any construction, each Owner shall submit to the Architectural Committee, plans and drawings, in duplicate, in a one eighth (1/8) scale or larger, which shall contain, at a minimum:

- (a) front elevations;
- (b) floor plan;
- (c) the area of heated floor space;
- (d) exterior building material to include color and type of material (brick, siding, cedar, etc., no vinyl siding will be allowed)
- (e) exterior trim color; and,
- (f) roofing material and color.

These requirements also pertain to any alterations and/or additions to existing structures.

The documents and other information required to be submitted shall be delivered or mailed to the Architectural Committee. One complete set shall be retained by the Architectural Committee and the second complete set shall be returned to the applicant, with the Architectural Committee's approval or disapproval clearly noted thereon.

Section 6. Failure to Approve or Disapprove. In the event the Architectural Committee fails to approve or disapprove such plans within thirty (30) days after they have been submitted to it, such approval will be automatic. The terms "Building" or "Improvements" shall be deemed to include the erection, placement, or alteration of any wall, fence driveway, or parking area, or any such activity undertaken subsequent to initial construction.

Section 7. Hardship. The Architectural Committee is authorized to modify or amend the restrictions in this Declaration concerning set-back, location and size of Improvements if, in the reasonable opinion of the Architectural Committee, such shall be necessary to prevent undue hardship. Any such authorization shall be in writing and will be binding upon the Owners and the Association when recorded in the Land Records for

Spartanburg County.

Section 8. Licensed Builders. All construction, including fences, by any Owner, shall be performed by a licensed contractor or licensed builder and must be of materials and workmanship comparable to others in the Subdivision.

Section 9. No Work Stoppages. Once construction is commenced, each Owner shall be responsible for insuring that such work proceeds at an orderly and timely pace, with no work stoppage in excess of fourteen (14) consecutive days, acts of God excepted.

Section 10. Completion of Construction. Houses and other dwelling structures may not be temporarily or permanently occupied until completed. During the continuance of construction, the Owner shall require the contractor to maintain the Lot in a clear and uncluttered condition. Upon completion of construction, the Owner shall cause the contractor to immediately remove all equipment, tools, and construction materials from the Lot. Any damage to roads or property owned by others caused by the Owner's contractor or other parties providing labor or services to the Owner, shall be repaired by the Owner or by the Declarant at Owner's expense. This includes damage to curbs, landscaping and other improvements with any Common Areas.

Section 11. Enforcement. In addition to the Declarant's and the Association's rights to enforce the provisions of this Declaration as set forth hereinafter, the Architectural Committee shall have the specific, nonexclusive right to enforce the provisions contained in this Article and/or to prevent any violation of the provisions contained in this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained herein. In the event that the Architectural Committee, Declarant or the Association resorts to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of this Article, the Architectural Committee, Declarant, or the Association, as applicable, shall be entitled to recover court costs, attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a special assessment against the offending Owner's Lot.

Section 12. Assignment of Rights. The Declarant expressly reserves the right to assign any of the duties, powers, functions, and approval authority set forth herein to any assignee at Declarant's sole discretion.

Section 13. Disclaimer. Neither Declarant nor any other member of the Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. FURTHER, NEITHER DECLARANT, NOR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE SHALL BE LIABLE IN DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OF SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURAL CONTROL COMMITTEE PROVIDED FOR IN THIS DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURAL COMMITTEE FOR APPROVAL AGREES, BY SUBMISSIONS OF SUCH PLAN AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, ASSOCIATION, ITS BOARD MEMBERS OR OFFICERS, OR ANY MEMBER OF THE ARCHITECTURAL COMMITTEE, TO

RECOVER ANY SUCH DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

Section 14. Site Conditions. It shall be the responsibility of each Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates, or unkempt condition of buildings or grounds on his property, or to permit accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area. No loose trash will be permitted to be strewn about the Property at any time. Garbage containers must be kept out of sight from the street, except during collection hours. All personal use items shall be stored inside when not in use. These items include, but are not limited to, yard tools, sprinklers, wheel harrows and children's toys as would create a nuisance for the community. All permanent Improvements on the lot shall be kept within reasonable neighborhood standards as determined by the Architectural Committee. In the event the requirements of this section are not adhered to, the Association shall send written notice via certified mail giving an additional period for compliance of ten (10) days, unless a hardship or special circumstance requires additional time. If the violation continues, the Association may at its sole discretion, hire contractors or personnel to correct said violation and bill the Owner for all costs incurred. The amounts owed shall, if not paid, become a lien on the lot as specified herein.

ARTICLE V

USES PERMITTED AND PROHIBITED

Section 1. All platted Lots in the Subdivision shall be used for single-family, residential purposes only subject to the provisions of the Declaration; provided however, that nothing herein shall prevent Declarant from using any Lot or allowing a Builder to use of any Lot or Common Area for the purpose of carrying on business related to the development, improvement and sale of Lots and homes in the Subdivision.

Section 2. No tent, shack, garage, barn, storage building, or other out-buildings shall be erected upon any Lot without approval from the Architectural Committee and, if approved, it shall not be used as a residence either temporarily or permanently. No structure of a temporary nature or an unfinished house shall be used as a residence and no house trailer, modular home, manufactured home or mobile home shall be placed on any Lot either temporarily or permanently. Any boat, camping trailer, recreational vehicle, and/or similar equipment used for the personal enjoyment of a resident of a Lot shall at all times be neatly stored and positioned so as to be inconspicuous at the rear of the dwelling, if accessible, and if not accessible, must be subject to Architectural Committee approval.

Section 3. No obnoxious or offensive activity shall be permitted anywhere on the property nor shall anything be done which may become an annoyance, nuisance, or menace to the neighborhood. No Lot or any part thereof shall be used for any business, commercial, or public purpose. Business activities in the home which delivers products or services for a fee on site are prohibited, as is any business activity which utilizes more than twenty-five (.25%) percent of the heated or unheated space in the home.

Section 4. No animals shall be kept, maintained, or quartered on any Lot or tract in the Subdivision except that cats, dogs, rabbits, hamsters, or caged birds may be kept in reasonable numbers as pets for the pleasure of Owners so long as said animals do not constitute a nuisance & menace to the neighborhood. The Association

may adopt regulations concerning pets within the Subdivision which may be more restrictive than the covenants herein.

Section 5. Tall shrubbery or hedges shall be trimmed to reasonable limits where traffic hazards may be created.

Section 6. Each Owner subject to these restrictions shall provide space for the off-street parking of automobiles prior to the occupancy of any building or structure constructed on a Lot in accordance with reasonable standards established by the Architectural Committee. Vehicles shall not be parked in any front or side yard except in areas designated as a driveway or parking area. Vehicles in disrepair shall not be stored on the Property. No passenger vehicles without current registration and license tags will be allowed in the Subdivision or on any Owner's Lot. Vehicles being repaired out of doors must have work completed within twenty-four (24) hours. Visiting guests only may use paved streets for temporary parking of their vehicles. All owners must park in designated parking areas on their Lot. No commercial vehicles in excess of 10,500 pounds gross vehicle weight may be stored or housed on the Property at any time, except during periods of construction on a Lot. The Declarant may also direct vehicle owners to park outside the confines of the Property during the construction phase of any structure or landscaping.

ARTICLE VI

EASEMENTS

Section 1. Utility Easements Reserved. In addition to other easements as are shown on the recorded Subdivision plat, a five foot (5') easement is reserved over and across all side and rear lot lines, and a ten foot easement is reserved over and across the front lot line, for drainage, utility, cable television, gas, water, power, sewer, and telephone installation and maintenance; provided that should two lots be consolidated to support one residence, then and in that event, the easements herein above provided shall apply only with respect to the exterior lines of such consolidated lot.

Section 2. Easements Reserved for Utility Service. Declarant specifically reserves the right to grant specific easements to any utility services listed herein at any time following the date hereof until any specific Lot shall be conveyed by Declarant. The right is reserved to authorize the lying and placing of sewer, gas, and water pipelines, telephone, cable television, telegraph, and electrical light poles on any of the streets and easements shown on the recorded subdivision plat. An easement for the installation and maintenance of utilities and drainage facilities is reserved over said streets and easements.

Section 3. Access Easement. Easements for access to the Subdivision are reserved as indicated on recorded plats and in recorded easements. The Declarant hereby grants, gives and conveys to each Owner a perpetual, nonexclusive easement areas as roads and streets on the Plat, or Plats describing the Subdivision for vehicular and pedestrian ingress and egress to and from the Subdivision and nearest public road. The easements granted under this Section are reserved and shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or a part of the Property.

Section 4. Easement of Use and Enjoyment of Common Areas. Declarant, Declarant's Affiliates, the Association and each Owner shall have a right of way and easement for ingress and egress, by vehicle or on foot for the enjoyment of the Common Areas and any improvements or facilities located therein now or hereinafter

constructed for all purposes consistent with the provisions of this Declaration. Such easement shall be appurtenant to and shall pass with the title to every Property, subject to the right of the Association to promulgate rules and regulations to control use of the Common Areas and further subject to the Association Amended and Restated By-laws, as the same are amended from time to time.

Section 5. Reservation of Access Easement by Declarant. The Declarant hereby reserves a perpetual, nonexclusive easement to use and connect to the roads and streets shown on the Plat, or Plats describing the Subdivision for vehicular and pedestrian ingress and egress to and from the Subdivision and any property owned by the Declarant or a Declarant-Related Entity, whether within the Subdivision or without. The easement reserved shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or a part of the Subdivision. In the event that Declarant or a Declarant-Related Entity connects property owned by it to the road and streets within the Subdivision, the owner of the lots without the Subdivision using such roads and street shall pay the Association a proportional part of the costs of maintenance, use, and operation of such roads and streets within the Subdivision as the total number of lots without the Subdivision whose owners claim a right under this easement bears to the total number of lots both within and without the Subdivision using the roads and streets.

Section 6. Reservation of Easements for Utility Service by Declarant. The Declarant hereby reserves the right to install sewer, gas, and water pipelines, telephone, cable television, telegraph, and electrical lines and light poles in under or along any of the roads, streets, Common Areas and easement areas shown on the Plat for the benefit of any property owned by the Declarant or a Declarant-Related Entity whether within the Subdivision or without.

ARTICLE VII

SETBACK, LOCATION, AND SIZE OF IMPROVEMENTS AND OF BUILDING PLOTS

Section 1. Nothing herein contained shall be construed to prohibit the use of more than one (1) Lot or portions of one or more lots as a single-residential building site, provided that said Lot would otherwise meet the requirements as to size, setback line, and directional facing of said building as determined by the Declarant.

Section 2. No building shall be erected on any Lot nearer to the front lot line or nearer to the side street line than the building setback line shown on the recorded plat. Any such building shall face toward the front line of the Lot except that buildings to be constructed on corner Lots shall face in the direction designated by the Architectural Committee. No building shall be located nearer to any interior side lot line than the distance determined by applicable building codes.

Section 3. Detached Buildings, approved as provided in Article VI shall be of the same exterior material as the house and cannot be placed nearer to any lot line than the distance determined by applicable building codes. **LOCATION AND SIZE OF ALL DETACHED BUILDINGS SHALL BE APPROVED OR DENIED IN ADVANCE BY THE ARCHITECTURAL COMMITTEE.**

Section 4. No wall, fence, or hedge shall be erected between the street and the front corner of the main body of house. Subject to approval by the Architectural Committee, wood fences with a maximum height of six (6') feet are required on the line facing the street and can be placed no closer to the street than the middle of the house. Chain link fences not exceeding four feet are permitted on the side and back lines. Fences must be installed

by a fence contractor and all work shall be installed in a neat, plumb and workmanlike manner. All fence posts will be set in concrete, Sakrete or equal is approved for this purpose.

Section 5. The total area of all driveways shall be paved by plant mix concrete. All driveways shall be able to accommodate two (2) full-size cars parked side by side in the parking area of the driveway.

Section 6. No residence shall be constructed containing less than 1,500 square feet for a one story or 1,800 square feet for a two story or story and one half; exclusive of porches, garages, and breezeways. In computing the square footage of any residence containing a basement which is finished and heated, one-half(½) credit shall be given. Exceptions to this limitation may be granted by the Architectural Committee if in the opinion of the Committee that proposed residence would be in keeping with the overall concept of the Subdivision.

Section 8. No above-ground pool shall be constructed or placed on any Lot, except that inflatable pools for small children in the back yard of any residences are acceptable during Spring and Summer months.

Section 9. Declarant reserves the right to place additional signs as needed within the Subdivision.

Section 10. Roof pitches shall be at least 6/12 unless approval is given by the Architectural Committee for a lower pitch on a specific set of plans.

Section 11. No residence shall be constructed without having at least a two-car garage (provided; however, the Architectural Committee shall have the right to permit and approve a one-car garage on a Lot that the Committee determines will not support a two-car garage) which will be maintained permanently as a functional garage.

Section 12. No signs shall be permitted on any Lots except that a single sign offering the property for sale may be placed on such Lot, providing such sign is approved by the Architectural Committee.

Section 13. The removal of any trees in excess of six (6") inches in diameter at a height of three (3') feet above ground level shall require prior approval of the Architectural Committee. No trees may be removed until final building plans have been approved by the Architectural Committee.

Section 14. The Owner of each Lot shall cause written notice to be delivered to the Declarant upon the conveyance of any Lot by him, advising Declarant of the conveyance.

Section 15. No satellite or television dish or radio antenna shall be constructed or placed on any Lot except where type, size, screening, and location have been approved by the Architectural Committee.

Section 16. Each home is required to have a typical mailbox or name sign with the appropriate name, lot number or assigned street number depicted. The Owner's name may be applied to the sign or mailbox. The design, color, construction and installation of every sign or mailbox are required to conform to the design guidelines adopted by the Architectural Committee.

Section 17. The storage of boats and campers in yards or driveways is prohibited. Boats, trailers, golf carts, RV's, motorcycles, bicycles, ATV's, and any other such equipment shall be stored in a garage or approved outbuilding. Any vehicles or equipment that cannot be stored in a garage structure or discretely screened as

approved by the Architectural Committee are required to be stored off-site at the Owner's expense.

Section 18. No hunting shall be allowed at any place within the Subdivision, nor shall firearms or other weapons of any kind be discharged within the Subdivision.

Section 19. No unlicensed vehicles may be operated within the Subdivision. Motorcycles, minibikes, dune buggies, motorized bikes and other recreation vehicles that are duly licensed may be operated within the bounds of the Subdivision, but only while riding for access purposes to and from a residence to the public road (outside the Subdivision), and may not be ridden within the bounds of the Subdivision for recreation or any other purpose. All motor vehicles shall be maintained in proper operating condition so as not to be a nuisance by noise, exhaust emissions or otherwise. No motor vehicles shall be driven within the Subdivision, except on driveways and on the roadways shown on the recorded plats for the Subdivision.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, Declarant-Related Entities, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation, or Bylaws of the Association. In the event that the Declarant, any Owner, or the Association resorts to litigation to remedy a violation of this Declaration, such Owner, Declarant, or the Association, as applicable, shall be entitled to recover court costs, attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a special assessment against the offending Owner's Lot. Failure by the Declarant, Declarant's Affiliates, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant, Declarant's Affiliates, and the Association shall have the right to request that law enforcement, public safety and animal control officers come into the Subdivision to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amplification. The provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association, but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws on the other, be interpreted, construed and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything in the Articles of Incorporation or Bylaws to the contrary, to the extent permitted by law.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods often (10) years. The process of amending or modifying this Declaration shall be as follows: (a) Until the Class B Membership ceases to exist, all amendments or modifications shall be made only by Declarant without the requirement of the Association's consent or the consent of the

Owners, or any Builder; (b) After the Class B Membership ceases to exist, this Declaration may be amended by an instrument approved by no less than a two-thirds (2/3) vote of the Owners present at a duly held meeting of the Association at which a quorum is present. Notwithstanding the foregoing to the contrary, as long as Declarant or a Declarant-Related Entity owns the Club House or any Lot in the Subdivision, no such amendment shall be effective without the written approval of Declarant.

Section 5. FHA/VA approval. Declarant reserves the right to unilaterally amend this Declaration without the requirement of the Association's consent or the consent of the Owners, or any Builder where required by the Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agency to facilitate lending activities within the Subdivision.

ARTICLE IX

ANNEXATION

For a Period of thirty (30) years after the recording of this Declaration in the Land Records for Spartanburg County (the "Development Period"), the Declarant or Declarant-Related Entity may from time to time unilaterally subject to the provisions of this Declaration any property owned by Declarant or a Declarant-Related Entity located adjacent to and contiguous with any property located within the Subdivision. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer real property adjacent to and contiguous with any property located within the Subdivision and that such transfer is memorialized in a written, recorded instrument executed by the Declarant. For purpose of determining if real property is contiguous to the Subdivision, public and private road and bodies of water such as rivers, creeks and wetlands shall be disregarded.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Land Records for Spartanburg County describing the property being annexed. Such Supplemental Declaration shall not require the consent of any Members or Owners, but shall require the consent of the owner of the property to be annexed, if other than the Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the adjacent property in any manner whatsoever.

The Declarant reserves the right to amend this Declaration during the Development Period for the purpose of removing any portion of the Subdivision, including portions of the Common Area, from the coverage of this Declaration. Such amendment shall not require the consent of any Member or Owner other than the Owner of the property to be withdrawn, if not the Declarant.

The Declarant may unilaterally subject any portion of the Subdivision to additional covenants and easements, including, without limitation, covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through District Assessments as well as any restrictions on use applicable to any Parcel which do not lower the standards of the covenants and restrictions herein contained. Such additional covenants and easements shall be set forth in a Supplemental Declaration, filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of the property affected by such additional covenants and easements, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise

modify the terms of this Declaration as it applies to the subject property for such purposes as deemed appropriate in the Declarant's sole discretion, including but not limited to modifications to reflect the different character and intended use of such property.

Notwithstanding anything to the contrary contained in this Declaration, this Article shall not be amended during the Development Period without the prior written consent of the Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hands and seals this 10 day of JULY, 2013.

SIGNATURES ON THE FOLLOWING PAGES.

AMENDED AND RESTATED
BYLAWS OF THE VINEYARDS AT STONECREEK FALLS
(the "Bylaws")

ARTICLE I
NAME AND LOCATION

Section 1.1 Name. The name of the corporation is The Vineyards at Stonecreek Falls Homes Owners Association, Inc. hereinafter referred to as the "Association."

Section 1.2 Location. The principal office of the Association shall be located in Spartanburg County, unless otherwise agreed upon by the Board of Directors.

Section 1.3 Registered Agent. The registered agent for the Association shall be the Secretary as from time to time elected, unless otherwise agreed upon by the Board of Directors. The registered office of the Association must be located in the State of South Carolina and may be, but need not be, identical with the principal office.

Section 1.4 Purpose. The purpose for which the Association is organized is to further social activities of Owners of Lots in The Vineyards at Stonecreek Falls Subdivision located in Spartanburg County, SC, and in connection therewith to provide services to such property Owners, manage and maintain the Common Area and administer and enforce all covenants and restrictions dealing with the property located in The Vineyards at Stonecreek Falls and any other purposes allowed by law.

ARTICLE 2
DEFINITIONS

All capitalized terms when used in these Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Vineyards at Stonecreek Falls executed by Westchester Vineyards, LLC (the "Declarant") and duly recorded in the Land Records for Spartanburg County, as the same may be supplemented and amended from time to time (the "Declaration").

ARTICLE 3
MEETINGS OF MEMBERS

Section 3.1 Membership. The Members of the Association, hereinafter referred to as "Members", shall at all times be limited to the Declarant and Owners of Lots in The Vineyards at Stonecreek Falls.

Section 3.2 Annual Meeting. The first annual meeting of the Members shall be held on such date as determined by the Board of Directors within one year from the date of incorporation of the Association or during the first calendar year that Assessments are charged to the Owners. Each subsequent annual meeting of the Members shall be held on the day of the same month of each year thereafter, at the hour of 7:00 o'clock, P.M. or on such other date at time as determined by the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3.3 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-tenth (1/10) of all of the votes appurtenant to the Lots.

Section 3.4 Place of Meetings. All meetings of the Members shall be held at such place, within South Carolina as shall be determined by the Board of Directors of the Association.

Section 3.5 Notice of Meetings. Written notice of each meeting of the Members shall be given by mailing a copy of such notice by first class mail, postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.6 Membership List. An alphabetical list of the names of all Members who are entitled to vote and their addresses shall be prepared by the Secretary and shall be available for inspection by any Member beginning on the next business day after notice of any meeting is given and continuing through the meeting, at the Association's principal office or at a place identified in the meeting notice in the city where the meeting will be held. This list shall also be available at the meeting for inspection by any Member.

Section 3.7 Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights.

- (a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.
- (b) Class B Lots. Class B Lots shall be all Lots owned by Declarant and Declarant's Affiliates, respectively, which have not been conveyed to purchasers who are not affiliated with Declarant. Declarant shall be entitled to three (3) votes for each Class B Lot which each party owns.

Section 3.8 Relinquishment of Control. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 2043, or
- (c) when Declarant and any Declarant Related Entity elects by notice to the Association in writing to terminate their Class B membership.

Class B Membership shall be reinstated in the event that additional real property is annexed into the Subdivision causing the total votes outstanding in the Class A membership to be less than the total votes outstanding in the Class B Membership when counting the new lots annexed into the Subdivision.

Section 3.9 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, sixty percent (60%) of the votes appurtenant to the Lots shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 3.10 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies

shall be in writing dated within eleven months prior to the Meeting and filed with the Secretary. Every proxy shall be revocable by (i) appearing at the Meeting and voting in person, (ii) filing a valid substitute proxy or cancellation of proxy with the Secretary prior to the call to order of the Meeting, or (iii) conveyance by the Member of his Lot.

Section 3.11 Action by Members. Except as provided otherwise in the Articles of Incorporation, the Declaration or these Bylaws, any act or decision approved by a vote of no less than two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present shall be regarded as the act of the Members.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business at the meeting or any adjournment thereof notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 3.12 Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 3.13 Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if: (i) a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book; or (ii) such action is approved by written ballot as authorized by the South Carolina Code.

ARTICLE 4 BOARD OF DIRECTORS

Section 4.1 Number. The business and affairs of the Association shall initially be managed by a Board of three directors, who will be appointed by Declarant during for so long as there is a Class B membership. At the first annual meeting of the Members following termination of the Class B membership, a Board of five directors shall be elected as described in Section 4.4.

Section 4.2 Initial Directors. The initial directors shall be selected by the Declarant. Such initial directors shall serve for one year terms at the election of the Declarant from the date upon which the Declaration is recorded in Spartanburg County, South Carolina, until such time as the Class B membership terminates and their successors are duly elected and qualified.

Section 4.3 Nomination. Following the expiration of the Class B membership, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4.4 Election. Following the expiration of the Class B membership, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4.5 Term of Office. The term of all successor directors elected by the Members shall expire at the next

annual meeting of Members; provided, however, the directors shall continue to serve until their successors are elected and qualified or until their earlier resignation, removal from office, incapacity, or death.

Section 4.6 Removal. After the Class B Membership shall cease, any director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors. Until such time as the Class B shall cease, Board members shall serve at the leisure of Declarant and can be removed with or without cause by Declarant.

Section 4.7 Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.8 Salaries of Employees and Agents. Except as provided elsewhere in these Bylaws, the Board of Directors shall set the salaries of all employees and agents of the Association.

ARTICLE 5 MEETINGS OF DIRECTORS

Section 5.1 Regular Meetings. Meetings of the Board of Directors shall be held on a regular basis as often as the Board of Directors sees fit, but no less often than annually, on such days and at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 5.2 Special Meeting. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 5.3 Notice of Meetings. Notice of each special meeting of the Board of Directors, stating the time, manner and place of the meeting, shall be given by or at the direction of the Secretary of the Association by mailing the same to each director at his residence or business address not fewer than three days before such meeting, or by giving the same to him personally or telegraphing or telephoning the same to him at his residence or business address not later than the day before the day on which the meeting is to be held.

Any and all requirements for call and notice of meetings may be dispensed with if all directors are present at the meeting or if those not present at the meeting shall at any time waive or have waived notice thereof.

Section 5.4 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 5.5 Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board of Directors action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

Section 5.6 Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board of Directors meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 5.7 Liability of the Board of Directors. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith.

The Owners shall indemnify and hold harmless each of the members of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

ARTICLE 6
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 6.1 Powers. The Board of Directors shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, including but not limited to the Recreational Facilities and the personal conduct of the Members, their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the recreational facilities of a Member, including the rights to use the Recreational Facilities, or other Common Area during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties;
- (f) employ attorneys to represent the Association when deemed necessary;
- (g) grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Subdivision;
- (h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient;
- (i) do anything necessary or desirable, including, but not limited to, establishing any rules or regulations which the Association deems necessary to carry out the purposes of the Association as set forth herein or as permitted by law;
- (j) to enforce the provisions of the Declaration and any Additional or Supplementary Declaration and any rules or regulations made hereunder or thereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessments against any Owner for violation of such provisions, rules or regulations pursuant to the provisions of the Declaration; and
- (k) to levy assessments as more particularly set forth in the Declaration.

Section 6.2 Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement

thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least one-third (1/3) of the votes appurtenant to the Lots;

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration:

(1) Fix the amount of the assessments as more particularly described in the Declaration;

(2) Send written notice of each assessment to every Owner subject thereto before its due date; and

(3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid (A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.);

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Association;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Areas to be maintained.

ARTICLE 7 OFFICERS AND THEIR DUTIES

Section 7.1 Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 7.2 Election of Officers. Following the expiration of the Class B membership, the election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 7.3 Term. Each officer of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 7.4 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Directors may, from time to time, determine.

Section 7.5 Resignation, Removal and Vacancies. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

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

Section 7.6 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

Section 7.7 Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 7.8 Duties. The duties of the officers are as follows:

President

(a) The President shall be the principal executive officer of the Association, and subject to the control of the Board of Directors, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board of Directors and of the Members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE 8 COMMITTEES

Section 8.1 Executive Committee. The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate an Executive Committee to consist of two or more of the Directors of the Association, which, to the extent provided in said resolution, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Association and to do all things, including actions specified by these Bylaws to be performed by the Board of Directors, in the same manner and with the same authority and effect as if such acts had been performed by the Board of Directors; but the Board of Directors shall at all times have the power to reverse an action taken by the Executive Committee, provided that the exercise of such power by the Board of Directors shall not in any way abrogate the obligations or duties owing by the Association to third parties who have acted in reliance on the action taken by such committee.

All proceedings and action taken by such committee shall be reported to the Board of Directors at the regular meeting of the Board of Directors or special meeting called for such purpose next following such proceedings or action.

Section 8.2 Nominating Committee. The Association shall appoint a Nominating Committee, as provided in these Bylaws.

Section 8.3 Other Committees. The Board of Directors may create such other committees as the Board of Directors may from time to time appoint.

Section 8.4 Compensation. Members of committees, as such, shall not receive any salary or compensation for their services; provided, however, that a committee member may serve the Association in another capacity and receive compensation therefor.

ARTICLE 9 BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE 10 ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual assessments and special assessments, as defined in the Declaration. Any assessments (including but not limited to special individual assessments) which are not paid when due shall be delinquent. If an assessment is not paid by its due date, as set forth in the Declaration, the assessment shall bear interest from such due date at the rate of ten percent (10%) per annum or the highest rate then permitted by law, whichever is less, plus such late charge as may be established by the Board of Directors, and the Association may bring an action at law against the Member personally obligated to pay the same. The late charges, costs of collection and reasonable attorneys' fees related to any such action shall be added to the amount of such assessment, all in accordance with the provisions of the Declaration. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Subdivision.

ARTICLE 11 CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: The Vineyards at Stonecreek Falls Home Owners Association, Inc.

ARTICLE 12 AMENDMENTS

Section 12.1 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy, except that the Federal Housing Administration (the "FHA") or the Veterans Administration (the "VA") shall have the right to veto amendments while there is a Class B membership.

Notwithstanding anything in this Section 12.1 to the contrary, the Class B Members may at their option amend these Bylaws without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause these Bylaws to comply with the requirements of the FHA, VA, Federal National Mortgage Association or similar agency.

Section 12.2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE 13
MISCELLANEOUS

The fiscal year of the Association shall be the calendar year and shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE 14
INDEMNIFICATION OF DIRECTORS AND OFFICERS

To the extent permitted by law, the Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty, or in relation to a proceeding by or for the right of the Association in which a director or officer was adjudged liable to the Association or in relation to a proceeding where a director or officer was adjudged liable on the basis that personal benefit was improperly received by that director or officer.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article 14 or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.

**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS APPLICABLE TO A SUBDIVISION KNOWN AS THE VINEYARDS AT
STONECREEK FALLS,**

THIS AMENDED AND RESTATED DECLARATION (hereinafter the "Declaration") made on the date hereinafter set forth by **Westchester Vineyards, LLC**, a South Carolina Corporation, hereinafter referred to as "**Declarant**", and **Kenneth Eric Lapolla and Lee Lapolla, Randall H. Smith and Mandy L. Smith, Brent Galloway and Vicki Swofford** (collectively the "Existing Owners").

WITNESSETH

WHEREAS, the Declarant is the owner of certain property in Spartanburg County, South Carolina, more particularly described as: Lots 1 through 13, Lots 15 and 15-A, Lots 16 through 25, Lot 28, Lots 42- 64, Lots 66 and 67, Lots 69 through 73, Lot 75, Lots 77 through 87 and Lot 89 ("Declarant's Lots"), as shown on plat entitled "Final Plat for The Vineyards at Stonecreek Falls, Phase 1, dated October 17, 2005 ("Plat"), a copy of which plat is recorded in Plat Book 158 at Page 980 in the Land Records of Spartanburg County and reference to which Plat is hereby craved for a complete-metes and bounds description;

WHEREAS, the Existing Owners are the owners of certain property in Spartanburg County, South Carolina, more particularly described as: Lots 26, 27, 65, 68, 74 and 76, as shown on the Plat.

WHEREAS, Declarant has purchased the Declarant's Lots and certain of the Common Areas from The Palmetto Bank who obtained title to the lots from Stonecreek Falls, LLC, in a foreclosure proceeding.

WHEREAS, Declarant and Existing Owners desire to adopting a new set of covenants, conditions and restrictions for the The Vineyards at Stonecreek Falls in order to facilitate new development within the subdivision.

NOW, THEREFORE, Declarant and Existing Owners hereby declare that the Declaration of Covenants, Conditions and Restrictions Applicable to a Subdivision known as The Vineyards at Stonecreek Falls recorded on December 22, 2005, in Deed Book 84-S, Page 18, in the Land Records for Spartanburg County are hereby rescinded and are of no further force and effect and further declare that all of the properties described above shall be held, sold, and conveyed subject to this Amended and Restated Declaration subject to following easements, restrictions, covenants, and conditions, which are for the purpose of facilitating new development within the Subdivision, and which shall run with, the real property and be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner (as hereinafter defined) thereof.

ARTICLE I

DEFINITIONS

Section 1. "**Association**" shall mean and refer to **The Vineyards at Stonecreek Falls Owners Association, Inc.**, a South Carolina non-profit corporation, its successors and assigns.

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Office of Register of Deeds, Spartanburg, S.C.
Dorothy Earle, Register



Section 2. "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding the developer and builders holding property for resale and those having such interest merely as security for the performance of an obligation.

Section 3. "**Property**" and "**Properties**" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association in compliance with the provisions of this Declaration.

Section 4. "**Lot**" shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Subdivision.

Section 5. "**Declarant**" shall mean and refer to **Westchester Vineyards, LLC**, its successors and assigns, for so long as Westchester Vineyards, LLC or a Declarant-Related Entity owns property within the Subdivision, or any assignee of Declarant who holds or takes title to any portion of the Subdivision and who is designated as the successor to Declarant in a recorded instrument executed by the immediately preceding Declarant.

Section 6. "**Declarant-Related Entity**" shall mean any Person or entity that is a parent, subsidiary or affiliate of the Declarant, and/or in which the Declarant or any parent, subsidiary or affiliate of the Declarant or any officer, director, shareholder, partner, member, manager or trustee of any of the foregoing owns, directly or indirectly, not less than ten percent (10%) of such entity.

Section 7. "**Builder**" shall mean and refer to any builder licensed by and in good standing with Declarant.

Section 8. "**Common Area**" shall mean and refer to all real property hereinafter conveyed to the Association for the common use, enjoyment and maintenance by of the Owners. Once any such property is conveyed to the Association, such Common Area shall be owned by the Association for the common use and benefit of the owners, subject to the easements, terms, conditions and restrictions described in this Declaration. Responsibility for the maintenance of the Common Areas, including any paved, landscaped, lighted or other improved areas located within the Common Area shall be the responsibility of the Association. The Common Area shall not include the Club House as that term is defined herein.

Section 9. "**Club House**" shall mean and refer to that land and those improvements and facilities that may be hereinafter erected by Declarant within or without the Subdivision for the non-exclusive use, enjoyment and benefit of the Owners (as that term is defined herein) and other adjacent neighborhoods which Club House is separate and apart from the Common Areas (as that term is defined herein).

Section 10. "**Club House Assessments**" shall mean and refer to the assessments provided for hereunder attributable to the use, maintenance and operation of the Club House which assessments are separate and apart from the Assessments provided for under Article III, Section 1 hereof.

Section 11. "**Subdivision**" shall mean and refer to property described on the Plat of The Vineyards at Stonecreek Falls prepared by George B. Souther, PLS #21232 dated October 17, 2005, a copy of which is recorded in Plat Book 158 at page 980 in the Land Records for Spartanburg County, South Carolina, and any new property

annexed into the Subdivision as allowed hereunder, which collectively shall be known as The Vineyards at Stonecreek Falls.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall be a member of the Association, which memberships shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the maintenance of lighting entrances, roads, common areas, fences, landscaping, sprinkler systems, light fixtures and related bulbs and other reasonable expense.

(b) The right of the Association to suspend the voting rights of an Owner for any period not to exceed (sixty) 60 days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority or authority for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3) of each class of members and has been recorded;

(d) The right of the Association to impose regulations for the use and enjoyment of the Common Area and Improvements thereon;

(e) The right of the Association, in accordance with its Amended Articles and Amended and Restated By-laws, to borrow money for the purpose of improving the Common Area and facilities thereon. No such mortgage of the Common Area shall be effective unless an instrument agreeing to such mortgage of Common Area is signed by two-thirds (2/3) of each class of members. Also, so long as there is Class B Membership, mortgage of any Common Area must also be approved by the U.S. Department of Veterans Affairs; and

(f) The right of the Association to exchange portions of Common Area with the Declarant for substantially equal areas of the properties for the purpose of eliminating unintentional encroachments of Improvements onto portions of the Common Areas or any other purpose or reason. As long as there is Class B Membership, no such exchange of portions of Common Area with the Declarant shall be effective unless an instrument agreeing to such exchange has been approved by the U.S. Department of Veteran Affairs.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The Vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Members shall be the Declarant. The B member(s) shall be entitled to three

(3) votes for each Lot owned by Declarant or a Declarant-Related Entity, respectively. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 2043, or
- (c) when Declarant and any Declarant-Related Entity elects by notice to the Association in writing to terminate their Class B membership.

Class B Membership shall be reinstated in the event that additional real property is annexed into the Subdivision causing the total votes outstanding in the Class A membership to be less than the total votes outstanding in the Class B Membership when counting the new lots annexed into the Subdivision.

Section 3. Leases of Lots. Any lease agreement between an Owner and a lessee for the Lease of such Owner's residence on its Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing. Other than the foregoing, there is no restriction on the right of any owner to lease his Lot.

ARTICLE III

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessment or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as herein provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and in particular for the improvement and maintenance of services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials management and supervision, the payment of taxes assessed against the Common Area; the maintenance of water and sewer mains in and upon the Common Area; the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and

islands located in dedicated right-of-way), drives and parking areas within the Common Area, the procurement and maintenance of insurance in accordance with the Amended a Restated By-Laws; the maintenance of lakes, ponds, retention areas or other bodies of water located within the Common Area if any; the maintenance of dams and areas surrounding such water; the maintenance of any easement areas located on any Lot and held in favor of the Association, as shown on a recorded plat; the maintenance of entranceways, landscaping and lighting of Common Area, road medians and islands and entranceways, the lighting of streets (whether public or private); the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area; the costs associated with duties of the Architectural Control Committee; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association may establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Area and those other portions of the Subdivision which the Association may be obligated to maintain. Such reserve fund can be established out of regular assessments for common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Subdivision, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the Amended and Restated By-Laws of the Association. As monies for any assessment are paid to the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of Subdivision.

Section 3. Maximum Annual Assessment. Once the initial assessment has been established hereunder, such assessment shall not increase each year by more than fifteen (15%) percent above the maximum assessment for the previous year without by approval of the vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose. The Declarant, or the Board of Directors, as the case may be, may fix the annual assessment at an amount not in excess of ten percent (10%) above the previous year's assessment.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement in the Subdivision, provided that any such assessment shall have the assent to two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot or otherwise.

Section 5. Notice and Quorum for any Action Authorized under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Owners in good standing with the Association not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments; Due Dates. The Declarant, or the Board of Directors, as the case may be, shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Declarant or Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate often (10%) percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot in the same manner that a real estate mortgage is foreclosed and interests, costs and attorneys' fees shall be added to the amount of such assessment. The lien of the Association against the property must be established by, and shall be effective from the time of filing of a Notice of Lien in the Office of the Register of Deeds for Spartanburg County. Failure by the Association to enforce any covenant or lien herein contained shall in no event be deemed a waiver of its right to do so.

Section 9. Club House Assessments. In order to (1) fulfill the terms, provisions covenants and conditions contained in this Declaration; and (2) maintain, operate, and preserve and improve the Club House for the recreation, use, safety, welfare, and benefit of the Owners and their guests, invitees, lessees and licensees, there is hereby imposed upon each Owner the affirmative covenant and obligation to pay to the Declarant or then owner of the Club House (in the manner herein set forth) an assessment for the cost and expense to maintain, operate, and preserve and improve the Club House for the recreation, use, safety, welfare, and benefit of the Owners. The Club House Assessment shall not become an assessment against a Lot until the Club House is erected by the Declarant and this amount shall be in addition to, not in lieu of, the regular annual assessment due hereunder. The Club House Assessment shall be fixed at a uniform rate for all lots (whether within the Subdivision or without) designated by Declarant as having the right to use and enjoy the Club House and may be collected on a monthly basis. The Association shall have the obligation to collect the Club House Assessment from each Owner and shall pay same to the Declarant or then owner of the Club House when such Club House Assessment is due in accordance with the terms hereof, provided however, that the Declarant or then owner of the Club House may, in its sole discretion elect to collect or not collect the Club House Assessments directly from each Owner. Each Owner by acceptance of a deed or other instrument of conveyance conveying a Lot, and each Builder by acceptance of a deed or other instrument of conveyance conveying a Lot, whether or not it shall be so expressed in such deed or instrument, shall be obligated and agrees to pay to the Declarant or then owner of the Club House all Club House Assessments in accordance with the provisions of this Declaration and consents and agrees to the lien

rights set forth hereunder against such Lot. The liability for the Club House Assessment may not be avoided by waiver of the use or enjoyment of the Club House or by abandonment of the Lot for which the Club House Assessment are made. The Declarant or then owner of the Club House shall have the right to impose regulations for the use and enjoyment of the Club House and to bar and Owner's use of the Club House for failure to pay the Club House Assessment. Any Club House Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate often (10%) percent per annum. The Declarant, the then owner of the Club House or the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot in the same manner that a real estate mortgage is foreclosed and interests, costs and attorneys' fees shall be added to the amount of such assessment. The lien of the Declarant, the then owner of the Club House or the Association against the property must be established by, and shall be effective from the time of filing of a Notice of Lien in the Office of the Register of Deeds for Spartanburg County. Failure by the Declarant, the then owner of the Club House or the Association to enforce any covenant or lien herein contained shall in no event be deemed a waiver of its right to do so.

Section 10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to or for the benefit of the Common Area, which default shall continue for a period of six (6) months, each owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments (including any late payment penalties) in an amount determined by dividing the total taxes and/or assessments and/or penalties due the governmental authority by the total number of Lots in the development. If such sum is not paid by an Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his/her/their heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner. This Section shall not become applicable until Class B membership ceases to exist.

Section 11. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be superior to all other liens, except (a) the liens of taxes, bonds, assessments and other levies which by law are superior, and (b) the lien of any first mortgage of record against a lot made in good faith and for value. Such lien may be enforced by suit, judgment and judicial foreclosure. The Declarant or Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage and convey the Lot. While a Lot is owned by the Association following a lien foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its prorated share of the assessments allocated to the Lot owned by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same. The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. A bona fide mortgagee or other purchaser of a Lot who obtains title pursuant to the foreclosure of a mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall remain the personal obligation of the owner of the Lot prior to the mortgage foreclosure, and, unless and until collected from such prior owner, shall be deemed to be a common expense to be allocated and collected from owners of all Lots subject to assessments hereunder, including such acquirer at the mortgage foreclosure, its successors and assigns.

Section 12. Declarant Assessment Rights. As long as Declarant or a Declarant Related Entity owns any unsold Lots, Declarant shall have the option to pay any deficiency arising as a result of the costs incurred by the Association in fulfilling its obligations hereunder exceeding the amount of regular annual assessments payable

by the Owners of Lots within the Subdivision; provided, however, in such event, Declarant shall not otherwise be required to pay regular or special assessments hereunder with respect to Lots owned by Declarant; and further provided, however, in no event shall Declarant be required to pay an amount which is in excess of one hundred percent (100%) of the established regular annual assessment for each Lot it owns. Notwithstanding any provision contained herein to the contrary, the amount of the deficiency which Declarant is responsible for pursuant to the preceding sentence shall not include any deficiency or deficit resulting from or attributable to the amount of delinquent assessments which are due and owing by any Lot Owner to the Association (an "Owner Delinquency"); however, the Declarant may, at the Declarant's option, advance to the Association such amounts as may be necessary to fund any Owner's Delinquency and the amount thereof, together with interest thereon at the rate of twelve percent (12%) per annum, shall be a demand obligation owing by the Association to the Declarant, and may be deducted by the Declarant from any of the Association's funds in the possession of Declarant, or may be offset against Declarant's future obligations with respect to assessments.

Section 13. Capitalization of Association. The Association may, but shall not be obligated to, levy against each Lot, upon acquisition of record title by the first Owner thereof other than the Declarant or any Declarant-Related Entity, a one-time contribution to the working capital of the Association in an amount equal to one-sixth (1/6th) of the regular annual assessment for such Lot for that year. This amount shall be in addition to, not in lieu of, the regular annual assessment due hereunder and shall not be considered an advance payment of such regular annual assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Lot for use in covering operating expenses and other expenses incurred by the Association.

ARTICLE IV

ARCHITECTURAL CONTROL

Until such time as the Class B membership expires, Declarant shall annually appoint the members of the Architectural Committee which will be comprised of at least one (1) individual and not more than three (3) individuals. The members of the Architectural Committee need not be Owners or Members of the Association.

Section 1. Initial Plan of Design Approval. All residences, outbuildings, and other structures initially constructed within the Subdivision by a Builder (collectively, "Initial Improvements") shall be built in accordance with plans and specifications which have been previously approved by Declarant. Under no circumstances shall any additional architectural approval be required as to the Initial Improvements. Other than the Initial Improvements, no building, fence, wall, porch, deck, or any other structure or improvement (collectively, "Improvements"), including, without limitation, the alteration or painting of the exterior surface of any existing Improvement or Initial Improvement, shall be undertaken upon any Lot unless the plans and specifications and location of the proposed Improvement shall have been expressly approved in writing by the Architectural Committee.

Section 2. Architectural Committee. Until such time as the Class B membership expires, Declarant shall annually appoint the members of the Architectural Committee and the exact number of members of the Architectural Committee being designated by Declarant from time to time. Each member shall be generally familiar with residential and community development design matters and knowledgeable about the Declarant's concern for design standards within the Property. In the event of the death or resignation of any member of the Architectural Committee, Declarant, for so long as it has the authority to appoint the members of the Architectural Committee, and thereafter the Board, shall have full authority to designate and appoint a successor. Members of

the Architectural Committee may be removed and replaced at any time with or without cause, and without prior notice, by Declarant, for so long as Declarant has the right to appoint the members thereof, and thereafter by the Board. Subsequent to the expiration of Class B membership (and earlier if Declarant specifically assigns this right to the Board), the Board shall designate the number of and appoint the members of the Architectural Committee on an annual basis. At any time, Declarant may elect not to designate the number of and/or appoint the members of the Architectural Committee and may assign this right to the Board.

Section 3. Subsequent Plan of Design Approval. No building, fence, wall, or other structure shall be commenced, erected, or maintained upon the Subdivision, nor shall any exterior addition to, or change, or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Architectural Committee.

Section 4. Approval Standards. The Architectural Committee shall have the right to refuse to approve any plans, specifications, and/or plot plans, taking into consideration the suitability of the proposed building or other Improvements, the materials of which it is to be built, whether or not it is in harmony with the surroundings, and the effect it will have on other residences already constructed.

Section 5. Materials to be Submitted. Prior to the commencement of any construction, each Owner shall submit to the Architectural Committee, plans and drawings, in duplicate, in a one eighth (1/8) scale or larger, which shall contain, at a minimum:

- (a) front elevations;
- (b) floor plan;
- (c) the area of heated floor space;
- (d) exterior building material to include color and type of material (brick, siding, cedar, etc., no vinyl siding will be allowed)
- (e) exterior trim color; and,
- (f) roofing material and color.

These requirements also pertain to any alterations and/or additions to existing structures.

The documents and other information required to be submitted shall be delivered or mailed to the Architectural Committee. One complete set shall be retained by the Architectural Committee and the second complete set shall be returned to the applicant, with the Architectural Committee's approval or disapproval clearly noted thereon.

Section 6. Failure to Approve or Disapprove. In the event the Architectural Committee fails to approve or disapprove such plans within thirty (30) days after they have been submitted to it, such approval will be automatic. The terms "Building" or "Improvements" shall be deemed to include the erection, placement, or alteration of any wall, fence driveway, or parking area, or any such activity undertaken subsequent to initial construction.

Section 7. Hardship. The Architectural Committee is authorized to modify or amend the restrictions in this Declaration concerning set-back, location and size of Improvements if, in the reasonable opinion of the Architectural Committee, such shall be necessary to prevent undue hardship. Any such authorization shall be in writing and will be binding upon the Owners and the Association when recorded in the Land Records for

Spartanburg County.

Section 8. Licensed Builders. All construction, including fences, by any Owner, shall be performed by a licensed contractor or licensed builder and must be of materials and workmanship comparable to others in the Subdivision.

Section 9. No Work Stoppages. Once construction is commenced, each Owner shall be responsible for insuring that such work proceeds at an orderly and timely pace, with no work stoppage in excess of fourteen (14) consecutive days, acts of God excepted.

Section 10. Completion of Construction. Houses and other dwelling structures may not be temporarily or permanently occupied until completed. During the continuance of construction, the Owner shall require the contractor to maintain the Lot in a clear and uncluttered condition. Upon completion of construction, the Owner shall cause the contractor to immediately remove all equipment, tools, and construction materials from the Lot. Any damage to roads or property owned by others caused by the Owner's contractor or other parties providing labor or services to the Owner, shall be repaired by the Owner or by the Declarant at Owner's expense. This includes damage to curbs, landscaping and other improvements with any Common Areas.

Section 11. Enforcement. In addition to the Declarant's and the Association's rights to enforce the provisions of this Declaration as set forth hereinafter, the Architectural Committee shall have the specific, nonexclusive right to enforce the provisions contained in this Article and/or to prevent any violation of the provisions contained in this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained herein. In the event that the Architectural Committee, Declarant or the Association resorts to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of this Article, the Architectural Committee, Declarant, or the Association, as applicable, shall be entitled to recover court costs, attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a special assessment against the offending Owner's Lot.

Section 12. Assignment of Rights. The Declarant expressly reserves the right to assign any of the duties, powers, functions, and approval authority set forth herein to any assignee at Declarant's sole discretion.

Section 13. Disclaimer. Neither Declarant nor any other member of the Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. FURTHER, NEITHER DECLARANT, NOR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE SHALL BE LIABLE IN DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OF SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURAL CONTROL COMMITTEE PROVIDED FOR IN THIS DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURAL COMMITTEE FOR APPROVAL AGREES, BY SUBMISSIONS OF SUCH PLAN AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, ASSOCIATION, ITS BOARD MEMBERS OR OFFICERS, OR ANY MEMBER OF THE ARCHITECTURAL COMMITTEE, TO

RECOVER ANY SUCH DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

Section 14. Site Conditions. It shall be the responsibility of each Owner and tenant thereof to prevent the accumulation of litter, trash, packing crates, or unkempt condition of buildings or grounds on his property, or to permit accumulations which shall tend to substantially decrease the beauty of the community as a whole or the specific area. No loose trash will be permitted to be strewn about the Property at any time. Garbage containers must be kept out of sight from the street, except during collection hours. All personal use items shall be stored inside when not in use. These items include, but are not limited to, yard tools, sprinklers, wheel harrows and children's toys as would create a nuisance for the community. All permanent Improvements on the lot shall be kept within reasonable neighborhood standards as determined by the Architectural Committee. In the event the requirements of this section are not adhered to, the Association shall send written notice via certified mail giving an additional period for compliance of ten (10) days, unless a hardship or special circumstance requires additional time. If the violation continues, the Association may at its sole discretion, hire contractors or personnel to correct said violation and bill the Owner for all costs incurred. The amounts owed shall, if not paid, become a lien on the lot as specified herein.

ARTICLE V

USES PERMITTED AND PROHIBITED

Section 1. All platted Lots in the Subdivision shall be used for single-family, residential purposes only subject to the provisions of the Declaration; provided however, that nothing herein shall prevent Declarant from using any Lot or allowing a Builder to use of any Lot or Common Area for the purpose of carrying on business related to the development, improvement and sale of Lots and homes in the Subdivision.

Section 2. No tent, shack, garage, barn, storage building, or other out-buildings shall be erected upon any Lot without approval from the Architectural Committee and, if approved, it shall not be used as a residence either temporarily or permanently. No structure of a temporary nature or an unfinished house shall be used as a residence and no house trailer, modular home, manufactured home or mobile home shall be placed on any Lot either temporarily or permanently. Any boat, camping trailer, recreational vehicle, and/or similar equipment used for the personal enjoyment of a resident of a Lot shall at all times be neatly stored and positioned so as to be inconspicuous at the rear of the dwelling, if accessible, and if not accessible, must be subject to Architectural Committee approval.

Section 3. No obnoxious or offensive activity shall be permitted anywhere on the property nor shall anything be done which may become an annoyance, nuisance, or menace to the neighborhood. No Lot or any part thereof shall be used for any business, commercial, or public purpose. Business activities in the home which delivers products or services for a fee on site are prohibited, as is any business activity which utilizes more than twenty-five (.25%) percent of the heated or unheated space in the home.

Section 4. No animals shall be kept, maintained, or quartered on any Lot or tract in the Subdivision except that cats, dogs, rabbits, hamsters, or caged birds may be kept in reasonable numbers as pets for the pleasure of Owners so long as said animals do not constitute a nuisance & menace to the neighborhood. The Association

may adopt regulations concerning pets within the Subdivision which may be more restrictive than the covenants herein.

Section 5. Tall shrubbery or hedges shall be trimmed to reasonable limits where traffic hazards may be created.

Section 6. Each Owner subject to these restrictions shall provide space for the off-street parking of automobiles prior to the occupancy of any building or structure constructed on a Lot in accordance with reasonable standards established by the Architectural Committee. Vehicles shall not be parked in any front or side yard except in areas designated as a driveway or parking area. Vehicles in disrepair shall not be stored on the Property. No passenger vehicles without current registration and license tags will be allowed in the Subdivision or on any Owner's Lot. Vehicles being repaired out of doors must have work completed within twenty-four (24) hours. Visiting guests only may use paved streets for temporary parking of their vehicles. All owners must park in designated parking areas on their Lot. No commercial vehicles in excess of 10,500 pounds gross vehicle weight may be stored or housed on the Property at any time, except during periods of construction on a Lot. The Declarant may also direct vehicle owners to park outside the confines of the Property during the construction phase of any structure or landscaping.

ARTICLE VI

EASEMENTS

Section 1. Utility Easements Reserved. In addition to other easements as are shown on the recorded Subdivision plat, a five foot (5') easement is reserved over and across all side and rear lot lines, and a ten foot easement is reserved over and across the front lot line, for drainage, utility, cable television, gas, water, power, sewer, and telephone installation and maintenance; provided that should two lots be consolidated to support one residence, then and in that event, the easements herein above provided shall apply only with respect to the exterior lines of such consolidated lot.

Section 2. Easements Reserved for Utility Service. Declarant specifically reserves the right to grant specific easements to any utility services listed herein at any time following the date hereof until any specific Lot shall be conveyed by Declarant. The right is reserved to authorize the lying and placing of sewer, gas, and water pipelines, telephone, cable television, telegraph, and electrical light poles on any of the streets and easements shown on the recorded subdivision plat. An easement for the installation and maintenance of utilities and drainage facilities is reserved over said streets and easements.

Section 3. Access Easement. Easements for access to the Subdivision are reserved as indicated on recorded plats and in recorded easements. The Declarant hereby grants, gives and conveys to each Owner a perpetual, nonexclusive easement areas as roads and streets on the Plat, or Plats describing the Subdivision for vehicular and pedestrian ingress and egress to and from the Subdivision and nearest public road. The easements granted under this Section are reserved and shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or a part of the Property.

Section 4. Easement of Use and Enjoyment of Common Areas. Declarant, Declarant's Affiliates, the Association and each Owner shall have a right of way and easement for ingress and egress, by vehicle or on foot for the enjoyment of the Common Areas and any improvements or facilities located therein now or hereinafter

constructed for all purposes consistent with the provisions of this Declaration. Such easement shall be appurtenant to and shall pass with the title to every Property, subject to the right of the Association to promulgate rules and regulations to control use of the Common Areas and further subject to the Association Amended and Restated By-laws, as the same are amended from time to time.

Section 5. Reservation of Access Easement by Declarant. The Declarant hereby reserves a perpetual, nonexclusive easement to use and connect to the roads and streets shown on the Plat, or Plats describing the Subdivision for vehicular and pedestrian ingress and egress to and from the Subdivision and any property owned by the Declarant or a Declarant-Related Entity, whether within the Subdivision or without. The easement reserved shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or a part of the Subdivision. In the event that Declarant or a Declarant-Related Entity connects property owned by it to the road and streets within the Subdivision, the owner of the lots without the Subdivision using such roads and street shall pay the Association a proportional part of the costs of maintenance, use, and operation of such roads and streets within the Subdivision as the total number of lots without the Subdivision whose owners claim a right under this easement bears to the total number of lots both within and without the Subdivision using the roads and streets.

Section 6. Reservation of Easements for Utility Service by Declarant. The Declarant hereby reserves the right to install sewer, gas, and water pipelines, telephone, cable television, telegraph, and electrical lines and light poles in under or along any of the roads, streets, Common Areas and easement areas shown on the Plat for the benefit of any property owned by the Declarant or a Declarant-Related Entity whether within the Subdivision or without.

ARTICLE VII

SETBACK, LOCATION, AND SIZE OF IMPROVEMENTS AND OF BUILDING PLOTS

Section 1. Nothing herein contained shall be construed to prohibit the use of more than one (1) Lot or portions of one or more lots as a single-residential building site, provided that said Lot would otherwise meet the requirements as to size, setback line, and directional facing of said building as determined by the Declarant.

Section 2. No building shall be erected on any Lot nearer to the front lot line or nearer to the side street line than the building setback line shown on the recorded plat. Any such building shall face toward the front line of the Lot except that buildings to be constructed on corner Lots shall face in the direction designated by the Architectural Committee. No building shall be located nearer to any interior side lot line than the distance determined by applicable building codes.

Section 3. Detached Buildings, approved as provided in Article VI shall be of the same exterior material as the house and cannot be placed nearer to any lot line than the distance determined by applicable building codes. **LOCATION AND SIZE OF ALL DETACHED BUILDINGS SHALL BE APPROVED OR DENIED IN ADVANCE BY THE ARCHITECTURAL COMMITTEE.**

Section 4. No wall, fence, or hedge shall be erected between the street and the front corner of the main body of house. Subject to approval by the Architectural Committee, wood fences with a maximum height of six (6') feet are required on the line facing the street and can be placed no closer to the street than the middle of the house. Chain link fences not exceeding four feet are permitted on the side and back lines. Fences must be installed

by a fence contractor and all work shall be installed in a neat, plumb and workmanlike manner. All fence posts will be set in concrete, Sakrete or equal is approved for this purpose.

Section 5. The total area of all driveways shall be paved by plant mix concrete. All driveways shall be able to accommodate two (2) full-size cars parked side by side in the parking area of the driveway.

Section 6. No residence shall be constructed containing less than 1,500 square feet for a one story or 1,800 square feet for a two story or story and one half; exclusive of porches, garages, and breezeways. In computing the square footage of any residence containing a basement which is finished and heated, one-half(½) credit shall be given. Exceptions to this limitation may be granted by the Architectural Committee if in the opinion of the Committee that proposed residence would be in keeping with the overall concept of the Subdivision.

Section 8. No above-ground pool shall be constructed or placed on any Lot, except that inflatable pools for small children in the back yard of any residences are acceptable during Spring and Summer months.

Section 9. Declarant reserves the right to place additional signs as needed within the Subdivision.

Section 10. Roof pitches shall be at least 6/12 unless approval is given by the Architectural Committee for a lower pitch on a specific set of plans.

Section 11. No residence shall be constructed without having at least a two-car garage (provided; however, the Architectural Committee shall have the right to permit and approve a one-car garage on a Lot that the Committee determines will not support a two-car garage) which will be maintained permanently as a functional garage.

Section 12. No signs shall be permitted on any Lots except that a single sign offering the property for sale may be placed on such Lot, providing such sign is approved by the Architectural Committee.

Section 13. The removal of any trees in excess of six (6") inches in diameter at a height of three (3') feet above ground level shall require prior approval of the Architectural Committee. No trees may be removed until final building plans have been approved by the Architectural Committee.

Section 14. The Owner of each Lot shall cause written notice to be delivered to the Declarant upon the conveyance of any Lot by him, advising Declarant of the conveyance.

Section 15. No satellite or television dish or radio antenna shall be constructed or placed on any Lot except where type, size, screening, and location have been approved by the Architectural Committee.

Section 16. Each home is required to have a typical mailbox or name sign with the appropriate name, lot number or assigned street number depicted. The Owner's name may be applied to the sign or mailbox. The design, color, construction and installation of every sign or mailbox are required to conform to the design guidelines adopted by the Architectural Committee.

Section 17. The storage of boats and campers in yards or driveways is prohibited. Boats, trailers, golf carts, RV's, motorcycles, bicycles, ATV's, and any other such equipment shall be stored in a garage or approved outbuilding. Any vehicles or equipment that cannot be stored in a garage structure or discretely screened as

approved by the Architectural Committee are required to be stored off-site at the Owner's expense.

Section 18. No hunting shall be allowed at any place within the Subdivision, nor shall firearms or other weapons of any kind be discharged within the Subdivision.

Section 19. No unlicensed vehicles may be operated within the Subdivision. Motorcycles, minibikes, dune buggies, motorized bikes and other recreation vehicles that are duly licensed may be operated within the bounds of the Subdivision, but only while riding for access purposes to and from a residence to the public road (outside the Subdivision), and may not be ridden within the bounds of the Subdivision for recreation or any other purpose. All motor vehicles shall be maintained in proper operating condition so as not to be a nuisance by noise, exhaust emissions or otherwise. No motor vehicles shall be driven within the Subdivision, except on driveways and on the roadways shown on the recorded plats for the Subdivision.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, Declarant-Related Entities, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation, or Bylaws of the Association. In the event that the Declarant, any Owner, or the Association resorts to litigation to remedy a violation of this Declaration, such Owner, Declarant, or the Association, as applicable, shall be entitled to recover court costs, attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a special assessment against the offending Owner's Lot. Failure by the Declarant, Declarant's Affiliates, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant, Declarant's Affiliates, and the Association shall have the right to request that law enforcement, public safety and animal control officers come into the Subdivision to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amplification. The provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association, but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws on the other, be interpreted, construed and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything in the Articles of Incorporation or Bylaws to the contrary, to the extent permitted by law.

Section 4. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods often (10) years. The process of amending or modifying this Declaration shall be as follows: (a) Until the Class B Membership ceases to exist, all amendments or modifications shall be made only by Declarant without the requirement of the Association's consent or the consent of the

Owners, or any Builder; (b) After the Class B Membership ceases to exist, this Declaration may be amended by an instrument approved by no less than a two-thirds (2/3) vote of the Owners present at a duly held meeting of the Association at which a quorum is present. Notwithstanding the foregoing to the contrary, as long as Declarant or a Declarant-Related Entity owns the Club House or any Lot in the Subdivision, no such amendment shall be effective without the written approval of Declarant.

Section 5. FHA/VA approval. Declarant reserves the right to unilaterally amend this Declaration without the requirement of the Association's consent or the consent of the Owners, or any Builder where required by the Federal Housing Administration, Veterans Administration, Fannie Mae or other similar agency to facilitate lending activities within the Subdivision.

ARTICLE IX

ANNEXATION

For a Period of thirty (30) years after the recording of this Declaration in the Land Records for Spartanburg County (the "Development Period"), the Declarant or Declarant-Related Entity may from time to time unilaterally subject to the provisions of this Declaration any property owned by Declarant or a Declarant-Related Entity located adjacent to and contiguous with any property located within the Subdivision. The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer real property adjacent to and contiguous with any property located within the Subdivision and that such transfer is memorialized in a written, recorded instrument executed by the Declarant. For purpose of determining if real property is contiguous to the Subdivision, public and private road and bodies of water such as rivers, creeks and wetlands shall be disregarded.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Land Records for Spartanburg County describing the property being annexed. Such Supplemental Declaration shall not require the consent of any Members or Owners, but shall require the consent of the owner of the property to be annexed, if other than the Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the adjacent property in any manner whatsoever.

The Declarant reserves the right to amend this Declaration during the Development Period for the purpose of removing any portion of the Subdivision, including portions of the Common Area, from the coverage of this Declaration. Such amendment shall not require the consent of any Member or Owner other than the Owner of the property to be withdrawn, if not the Declarant.

The Declarant may unilaterally subject any portion of the Subdivision to additional covenants and easements, including, without limitation, covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through District Assessments as well as any restrictions on use applicable to any Parcel which do not lower the standards of the covenants and restrictions herein contained. Such additional covenants and easements shall be set forth in a Supplemental Declaration, filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of the property affected by such additional covenants and easements, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise

modify the terms of this Declaration as it applies to the subject property for such purposes as deemed appropriate in the Declarant's sole discretion, including but not limited to modifications to reflect the different character and intended use of such property.

Notwithstanding anything to the contrary contained in this Declaration, this Article shall not be amended during the Development Period without the prior written consent of the Declarant.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hands and seals this 10 day of JULY, 2013.

SIGNATURES ON THE FOLLOWING PAGES.

AMENDED AND RESTATED
BYLAWS OF THE VINEYARDS AT STONECREEK FALLS
(the "Bylaws")

ARTICLE I
NAME AND LOCATION

Section 1.1 Name. The name of the corporation is The Vineyards at Stonecreek Falls Homes Owners Association, Inc. hereinafter referred to as the "Association."

Section 1.2 Location. The principal office of the Association shall be located in Spartanburg County, unless otherwise agreed upon by the Board of Directors.

Section 1.3 Registered Agent. The registered agent for the Association shall be the Secretary as from time to time elected, unless otherwise agreed upon by the Board of Directors. The registered office of the Association must be located in the State of South Carolina and may be, but need not be, identical with the principal office.

Section 1.4 Purpose. The purpose for which the Association is organized is to further social activities of Owners of Lots in The Vineyards at Stonecreek Falls Subdivision located in Spartanburg County, SC, and in connection therewith to provide services to such property Owners, manage and maintain the Common Area and administer and enforce all covenants and restrictions dealing with the property located in The Vineyards at Stonecreek Falls and any other purposes allowed by law.

ARTICLE 2
DEFINITIONS

All capitalized terms when used in these Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Vineyards at Stonecreek Falls executed by Westchester Vineyards, LLC (the "Declarant") and duly recorded in the Land Records for Spartanburg County, as the same may be supplemented and amended from time to time (the "Declaration").

ARTICLE 3
MEETINGS OF MEMBERS

Section 3.1 Membership. The Members of the Association, hereinafter referred to as "Members", shall at all times be limited to the Declarant and Owners of Lots in The Vineyards at Stonecreek Falls.

Section 3.2 Annual Meeting. The first annual meeting of the Members shall be held on such date as determined by the Board of Directors within one year from the date of incorporation of the Association or during the first calendar year that Assessments are charged to the Owners. Each subsequent annual meeting of the Members shall be held on the day of the same month of each year thereafter, at the hour of 7:00 o'clock, P.M. or on such other date at time as determined by the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 3.3 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-tenth (1/10) of all of the votes appurtenant to the Lots.

Section 3.4 Place of Meetings. All meetings of the Members shall be held at such place, within South Carolina as shall be determined by the Board of Directors of the Association.

Section 3.5 Notice of Meetings. Written notice of each meeting of the Members shall be given by mailing a copy of such notice by first class mail, postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the date of such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 3.6 Membership List. An alphabetical list of the names of all Members who are entitled to vote and their addresses shall be prepared by the Secretary and shall be available for inspection by any Member beginning on the next business day after notice of any meeting is given and continuing through the meeting, at the Association's principal office or at a place identified in the meeting notice in the city where the meeting will be held. This list shall also be available at the meeting for inspection by any Member.

Section 3.7 Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights.

- (a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.
- (b) Class B Lots. Class B Lots shall be all Lots owned by Declarant and Declarant's Affiliates, respectively, which have not been conveyed to purchasers who are not affiliated with Declarant. Declarant shall be entitled to three (3) votes for each Class B Lot which each party owns.

Section 3.8 Relinquishment of Control. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on December 31, 2043, or
- (c) when Declarant and any Declarant Related Entity elects by notice to the Association in writing to terminate their Class B membership.

Class B Membership shall be reinstated in the event that additional real property is annexed into the Subdivision causing the total votes outstanding in the Class A membership to be less than the total votes outstanding in the Class B Membership when counting the new lots annexed into the Subdivision.

Section 3.9 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, sixty percent (60%) of the votes appurtenant to the Lots shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, subsequent meetings may be called, subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 3.10 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies

shall be in writing dated within eleven months prior to the Meeting and filed with the Secretary. Every proxy shall be revocable by (i) appearing at the Meeting and voting in person, (ii) filing a valid substitute proxy or cancellation of proxy with the Secretary prior to the call to order of the Meeting, or (iii) conveyance by the Member of his Lot.

Section 3.11 Action by Members. Except as provided otherwise in the Articles of Incorporation, the Declaration or these Bylaws, any act or decision approved by a vote of no less than two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present shall be regarded as the act of the Members.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business at the meeting or any adjournment thereof notwithstanding the withdrawal of enough Members to leave less than a quorum.

Section 3.12 Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any meeting of the Members shall constitute a waiver of notice by him of the time and place thereof except where a Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 3.13 Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if: (i) a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book; or (ii) such action is approved by written ballot as authorized by the South Carolina Code.

ARTICLE 4 BOARD OF DIRECTORS

Section 4.1 Number. The business and affairs of the Association shall initially be managed by a Board of three directors, who will be appointed by Declarant during for so long as there is a Class B membership. At the first annual meeting of the Members following termination of the Class B membership, a Board of five directors shall be elected as described in Section 4.4.

Section 4.2 Initial Directors. The initial directors shall be selected by the Declarant. Such initial directors shall serve for one year terms at the election of the Declarant from the date upon which the Declaration is recorded in Spartanburg County, South Carolina, until such time as the Class B membership terminates and their successors are duly elected and qualified.

Section 4.3 Nomination. Following the expiration of the Class B membership, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4.4 Election. Following the expiration of the Class B membership, Directors shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4.5 Term of Office. The term of all successor directors elected by the Members shall expire at the next

annual meeting of Members; provided, however, the directors shall continue to serve until their successors are elected and qualified or until their earlier resignation, removal from office, incapacity, or death.

Section 4.6 Removal. After the Class B Membership shall cease, any director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board of Directors and shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors. Until such time as the Class B shall cease, Board members shall serve at the leisure of Declarant and can be removed with or without cause by Declarant.

Section 4.7 Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4.8 Salaries of Employees and Agents. Except as provided elsewhere in these Bylaws, the Board of Directors shall set the salaries of all employees and agents of the Association.

ARTICLE 5 MEETINGS OF DIRECTORS

Section 5.1 Regular Meetings. Meetings of the Board of Directors shall be held on a regular basis as often as the Board of Directors sees fit, but no less often than annually, on such days and at such place and hour as may be fixed from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 5.2 Special Meeting. Special Meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 5.3 Notice of Meetings. Notice of each special meeting of the Board of Directors, stating the time, manner and place of the meeting, shall be given by or at the direction of the Secretary of the Association by mailing the same to each director at his residence or business address not fewer than three days before such meeting, or by giving the same to him personally or telegraphing or telephoning the same to him at his residence or business address not later than the day before the day on which the meeting is to be held.

Any and all requirements for call and notice of meetings may be dispensed with if all directors are present at the meeting or if those not present at the meeting shall at any time waive or have waived notice thereof.

Section 5.4 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 5.5 Informal Action by Directors. Action taken by a majority of the directors without a meeting is nevertheless Board of Directors action if written consent to the action in question is signed by all of the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

Section 5.6 Chairman. A Chairman of the Board of Directors shall be elected by the directors and shall preside over all Board of Directors meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the Presidency, a Chairman shall be elected by the Board of Directors and serve until a new President is elected.

Section 5.7 Liability of the Board of Directors. The members of the Board of Directors shall not be liable to the Owners for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith.

The Owners shall indemnify and hold harmless each of the members of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are Owner(s).

ARTICLE 6
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 6.1 Powers. The Board of Directors shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, including but not limited to the Recreational Facilities and the personal conduct of the Members, their guests thereon, and to establish penalties for the infraction thereof;
- (b) suspend the voting rights and right to use of the recreational facilities of a Member, including the rights to use the Recreational Facilities, or other Common Area during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;
- (c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation or the Declaration;
- (d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;
- (e) employ a manager, an independent contractor, or such other employees as they deem necessary, and prescribe their duties;
- (f) employ attorneys to represent the Association when deemed necessary;
- (g) grant easements for the installation and maintenance of sewer or water lines and other utilities or drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements are requisite for the convenient use and enjoyment of the Subdivision;
- (h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient;
- (i) do anything necessary or desirable, including, but not limited to, establishing any rules or regulations which the Association deems necessary to carry out the purposes of the Association as set forth herein or as permitted by law;
- (j) to enforce the provisions of the Declaration and any Additional or Supplementary Declaration and any rules or regulations made hereunder or thereunder and to enjoin and/or, at its discretion, seek damages or other relief for violation of such provisions or rules and/or by Special Individual Assessments against any Owner for violation of such provisions, rules or regulations pursuant to the provisions of the Declaration; and
- (k) to levy assessments as more particularly set forth in the Declaration.

Section 6.2 Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement

thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by Members entitled to at least one-third (1/3) of the votes appurtenant to the Lots;

(b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration:

(1) Fix the amount of the assessments as more particularly described in the Declaration;

(2) Send written notice of each assessment to every Owner subject thereto before its due date; and

(3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid (A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.);

(e) Procure and maintain adequate liability insurance covering the Association and the directors and officers thereof and adequate hazard insurance on the property owned by the Association;

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; and

(g) Cause the Common Areas to be maintained.

ARTICLE 7 OFFICERS AND THEIR DUTIES

Section 7.1 Officers. The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 7.2 Election of Officers. Following the expiration of the Class B membership, the election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 7.3 Term. Each officer of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 7.4 Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board of Directors may, from time to time, determine.

Section 7.5 Resignation, Removal and Vacancies. Any officer may be removed from office with or without cause by the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

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

Section 7.6 Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 7.4.

Section 7.7 Compensation. No officer shall receive any compensation from the Association for acting as such.

Section 7.8 Duties. The duties of the officers are as follows:

President

(a) The President shall be the principal executive officer of the Association, and subject to the control of the Board of Directors, shall supervise and control the management of the Association. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board of Directors are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members, shall keep the corporate seal of the Association and affix it on all papers requiring said seal, shall serve notice of meetings of the Board of Directors and of the Members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board of Directors.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors, shall sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE 8 COMMITTEES

Section 8.1 Executive Committee. The Board of Directors may, by resolution passed by a majority of the whole Board of Directors, designate an Executive Committee to consist of two or more of the Directors of the Association, which, to the extent provided in said resolution, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the Association and to do all things, including actions specified by these Bylaws to be performed by the Board of Directors, in the same manner and with the same authority and effect as if such acts had been performed by the Board of Directors; but the Board of Directors shall at all times have the power to reverse an action taken by the Executive Committee, provided that the exercise of such power by the Board of Directors shall not in any way abrogate the obligations or duties owing by the Association to third parties who have acted in reliance on the action taken by such committee.

All proceedings and action taken by such committee shall be reported to the Board of Directors at the regular meeting of the Board of Directors or special meeting called for such purpose next following such proceedings or action.

Section 8.2 Nominating Committee. The Association shall appoint a Nominating Committee, as provided in these Bylaws.

Section 8.3 Other Committees. The Board of Directors may create such other committees as the Board of Directors may from time to time appoint.

Section 8.4 Compensation. Members of committees, as such, shall not receive any salary or compensation for their services; provided, however, that a committee member may serve the Association in another capacity and receive compensation therefor.

ARTICLE 9 **BOOKS AND RECORDS**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE 10 **ASSESSMENTS**

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual assessments and special assessments, as defined in the Declaration. Any assessments (including but not limited to special individual assessments) which are not paid when due shall be delinquent. If an assessment is not paid by its due date, as set forth in the Declaration, the assessment shall bear interest from such due date at the rate of ten percent (10%) per annum or the highest rate then permitted by law, whichever is less, plus such late charge as may be established by the Board of Directors, and the Association may bring an action at law against the Member personally obligated to pay the same. The late charges, costs of collection and reasonable attorneys' fees related to any such action shall be added to the amount of such assessment, all in accordance with the provisions of the Declaration. No Member may waive or otherwise escape liability for the assessments provided for herein by non-use of the Subdivision.

ARTICLE 11 **CORPORATE SEAL**

The Association shall have a seal in circular form having within its circumference the words: The Vineyards at Stonecreek Falls Home Owners Association, Inc.

ARTICLE 12 **AMENDMENTS**

Section 12.1 These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of at least two-thirds (2/3) of all votes present at a duly held meeting of the Members at which a quorum is present in person or by proxy, except that the Federal Housing Administration (the "FHA") or the Veterans Administration (the "VA") shall have the right to veto amendments while there is a Class B membership.

Notwithstanding anything in this Section 12.1 to the contrary, the Class B Members may at their option amend these Bylaws without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause these Bylaws to comply with the requirements of the FHA, VA, Federal National Mortgage Association or similar agency.

Section 12.2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE 13
MISCELLANEOUS

The fiscal year of the Association shall be the calendar year and shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

ARTICLE 14
INDEMNIFICATION OF DIRECTORS AND OFFICERS

To the extent permitted by law, the Association shall indemnify any director or officer or former director or officer of the Association or any person who may have served at the request of the Association as a director or officer of another corporation, whether for profit or not for profit, against expenses (including attorneys' fees) or liabilities actually and reasonably incurred by him in connection with the defense of or as a consequence of any threatened, pending or completed action, suit or proceeding (whether civil or criminal) in which he is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty, or in relation to a proceeding by or for the right of the Association in which a director or officer was adjudged liable to the Association or in relation to a proceeding where a director or officer was adjudged liable on the basis that personal benefit was improperly received by that director or officer.

The indemnification provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of members or disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

The Association may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of the Association, or is or was serving at the request of the Association as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association or (ii) from such other corporation, partnership, joint venture, trust or other enterprise.

Nothing contained in this Article 14 or elsewhere in these Bylaws, shall operate to indemnify any director or officer if such indemnification is for any reason contrary to any applicable state or federal law.