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ASHLEY B. WILLIAMS REGISTER OF DEEDS

BK:DEE 152-E PG:883-947

**THIS DECLARATION CONTAINS AN ARBITRATION AGREEMENT  
SUBJECT TO THE SOUTH CAROLINA ARBITRATION ACT,  
SECTION 15-48-10, et. seq., CODE OF LAWS OF SOUTH CAROLINA, 1976**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
CROSSING AT ABNER CREEK**

Prepared by and when recorded return to:

Meritage Homes of South Carolina, Inc.  
Attn: Legal Department  
18655 North Claret Drive, Suite 400  
Scottsdale, AZ 85255

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
CROSSING AT ABNER CREEK**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CROSSING AT ABNER CREEK (this "Declaration") is made on the date of its recordation in the Spartanburg County Registry by MERITAGE HOMES OF SOUTH CAROLINA, INC., an Arizona corporation ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Spartanburg County, State of South Carolina, described on Exhibit A attached hereto (the "Property").

WHEREAS, Declarant desires to provide for the development on the Property of both attached and detached single family residences;

WHEREAS, this Declaration does not and is not intended to create a condominium within the meaning of the South Carolina Horizontal Property Act, South Carolina Code Annotated, §27-31-10, et seq.;

WHEREAS, Declarant deems it desirable for the management and administration of the planned community and for the preservation of the values and amenities of the planned community to incorporate Crossing at Abner Creek Homeowner's Association, Inc. as a nonprofit corporation under the laws of the State of South Carolina for the purposes of administering the limitations, covenants, conditions, restrictions, easements, liens and equitable servitudes created by or imposed in accordance with the provisions hereof, collecting and disbursing the assessments and charges imposed in accordance with the provisions hereof, and exercising such other powers as may be authorized by this Declaration, or by its Articles of Incorporation and Bylaws; and

WHEREAS, Declarant has furthermore reserved such rights as are described in Article XII herein or otherwise herein and in the other Project Documents to add real property to the Property or to withdraw portions of the Property from the encumbrance of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Property described above shall be subject to the following reservations, easements, limitations, restrictions, servitudes, covenants, conditions, charges and liens (hereinafter sometimes collectively termed "Covenants and Restrictions") which are for the purpose of protecting the value and desirability of the Property, and which shall run with the land, and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs,

successors and assigns, and shall inure to the benefit of each Owner of any portion of the Property.

## ARTICLE I DEFINITIONS

Section 1.1. “Architectural Committee“ means the committee established by the Board pursuant to Section 3.4 of this Declaration.

Section 1.2. “Architectural Committee Rules“ means the rules adopted by the Architectural Committee as such rules may be amended from time to time.

Section 1.3. “Articles“ means the Articles of Incorporation of the Association which have been or will be filed in the Office of the Secretary of State of the State of South Carolina, as said Articles may be amended from time to time.

Section 1.4. “Assessment Lien“ means the lien granted to the Association by this Declaration to secure the payment of Assessments and all other amounts payable to the Association under the Project Documents.

Section 1.5. “Assessments“ means the annual, special, stormwater and neighborhood assessments levied and assessed against each Lot pursuant to Article IV of the Declaration.

Section 1.6. “Association“ means the South Carolina nonprofit corporation organized or to be organized by the Declarant to administer and enforce the Project Documents and to exercise the rights, powers and duties set forth therein, and its successors and assigns. Declarant intends to organize the Association under the name of Crossing at Abner Creek Homeowner’s Association, Inc.“, but if such name is not available, Declarant may organize the Association under such name as the Declarant deems appropriate.

Section 1.7. “Association Rules“ means the rules and regulations adopted by the Association, as the same may be amended from time to time.

Section 1.8. “Board“ means the Board of Directors of the Association.

Section 1.9. “Builder“ means a person or entity in the business of, or a person or entity which has an affiliate in the business of, constructing and selling homes or in the business of acting as a land banker that sells lots to persons or entities who construct and sell homes, which purchases a Lot or Lots without Residential Units constructed thereon for the purpose of constructing Residential Units thereon and selling such Lots and Residential Units.

Section 1.10. “Bylaws“ means the bylaws of the Association, as such bylaws may be amended from time to time.

Section 1.11. “Common Area“ means all real property owned by the Association or held in trust for the benefit of the Association or any real or personal property that the

Association owns, leases or holds possessory use rights in whether now or in the future for the benefit of the Members, including, without limitation, all Stormwater Control Facilities that serve more than one Lot and are not maintained by any governmental authority, but such definition shall not preclude the Association from operating, maintaining or repairing any other real property for the benefit of the Members of the Association (e.g. landscaping in public rights-of-way) or any other real property maintained by the Association pursuant to a written agreement entered into by the Association for the benefit of the Members or pursuant to a written agreement entered into by Declarant that is assigned to and assumed by the Association for the benefit of the Members. The Common Area shall include all real property designated as "Open Space," "Common Open Space," "Common Area," "Amenity Area" or other similar designation on the Plats of the Property and any real or personal property hereinafter designated as Common Area by Declarant or the Association in a written document recorded in the office of the register of deeds.

Section 1.12. "Common Expenses" means expenditures made by, or financial liabilities of, the Association, together with any allocations to reserves.

Section 1.13. "Community" means the Crossing at Abner Creek community being developed on the Property as a residential subdivision.

Section 1.14. "County" means Spartanburg County, South Carolina.

Section 1.15. "Declarant" means Meritage Homes of South Carolina, Inc., an Arizona corporation, and its successors and assigns, and any assignee of Declarant's rights. A Declarant may assign its rights by express recorded instrument to a subsequent Owner of all or part of the Property. At any time when there is more than one Declarant, except as otherwise expressly provided in this Declaration, any approval or other action required or permitted by the "Declarant" under this Declaration shall require the written consent of the Declarants owning a majority of all Lots then owned by all Declarants. No successor Declarant shall have any liability resulting from any actions or inactions of any preceding Declarant unless expressly assumed by the successive Declarant, in which event the preceding Declarant shall be released from liability. If there is more than one Declarant, the obligations and liabilities of each Declarant under this Declaration shall be limited to the obligations that relate to the Lots within the Project then owned by such Declarant at the time liabilities or obligations arose, such liability shall not be joint or joint and several, and a Declarant shall not be liable for the actions or inactions or another Declarant.

Section 1.16. "Declaration" means the provisions of this document and any amendments hereto.

Section 1.17. "Designated Builder" means any Builder that is designated by Declarant as a "Designated Builder" in a recorded instrument or in a written notice given by Declarant to the Association and by such designation receives certain rights as expressly provided in this Declaration.

Section 1.18. "Exterior Building Improvements" means all exterior surfaces of Residential Units on the TH Units (as hereinafter defined), including, but not limited to,

exterior siding materials, shutters, painting, and roofs, but excluding windows, doors, light fixtures and fences.

Section 1.19. “First Mortgage“ means any mortgage, deed of trust, or contract for deed on a Lot which has priority over all other mortgages, deeds of trust and contracts for deed on the same Lot. A contract for deed is a recorded agreement whereby the purchaser of a Lot acquires possession of the Lot but does not acquire legal title to the Lot until a deferred portion of the purchase price for the Lot has been paid to the seller.

Section 1.20. “First Mortgagee“ means the holder of any First Mortgage.

Section 1.21. “Improvement“ means buildings, roads, driveways, parking areas, fences, walls, rocks, hedges, plantings, planted trees and shrubs, and all other structures or landscaping improvements of every type and kind.

Section 1.22. “Lot“ or “lot“ means any residential lot shown on a Plat, which are intended for development, use, and occupancy as a detached Residential Unit or townhome Residential Unit (each being a “TH Unit“) that shares one or more common walls, with the intent that the Owner of such TH Unit acquire a fee simple interest in the ground immediately below such TH Unit. The boundaries of each Lot shall be as shown on the recorded Plat or Plats; provided, however, that the side boundary of each TH Unit shall be a line consistent with and along the center of all firewalls separating a TH Unit from another TH Unit. In the event of any discrepancy between the boundaries of a Lot, as described herein and the boundaries of such Lot as shown on the recorded Plats, the description of the boundaries of the Lot set forth herein shall control. All of the area within the boundaries of each of the Lots, as herein described, shall for all purposes constitute real property which may be owned in fee simple, subject to the terms, provisions, liens, charges, covenants, easements and restrictions of this Declaration. For purposes of voting on any issue required to receive the approval of Lot Owners, the Owner of a parcel not yet subject to the Plat but zoned for residential use shall be deemed to be the Owner of the maximum number of Lots into which such parcel may be subdivided under then applicable zoning and other legal requirements.

Section 1.23. “Member“ or “member“ means any person, corporation, partnership, joint venture or other legal entity who is a member of the Association.

Section 1.24. “Notice and Opportunity for Hearing“ or “notice and opportunity for hearing“ means giving at least fifteen (15) days’ prior notice of a proposed action and the reasons therefor, and an opportunity to be heard by the Board, orally or in writing, not less than five (5) days before the effective date of the proposed action.

Section 1.25. “Operating Deficit“ means the difference between the total amount of the annual assessments for a fiscal year levied on all Lots and the amount of actual expenditures by the Association during the fiscal year for Common Expenses, including funding of reserves, but excluding (i) amounts levied against a Lot, but which are not paid, and (ii) special assessments for capital improvements and other assessments allowed in the Declaration that are not annual assessments.

Section 1.26. “Owner” means the record owner, except as provided below, whether one or more persons or entities of fee simple title to any Lot, including without limitation, one who is buying a Lot under a recorded contract, but excluding others having an interest merely as security for the performance of an obligation. In the case of a Lot where fee simple title is vested of record in a trustee under a deed of trust, legal title shall be deemed to be in the trustor. In the case of a Lot where fee simple title is vested in a trustee pursuant to a trust agreement, the beneficiary entitled to possession shall be deemed to be the Owner.

Section 1.27. “Plat” means any recorded subdivision plat of any portion of the Property and all amendments thereto.

Section 1.28. “Project” means the Property together with all buildings and other Improvements located thereon and all easements, rights and privileges appurtenant thereto.

Section 1.29. “Project Documents” means this Declaration and the Articles, Bylaws, Association Rules, Architectural Committee Rules, and Stormwater Covenant(s), as the same may be amended, restated, or supplemented from time to time.

Section 1.30. “Purchaser” means any person other than Declarant or a Designated Builder who by means of a voluntary transfer becomes the Owner of a Lot except for an Owner who purchases a Lot and then leases it to a Declarant for use as a model in connection with the sale of other Lots.

Section 1.31. “Residential Unit” means any building situated upon a Lot and designed and intended for independent ownership and for use and occupancy as a residence by a Single Family.

Section 1.32. “Single Family” means an individual living alone, a group of two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than three persons not all so related, together with their domestic servants, who maintain a common household in a dwelling.

Section 1.33. “Single Family Residence” means a building, house or dwelling unit used as a residence for a Single Family, including any appurtenant garage or storage area.

Section 1.34. “Single Family Residential Use” means the occupation or use of a Single-Family Residence in conformity with this Declaration and the requirements imposed by applicable zoning laws or other state, county or municipal rules and regulations.

Section 1.35. “Stormwater Covenant” means any document between or among the Declarant, any Owner of the Property and/or the Association, and a Governmental Authority relating to Stormwater Control Facilities or the handling of stormwater in the Community and includes all amendments and supplements thereto.

Section 1.36. “Stormwater Control Measures“ or “Stormwater Control Facilities“ is defined herein and in any Stormwater Covenant as one or more of the following devices and measures, together with associated private drainage easements utilized for conveying stormwater (however identified on a plat, map or in a recorded document) that serves more than one (1) Lot or parts of more than one (1) Lot in the Property and which are located outside of public street rights-of-way and drainage easements accepted into public use by the Town or County, as applicable, including, but not limited to, conduits, inlets, channels, pipes, level spreaders, ditches, grassed swales, sand filters, wet ponds, dry detention basins, wetlands, permanently protected undisturbed open space areas (and similarly designated areas shown on any recorded plat of the Properties), bio-retention areas, stream buffers, retention or detention ponds, and other devices and measures, necessary to collect, convey, store, and control stormwater runoff and pollutants for more than one (1) Lot in the Property. Private drainage easements, however identified on a recorded plat or recorded map or in a recorded document, that serve more than one (1) Lot in the Property are deemed to be dedicated to the Association for the benefit of the Properties or applicable portions thereof.

Except as otherwise provided herein, Stormwater Control Facilities are part of the Common Area, and maintenance of Stormwater Control Facilities is a Common Expense. References in the Declaration to stormwater management include all applicable Stormwater Control Facilities and Stormwater Covenants.

Section 1.37. “Town“ means Greer, South Carolina.

Section 1.38. “Visible from Neighboring Property“ or “visible from neighboring property“ means that an object is or would be visible to a person six feet (6’) tall standing on a neighboring Lot, neighboring Common Area, or street at an elevation not greater than the elevation at the base of the object being viewed.

Section 1.39. “Yard Improvements“ means grass, plants, shrubs, trees, landscaping and related irrigation systems (if any) installed by a Class B Member or the Association on the Lots.

## ARTICLE II PLAN OF DEVELOPMENT

Section 2.1. Property Initially Subject to the Declaration. This Declaration is being recorded to establish a general plan for the development and use of the Project in order to protect and enhance the value and desirability of the Project. All of the Property within the Project shall be held, sold and conveyed subject to this Declaration. By acceptance of a deed or by acquiring any interest in any of the Property subject to this Declaration, each person or entity, for himself or itself, his heirs, personal representatives, successors, transferees and assigns, binds himself, his heirs, personal representatives, successors, transferees and assigns, to all of the provisions, restrictions, covenants, conditions, rules, and regulations now or hereafter imposed by this Declaration and any amendments thereof. In addition, each such person by so doing thereby acknowledges that this Declaration sets forth a general plan for the development and use of the Property and

hereby evidences his intent that all the restrictions, conditions, covenants, rules and regulations contained in this Declaration shall run with the land and be binding on all subsequent and future Owners, grantees, purchasers, assignees, lessees and transferees thereof. Furthermore, each such person fully understands and acknowledges that this Declaration shall be mutually beneficial, prohibitive and enforceable by the Association and all Owners. Declarant, its successors, assigns and grantees, covenants and agrees that the Lots and the membership in the Association and the other rights created by this Declaration shall not be separated or separately conveyed, and such shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

Section 2.2. Common Areas and Association Property. Class B Members shall have the right to transfer and convey to the Association any portion of the Property, which the Association shall be obligated to accept, without warranty of any kind. All portions of the Property which a Class B Member so transfers or conveys to the Association shall thereafter constitute Common Areas. Said right may be exercised any time, and from time to time, until the termination of the Class B membership. In connection with any such conveyance, the Class B Member may define the permissible use of such property.

Section 2.3. Owner's Rights in Association Property. Every Owner of any Lot shall have a non-exclusive right and easement of enjoyment and use in and to the Common Areas and such right and easement shall be appurtenant to, and shall pass with, the title to the Lot(s) owned by such Owner. Such right and easement of enjoyment and use are and shall be subject to the limitations and easements which are described in this Article and to the right of the Association to promulgate reasonable rules and regulations regarding the use of Common Areas, and the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the Owner of any Lot during any period in which any assessment which is due to the Association from such Owner remains unpaid, and such period as the Board of Directors may consider appropriate for any infraction of its published rules and regulations. In addition, the Board of Directors may permit other persons who are not residents of any Lots to use the Common Areas upon such terms and conditions, and for the payment of such fees, as shall be determined by the Board of Directors.

### ARTICLE III THE ASSOCIATION; RIGHTS AND DUTIES, MEMBERSHIP AND VOTING RIGHTS

Section 3.1. Rights, Powers and Duties. The Association shall be a non-profit South Carolina corporation charged with the duties and invested with the powers prescribed by the South Carolina Nonprofit Corporation Act of 1994 (as amended) or other applicable law and set forth in the Project Documents together with such rights, powers and duties as may be reasonably necessary to effectuate the objectives and purposes of the Association as set forth in the Project Documents. Unless the Project Documents specifically require a vote of the Members, approvals or actions to be given or taken by the Association shall be valid if given or taken by the Board. A copy of the Articles and

Bylaws of the Association shall be available for inspection at the office of the Association during reasonable business hours.

Section 3.2. Board of Directors and Officers. The affairs of the Association shall be conducted by a Board of Directors and such officers and committees as the Board may elect or appoint in accordance with the Articles and the Bylaws. Until termination of the Class B membership, Declarant shall have the right to appoint and remove members of the Board and officers of the Association. After termination of the Class B membership, the Members shall elect the Board as provided in the Bylaws and the Board shall appoint the officers as provided in the Bylaws.

Section 3.3. Association Rules. The Board may, from time to time and subject to the provisions of this Declaration, adopt, amend and repeal rules and regulations, provided, however, that such Association Rules shall not be effective at any time that a Class B Member owns any Lot unless such Association Rules have been approved by a majority vote of Class B Members. The Association Rules may restrict and govern the use of any area by any Owner, by the family of such Owner, or by any invitee, licensee or lessee of such Owner except that the Association Rules may not discriminate among Owners and shall not be inconsistent with this Declaration, the Articles or Bylaws. Upon adoption, the Association Rules shall have the same force and effect as if they were set forth in and were a part of this Declaration.

Section 3.4. Architectural Committee. The Board may establish an Architectural Committee consisting of not less than three (3) members to regulate the external design, appearance and use of the Property and to perform such other functions and duties as may be imposed upon it by this Declaration or the Board. So long as a Class B Member owns any portion of the Property, the Class B Member(s) shall have the right to appoint and remove members of the Architectural Committee by majority vote. At such time as no Class B Member owns any portion of the Property, the Board shall have the right to appoint and remove members of the Architectural Committee.

Section 3.5. Identity of Members. Membership in the Association shall be limited to Owners of Lots. An Owner of a Lot shall automatically, upon becoming the Owner thereof, be a Member of the Association and shall remain a Member of the Association until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

Section 3.6. Transfer of Membership. Membership in the Association shall be appurtenant to each Lot and a membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of a Lot and then only to such Purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer shall be void and shall not be reflected upon the books and records of the Association.

Section 3.7. Classes of Members. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of Declarant until the termination of the Class B membership. Each Class A Member shall be entitled to one (1) vote for each Lot owned.

Class B. The sole Class B Member shall be Declarant. The Class B Member shall be entitled to two hundred seven (207) votes for each Lot owned by the Class B Member. 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:

- (i) When one hundred percent (100%) of the Lots have been conveyed to Purchasers and all Common Area has been conveyed to the Association;
- (ii) When Declarant notifies the Association in writing that it relinquishes its Class B membership; and
- (iii) The thirty (30) year anniversary of the date this Declaration is recorded.

Section 3.8. Joint Ownership. When more than one person is the Owner of any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one ballot be cast with respect to any Lot. The vote or votes for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner casts a ballot representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Lot. In the event more than one ballot is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

Section 3.9. Corporate Ownership. In the event any Lot is owned by a corporation, partnership, limited liability company, or other association, the corporation, partnership, limited liability company or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president, general partner, manager, managing member, or chief executive officer of such corporation, partnership, limited liability company or association shall have the power to vote the membership.

Section 3.10. Suspension of Voting Rights. In the event any Owner is in arrears in the payment of any Assessments or other amounts due under any of the provisions of the Project Documents for a period of thirty (30) days or has violated any other provision of the Project Documents, said Owner's right to vote as a Member of the Association may be suspended for each infraction of the Project Documents after Notice and Opportunity for Hearing, and if suspended after Notice and Opportunity for Hearing shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current and any violations cured.

Section 3.11. Fines. The Association, acting through its Board of Directors, shall have the right to adopt a schedule of fines for violation of any provision of the Project Documents by any Owner or such Owner's licensees and invitees. No fine shall be imposed unless the Owner is provided Notice and Opportunity for Hearing. If it is decided after Notice and Opportunity for Hearing that a fine should be imposed, a fine not to exceed one hundred dollars (\$100.00) may be imposed for the violation without further hearing for each day more than five (5) days after the decision that the violation occurs. All fines shall constitute a lien on all Lots owned by the Owner and shall be paid within thirty (30) days following imposition. Except as otherwise limited by applicable law, failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any assessments under Article IV.

Section 3.12. Limitation on Claims. No claim arising against Declarant or any officer, director, member, manager, employee or other representative of Declarant, including without limitation any claims arising from Declarant's exercise of any right arising from Declarant's Class B membership or arising from any action or inaction by any person in such person's capacity as an officer, director, member or manager of the Association, shall be asserted by the Association more than six (6) months following the later of termination of the Class B membership or the termination of such person's service as an officer or director of the Association. All claims that are not filed in a proper court within the foregoing time period shall be deemed forever waived and released. This section shall not be amended without the written approval of the Declarant.

#### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, hereby covenants, and each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association annual assessments, specific special assessments, and any applicable neighborhood assessments. The annual, specific, special, and neighborhood assessments, together, with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. The personal obligation for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 4.2. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for payment of Common Expenses, including, without limitation (i) the upkeep, maintenance and improvement of the Common Area, Exterior Building Improvements (with respect to TH Units only) and Yard Improvements (with respect to TH Units only), (ii) maintenance, repair, replacement, and operation of rights-of-way and easements within or immediately adjacent to the Project (e.g. landscaping and sidewalks within the right-of-way of adjoining streets) to the extent that such actions are required by government entities or deemed appropriate by the Board, (iii)

promoting the recreation, health, safety and welfare of the Owners and other lawful occupants of Lots within the Property, (iv) the performance and exercise by the Association of its rights, duties and obligations under the Project Documents, and (v) maintaining any Stormwater Control Facilities located on portions of Common Areas to the standard required by the governmental entity or agency having jurisdiction over such areas. Notwithstanding the foregoing, neighborhood assessments shall be used only for the benefit of the neighborhood paying such assessments, shall not be used for any purpose that is covered by annual assessments or special assessments in other areas of the Property, and shall be accounted for separately from annual and special assessments.

#### Section 4.3. Annual Assessment.

(A) For each fiscal year of the Association commencing upon the first to occur of (i) transfer to and acceptance for maintenance by the Association of any Common Area or (ii) conveyance of a Lot to a Purchaser, the Board shall adopt a budget for the Association containing an estimate of the total amount of funds which the Board believes to be required during the ensuing fiscal year to pay all Common Expenses including, but not limited to (i) the amount required to pay the cost of maintenance, management, operation, repair and replacement of the Common Area and those parts of the Lots, if any, which the Association has the responsibility of maintaining, repairing or replacing under the Project Documents; including, without limitation, property insurance for the repair and/or replacement of the Exterior Building Improvements in the amount of the full replacement value thereof (with respect to TH Units only), (ii) the cost of wages, materials, insurance premiums, services, supplies and maintenance or repair of the Common Area and for the general operation and administration of the Association, (iii) the amount required to render to Owners all services required to be rendered by the Association under the Project Documents, and (iv) such amounts as may be required by law to provide general operating reserves and reserves for contingencies and replacement. The Board shall send written notice of a summary of the proposed budget as well as the amount of the payment due to each Owner within thirty (30) days after the adoption by the Board of such budget. The budget shall provide separate assessment levels for TH Units and detached Dwelling Units to account for the higher level of services provided to TH Units. Such budget and assessment shall become effective unless disapproved at a meeting by at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the period of Declarant control, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the voting Members as provided for special meetings in the Bylaws, which petition must be presented to the Board within twenty (20) days after delivery of the notice of budget and assessments. If a special meeting is called pursuant to the Bylaws, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting. In the event the proposed budget is rejected, the periodic budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board. The failure of the Board to send, or of a Member to receive, any budget notice shall not relieve any Member of the obligation to pay Assessments.

(B) For each fiscal year of the Association commencing upon the first to occur of (i) transfer to and acceptance for maintenance by the Association of any Common Area or (ii) conveyance of a Lot to a Purchaser, the total amount of the estimated Common Expenses as established by the approved budget shall be assessed by the Board. Except to the extent that this Declaration expressly provides for (a) neighborhood assessments only on Lots benefiting from such neighborhood assessments, (b) specific assessments, (c) reduced assessments, or (d) exemptions from assessments, all assessments shall be equal on all Lots.

(C) Each Class B Member shall be exempt from payment of assessments on Lots owned by the Class B Member. If a Lot ceases to be owned by a Class B Member and therefore becomes subject to assessment during the period to which an annual assessment is attributable, the assessment shall be prorated based on the number of days in the assessment period that the Lot is not owned by a Class B Member. Class B Members may advance funds to the Association sufficient to fund any Operating Deficit, and such advances may be evidenced by promissory notes from the Association in favor of the Class B Member and shall be repaid to the Class B Member if and to the extent that sufficient funds are generated by assessments until the termination of the Class B membership. Class B Members may provide advancements by any combination of cash or the provision of services or materials toward satisfaction of Common Expenses, including (i) payment for such services or materials directly to the providers thereof, or (ii) payment of money to the Association, or (iii) providing, directly or indirectly, to or for the Association, services or materials related to Common Expenses (the value of which shall be determined by the Board of Directors in its reasonable discretion, giving due consideration to what the fair market value of such services or materials would be if they had been furnished by a person other than the Class B Member).

(D) The Board shall adopt a proposed budget and give notice of the estimated annual assessment to each Owner at least thirty (30) days prior to the beginning of each fiscal year of the Association, but the failure to give such notice shall not affect the validity of the annual assessment established by the Board nor relieve any Owner from its obligation to pay the annual assessment.

(E) If the Board determines during any fiscal year that its funds budgeted or available for that fiscal year are, or will, become inadequate to meet all expenses of the Association for any reason, including, without limitation, nonpayment of Assessments by Members, it may increase the annual assessment for that fiscal year and the revised annual assessment shall commence on the date designated by the Board.

Section 4.4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any fiscal year, a special assessment applicable to that fiscal 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 of the Common Area, including fixtures and personal Property related thereto, or for any other lawful Association purpose, provided that any such special assessment shall have the assent of Members having at least two-thirds (2/3) of the votes entitled to be cast by Members

who are voting in person or by proxy at a meeting duly called for such purpose. Special assessments shall be levied at a uniform rate for all Lots.

Section 4.5. Notice and Quorum for Any Action Authorized Under Sections 4.3 or 4.4. Written notice of any meeting called for the purpose of obtaining the consent of the Members for any action for which the consent of the Members is required under Sections 4.3 and 4.4 shall be sent to all Members no less than ten (10) days (if sent by first class or registered mail and, if sent by any other means, no less than thirty (30) days prior) 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 twenty-five percent (25%) of all the votes of the Members 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 (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 4.6. Specific Assessments. The Board shall have the power to levy specific assessments as, in its discretion, it shall deem appropriate. The failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. By way of explanation and not limitation, the following shall constitute specific assessments: (a) fines levied pursuant to this Declaration; (b) additional association funding as provided in Section 4.14 hereof; and (c) the cost of maintenance performed by the Association for which an Owner is responsible shall be specific assessments.

Section 4.7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments shall commence as to all Lots on the first day of the month following the conveyance of the first Lot to a Purchaser. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board may require that the annual assessment be paid in installments and in such event the Board shall establish the due dates for each installment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association or the Association's designated agent setting forth whether the Assessments on a specified Lot have been paid.

Section 4.8. Effect of Non-payment of Assessments; Remedies of the Association.

(A) Any Assessment, or any installment of an Assessment, not paid for a period of thirty (30) days or longer after the Assessment, or the installment of the Assessment, first became due shall have added to such Assessment or installment, a late payment charge not to exceed the greater of (i) ten percent (10%) of the amount of the unpaid Assessment, or (ii) twenty dollars (\$20.00) per month. Any amounts paid by a Member shall be applied first to unpaid principal and then to late charges or interest. Any

Assessment, or any installment of an Assessment, which is delinquent shall become a continuing lien on the Lot against which such Assessment was made.

(B) The Assessment Lien shall have priority over all liens or claims created subsequent to the recordation of this Declaration except for (i) tax liens for real Property taxes on the Lot, (ii) assessments on any Lot in favor of any municipal or other governmental body and (iii) the lien of any First Mortgage or the lien of any other encumbrance recorded before the docketing of the claim of lien in the office of the clerk of court.

(C) The Association shall have the right, at its option, to enforce collection of any delinquent Assessments together with late charges, interest, lien recording fees, reasonable collection costs, reasonable attorneys' fees and any other sums due to the Association in any manner allowed by law including, but not limited to, (i) bringing an action at law against the Owner personally obligated to pay the delinquent Assessment Lien securing the delinquent Assessments or (ii) bringing an action to foreclose the Assessment Lien against the Lot. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any and all Lots purchased at such sale.

Section 4.9. Subordination of the Lien to Mortgages. The Assessment Lien shall be subordinate to the lien of any First Mortgage or the lien of any other encumbrance recorded before the docketing of the claim of lien in the office of the clerk of court. The sale or transfer of any Lot shall not affect the Assessment Lien except that the sale or transfer of a Lot pursuant to judicial or nonjudicial foreclosure of a first mortgage or any bona fide, good faith proceeding in lieu thereof shall extinguish the Assessment Lien as to payments which became due prior to the sale or transfer. Such unpaid Assessments shall be deemed Common Expenses collectible from all Owners, including the Purchaser at foreclosure. In addition, no sale or transfer shall relieve the Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 4.10. Exemption of Owner. No Owner of a Lot may exempt himself from liability for Assessments levied against his Lot or for other amounts which he may owe to the Association under the Project Documents by waiver and non-use of any of the Common Area and facilities or by the abandonment of his Lot.

Section 4.11. Maintenance of Reserve Fund. Out of the annual assessments and other income, the Association may establish and maintain a reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area, Exterior Building Improvements (with respect to TH Units only) and Yard Improvements (with respect to TH Units only). Notwithstanding anything to the contrary in this Declaration, Declarant shall have the right to be reimbursed from the reserve fund for any amounts expended for reconstruction, repair or maintenance of Stormwater Control Facilities or to provide any financial assurances for the reconstruction, repair and maintenance of Stormwater Control Facilities. Declarant and the Association may take such payments into account when determining the amounts to be funded to reserves. For the avoidance of doubt, any amounts expended by Declarant for reconstruction, repair or maintenance of

Stormwater Control Facilities or to provide any financial assurances for the reconstruction, repair and maintenance of Stormwater Control Facilities, may be reimbursed as part of, or in addition to, any advanced funds as set forth in Section 4.3(C) above.

Section 4.12. No Offsets. All Assessments and other amounts payable to the Association shall be payable in accordance with the provisions of the Project Documents, and no offsets against such Assessments or other amounts shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in the Project Documents.

Section 4.13. Stormwater Assessments. Notwithstanding anything to the contrary in the Declaration, (i) if the Board determines for any fiscal year that the Association has insufficient funds to pay a Common Expense pursuant to any Stormwater Covenant, and (ii) the Board determines that there are not sufficient reserve funds available both to pay that Common Expense and continue to have adequate reserve funds, and (iii) for that fiscal year the Declarant either has paid annual assessments to the Association on all Lots owned by Declarant or has advanced funds to the Association in an amount equal to annual assessments on all Lots owned by Declarant, then the Board, without any vote of the Members, may levy a "stormwater assessment" in an amount sufficient to pay for that Common Expense owed pursuant to the applicable Stormwater Covenant. The amount of such stormwater assessment shall be determined and assessed against all Lots. The payment due dates for such stormwater assessment shall be as determined by the Board and shall be enforceable against Owners and their Lots in the same manner as annual assessments. Provided, however, during the period of Class B membership, no such stormwater assessment shall be valid unless the same shall have been consented to in writing by a majority vote of Class B Members. Further provided, except as may be necessary to account for different Stormwater Control Measures and/or Stormwater Covenants or other agreements related to stormwater applicable to different Lots as allowed in the governing documents or under legal requirements, all stormwater assessments shall be the same for all Lots. Any stormwater assessment for excess expenses is in addition to all other assessments provided for herein.

Section 4.14. Additional Association Funding. The first Purchaser of a Lot following construction of a Residential Unit on such Lot shall pay to the Association at the time of the purchase an amount equal to fifty percent (50%) of the annual assessments payable for the year of such purchase for a TH Unit and one hundred percent (100%) of the annual assessments payable for the year of such purchase for a detached Dwelling Unit. Such payments may be used by the Association for any purpose which provides a direct benefit to the Project, including without limitation, for the payment of operating expenses of the Association and other expenses incurred by the Association pursuant to the provisions hereof. Declarant and the Association may take such payments into account when determining the amounts to be funded to reserves from other Association funds. Nothing in this section shall be construed as prohibiting or mandating the Association making additional payments into reserve accounts from other Association funds. Payments made pursuant to this section do not apply toward payment of annual assessments and constitute a separate obligation.

Section 4.15. Neighborhood Assessments. The Board of Directors shall have the right to impose neighborhood assessments against Lots in any specific area of the Property in order to provide for the repair, replacement, operation and maintenance of Common Areas within such area that are different from or in addition to the types of Common Areas in the balance of the Property and that are designed to benefit less than all of the Property (e.g. private streets, separate entryways or gates, enhanced landscaping, community centers, swimming pools). Any such determination by the Board shall be made in a writing specifying the purposes of the neighborhood assessment and the Lots subject thereto. Any such determination by the Board may also include an additional imposition on such Lots pursuant to Section 4.14 in order to fund a reserve account for the specific improvements intended to be maintained by the neighborhood assessment.

Section 4.16. Sanitation and Refuse Collection. The Association shall have the right, at its discretion and from time to time, to negotiate and execute one or more contracts ("Trash Collection Agreement(s)") with a sanitation provider (or providers) of its choice, for the collection and removal of garbage, trash, recycling materials, and other refuse within the Property and Project. In addition to the annual assessments included within Article IV, the Association may include in the annual assessment or levy in any assessment year a special assessment applicable to that year (and the same shall be charged and collected on a monthly, quarterly or yearly basis as determined by the Board) for the purpose of paying the cost of providing collection and removal of garbage, trash, recycling materials, and other refuse within the Property and Project. Each Owner of a Lot shall be obligated to use the sanitation provider(s) selected by the Association for the collection and removal of garbage, trash, recycling materials, and refuse from such Owner's Lot and agrees to comply with the terms, provisions and requirements of the Trash Collection Agreement(s). Each Owner therefore acknowledges and agrees that each Lot shall be subject to an assessment, either as part of the annual assessment or in addition to and apart from the annual and any other special assessments, for the purpose of paying each Lot's pro rata share of trash collection service provided to the Project. If directed by the Association, each Owner shall contract directly with the selected sanitation provider(s) for its services and shall pay the cost of such services directly to the sanitation provider(s).

Section 4.17. Declarant Audit Right. Following the termination of the Class B membership and so long as Declarant owns any Lot, the Declarant shall have the right to audit the books and records of the Association.

Section 4.18. Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus or place in reserve any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year or place in reserve such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

ARTICLE V  
USE RESTRICTIONS

Section 5.1. Residential Use. Except as otherwise provided herein, all Lots shall be improved and used only for Single Family Residential Use. No gainful occupation, profession, trade or other commercial activity shall be conducted on any Lot; provided, however, the Declarant may use the Lots for such facilities as in its sole opinion may be reasonably required, convenient or incidental to the construction and sale of Residential Units, including, without limitation, a business office, storage areas, construction yards, signs, a model site or sites, and a display and sales office. Notwithstanding the foregoing, home businesses are permitted on the Lots provided they are in accordance with applicable municipal ordinances for home business in residential districts.

Section 5.2. Building Type and Size. No building shall be constructed or permitted to remain on any Lot other than one Single Family Residence and a private one to three car garage. Unless otherwise approved in writing by the Architectural Committee, all buildings shall be of new construction and no prefabricated structure (other than prefabricated components, such as roof trusses, wall panels, etc.) shall be placed upon any Lot if Visible from Neighboring Property. Notwithstanding the foregoing, storage structures and/or a sales office may be maintained upon any Lot or Lots by the Declarant or a building contractor for the purpose of erecting and selling dwellings on the Property or for the purpose of constructing improvements on the Common Area, but such temporary structures shall be removed upon completion of construction or selling of a dwelling or the Common Area, whichever is later. No structure of a temporary character, trailer, tent, shack, garage, barn or other out buildings shall be used on any Lot at any time as a residence, either temporarily or permanently. Declarant and contractors for Declarant shall have the right to place temporary construction trailers and store materials on the Common Areas for the purpose of constructing improvements on the Common Areas.

Section 5.3. Signs. No sign of any kind which is Visible from Neighboring Property shall be installed or displayed on any Lot or Common Area without the prior written approval of the Association as to size, color, design, message content, number and location except: (i) such signs as may be used by Declarant in connection with the development and sale of Lots and/or Residential Units or Common Area in the Project; (ii) such signs as may be required by legal proceedings, or which by law, may not be prohibited; (iii) one temporary sign per Lot no larger than 30" x 24" used exclusively to advertise the Lot for sale; (iv) a maximum of one political sign with maximum dimensions of 24 inches by 24 inches (or such greater number and/or greater size of political signs permitted by ordinances if the governing body regulates the size and number of political signs on residential property) may be placed on a Lot by the Owner of that Lot; provided, however, that no political signs may be displayed pursuant to this Section 5.3 earlier than forty-five (45) days before an election day or more than seven (7) days after an election day, or (v) such signs as may be desired by Declarant or required for traffic control, construction job identification, builder identification, and subdivision identification as are in conformance with governmental requirements. All other signs must be approved in advance in writing by the Architectural Committee as provided above. All signs must conform to applicable ordinances and other governmental requirements. In no event shall

any signs advertising residential property for lease or rent be displayed within twenty-four (24) months after the initial conveyance of a Lot with a Residential Unit constructed thereon to an Owner from a Class B Member.

Section 5.4. Noxious and Offensive Activity. No noxious or offensive activity shall be allowed on the Lots nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way interfere with the quiet enjoyment of each of the Owners and tenants of their respective Lots and Residential Units. Without limiting the generality of the foregoing, no speakers, horns, sirens or other sound devices, except security devices used exclusively for security purposes, shall be located or used on a Lot. The provisions of this section shall not apply to any activity of a Class B Member or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property.

Section 5.5. Parking. Parking of Vehicles (as defined in Section 5.6) is prohibited in the front yard of Lots except on a driveway. Parking of Vehicles on any street within the Property is prohibited except that Vehicles that are too large to fit on a driveway may park on the portion of the street directly adjacent to the Owner's Lot during daylight hours only and must either be put into the garage or removed from the Property during nighttime hours. Parking of any inoperable Vehicle anywhere on a Lot that is Visible from Neighboring Property or anywhere on a street within the Property is prohibited. No part of any Vehicle may be parked over any part of a sidewalk because such parking may impede use of the sidewalks, particularly for persons with disabilities using the sidewalks. The provisions of this Section 5.5 shall not apply to (a) Vehicles that are exempt from this subsection under applicable law, (b) Vehicles of a Class B Member or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property, or (c) Vehicles used by the Association in repairing, maintaining and replacing the Common Areas and all Improvements thereon, and in performing all other rights, duties and obligations of the Association under this Declaration.

Section 5.6. Motor Vehicles.

(A) No automobile, truck, motorcycle, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, recreational vehicle, boat trailer or other similar equipment or motor vehicle of any kind (collectively, "Vehicles" and individually a "Vehicle") shall be parked, kept or maintained on the Common Area except in designated parking areas (if any) and no overnight parking of Vehicles in the Common Area is permitted. Vehicles that exceed 23 feet in length, 7 feet in height or 7 feet in width are prohibited on the Property unless (i) parked in the rear or side yard of a Lot in a manner that such Vehicles are not Visible from Neighboring Property or otherwise appropriately screened as approved by the Architectural Committee, or (ii) owned by any guest or invitee of any Owner or tenant and parked on a Lot only during such time as the guest or invitee is visiting the Owner or tenant, but in no event shall such a motor vehicle be parked on a Lot for more than seven (7) days during any six (6) month period of time. Any Vehicle, regardless of size, that is parked in the rear or side yard of any Lot must be parked so as not to be Visible from Neighboring Property or otherwise appropriately screened as approved by the Architectural Committee.

(B) Except for emergency Vehicle repairs on a Lot, no Vehicle of any kind shall be constructed, reconstructed or repaired on any Lot or the Common Area. No inoperable Vehicle or Vehicle which because of missing fenders, bumpers, hoods or other parts or because of lack of proper maintenance is, in the sole opinion of the Architectural Committee, unsightly or detracts from the appearance of the Project shall be stored, parked or kept on any Lot so as to be Visible from Neighboring Property. All emergency repairs must be completed with 48 hours.

(C) No Vehicle classed by manufacturer rating as exceeding one ton may be parked or stored on any area in the Project so as to be Visible from Neighboring Property.

(D) The restrictions of this Section 5.6 shall not apply to (a) Vehicles that are exempt from this subsection under applicable law, (b) Vehicles of a Class B Member or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property, or (c) Vehicles used by the Association in repairing, maintaining and replacing the Common Areas and all Improvements thereon, and in performing all other rights, duties and obligations of the Association under this Declaration.

Section 5.7. Towing of Vehicles. The Association shall have the right to have any Vehicle parked, kept, maintained, constructed, reconstructed or repaired in violation of the Project Documents towed away at the sole cost and expense of the owner of the Vehicle or equipment. Any expense incurred by the Association in connection with the towing of any Vehicle shall be paid to the Association by the owner of the Vehicle. If the Vehicle towed is owned by an Owner, then the cost incurred by the Association in towing the vehicle or equipment shall be assessed against the Owner and his Lot and be payable on demand, and such cost shall be secured by the Assessment Lien.

Section 5.8. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual and customary in connection with the use or maintenance of improvements constructed by the Declarant or approved by the Architectural Committee. The provisions of this section shall not apply to any activity of a Class B Member or its employees, agents, or contractors during the course of construction activities or sales activities upon or about the Property.

Section 5.9. Restrictions and Further Subdivision. No Lot shall be further subdivided or separated into smaller lots or parcels by any Owner other than the Declarant, and no portion less than all or an undivided interest in all of any Lot shall be conveyed or transferred by any Owner other than the Declarant. Notwithstanding the foregoing and subject to compliance with any applicable ordinances, a vacant Lot may be split between the Owners of the Lots adjacent to such Lot so that each portion of such Lot would be held in common ownership with another Lot adjacent to that portion.

Section 5.10. Windows. Within thirty (30) days of occupancy of a Residential Unit each Owner shall install permanent suitable window treatments on all windows facing

the street. No reflective materials, including, but without limitation, aluminum foil, reflective screens or glass, mirrors or similar type items, shall be installed or placed upon the outside or inside of any windows.

Section 5.11. HVAC. Except as initially installed by the Declarant or a Designated Builder and except for replacement units as described below, no heating or air conditioning unit shall be placed, constructed or maintained upon any Lot without the prior written approval of the Architectural Committee. In the event a heating or air conditioning unit needs to be replaced, an Owner may install a replacement unit in the same or substantially same location as the original unit without the approval of the Architectural Committee.

Section 5.12. Garages and Driveways. The interior of all garages situated on any Lot shall be maintained in a neat and clean condition. Garages shall not be converted to living quarters or the initial construction thereof altered without the prior written approval of the Architectural Committee. Garage doors shall be left open only as needed for ingress and egress.

Section 5.13. Installation of Landscaping.

(A) If not installed by Declarant or a Builder, within one hundred twenty (120) days after becoming the Owner of a Lot, the Owner shall install landscaping and irrigation improvements in compliance with the Architectural Committee Rules and other applicable requirements set forth in the applicable zoning ordinances in that portion of his Lot that is Visible from Neighboring Property. The landscaping and irrigation improvements shall be installed in accordance with plans approved in writing by the Architectural Committee. Prior to installation of such landscaping, the Owner shall maintain the portion of his Lot that is Visible from Neighboring Property in a weed-free condition.

(B) If any Owner fails to landscape the portion of his Lot that is Visible from Neighboring Property within the time provided for in this section, the Association shall have the right, but not the obligation, to enter upon such Owner's Lot to install such landscaping improvements as the Association deems appropriate, and the cost of any such installation shall be paid to the Association by the Owner of the Lot, upon demand from the Association. Any amounts payable by an Owner to the Association pursuant to this section shall be secured by the Assessment Lien, and the Association may enforce collection of such amounts in the same manner and to the same extent as provided elsewhere in this Declaration for the collection and enforcement of assessments.

(C) This Section 5.13 shall not apply to Declarant or any Builder with respect to any Lot or any other property that has not been conveyed to an Owner with a Residential Unit already constructed thereon, except that this Section 5.13 shall apply upon commencement of residential occupancy of any Lot containing a Residential Unit.

Section 5.14. Declarant's and Designated Builder Exemption. Nothing contained in this Declaration shall be construed to prevent the construction, installation or

maintenance by Declarant (or its designated agents and contractors) or a Designated Builder (subject to approval by Declarant) during the period of development, construction, performance of warranty work, sales and marketing on the Property, or any production homes, model homes and sales offices and parking incidental thereto, construction trailers, landscaping or signs deemed necessary or convenient by a Declarant or a Designated Builder (subject to the approval of Declarant), in their sole discretion, to the development, construction, sale and marketing of property within the Property. Any actions taken by a Designated Builder pursuant to this section shall require the prior approval of Declarant, which shall not be unreasonably withheld. The Association shall take no action that would interfere with access to or use of model homes; without limitation of the foregoing, the Association shall have no right to close private streets to access by members of the public desiring access to model homes.

Section 5.15. Leasing Restrictions. All tenants shall be subject to the terms and conditions of this Declaration and the Project Documents. Each Owner shall cause his, her or its tenants or other occupants to comply with this Declaration and the Project Documents and, to the extent permitted by applicable law, shall be responsible and liable for all violations and losses caused by such tenants or occupants, notwithstanding the fact that such tenants or occupants are also fully liable for any violation of each and all of those documents. No sign that is Visible from Neighboring Property may be placed on a Lot or any other area within the Project indicating that a Lot is available for lease at any time during the 24 months after the initial conveyance of a Lot with a Residential Unit constructed thereon to an Owner from Declarant or a Designated Builder (or by a trustee for the benefit of Declarant or a Designated Builder). No Lot may be leased for a period of less than one (1) year. The provisions of this Section 5.15 shall not apply to any Declarant's or any Designated Builder's use of Lots owned by (or leased to) Declarant or a Designated Builder, as applicable, as a model home or for marketing purposes.

Section 5.16. Animals. No animals, insects, livestock, or poultry of any kind shall be raised, bred, or kept on or within any Lot or structure thereon except that dogs, cats or other common household pets (types and breeds limited to those determined to be acceptable by the Board) may be kept on or within the Lots, provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers as determined by the Board. Notwithstanding the foregoing, no animals or fowl may be kept on any Lot which results in a nuisance to, which is an annoyance to, or which are obnoxious to other Owners or tenants in the vicinity. All pets must be kept within a fenced yard or on a leash under the control of the Owner at all times. No structure for the care, housing or confinement of any animal or fowl shall be maintained so as to be Visible from Neighboring Property. All Owners shall be required to clean up any pet waste deposited by an Owner's pet outside of such Owner's Lot and the Association may establish a reasonable fine or other penalties in order to enforce such obligation.

Section 5.17. Drilling and Mining. No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind, shall be permitted upon or in any Lot nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted on any Lot. No derrick or other structure designed for use in boring for or removing water, oil, natural gas or other minerals shall be erected, maintained or permitted upon any Lot.

Section 5.18. Refuse. All refuse, including without limitation all animal wastes, shall be regularly removed from the Lots and shall not be allowed to accumulate thereon. Until removal from the Lots, refuse shall be placed in closed refuse containers with operable lids so that such containers are not open to the air. Refuse containers shall be kept clean, sanitary, and free of noxious odors. Refuse containers shall be maintained so as to not be Visible from Neighboring Property, except to make the same available for collection and then only for the shortest time reasonably necessary to complete such collection.

Section 5.19. Antennas and Satellite Dishes.

(A) This section applies to antennas, satellite television dishes, and other devices (“Receivers”), including any poles or masts (“Masts”) for such Receivers, for the transmission or reception of television or radio signals or any other form of electromagnetic radiation.

(B) As of the date of recordation of this instrument, Receivers one meter or less in diameter are subject to the provisions of Title 47, Section 1.4000 of the Code of Federal Regulations (“Federal Regulations”). “Regulated Receivers” means Receivers subject to Federal Regulations as such regulations may be amended or modified in the future or subject to any other applicable federal, state or local law, ordinance or regulation that would render the restrictions in this section on Unregulated Receivers (hereinafter defined) invalid or unenforceable as to a particular Receiver. “Unregulated Receiver” means all Receivers that are not Regulated Receivers. Notwithstanding the foregoing, a Regulated Receiver having a Mast in excess of the size permitted under Federal Regulations or other laws, ordinances or regulations for Regulated Receivers shall be treated as an Unregulated Receiver under this section.

(C) Unless approved in writing by the Architectural Committee, no Unregulated Receivers shall be permitted outdoors on any Lot, whether attached to a building or structure or on any Lot, unless approved in writing by the Architectural Committee, with such screening and fencing as such Committee may require. Unregulated Receivers must be ground mounted and not Visible from Neighboring Property.

(D) Regulated Receivers shall be subject to the following requirements:

(i) If permitted by applicable Federal Regulations or other laws, ordinances or regulations, no Regulated Receiver shall be permitted outdoors on any Lot, whether attached to a building or structure or on any Lot, unless approved in writing by the Architectural Committee, with such screening and fencing as such Committee may require. If such restriction is not so permitted, the provisions of subsections (ii) and (iii) below shall apply.

(ii) A Regulated Receiver and any required Mast shall be placed so as not to be Visible from Neighboring Property if such placement will not (a) unreasonably delay or prevent installation, maintenance or use of the Regulated Receiver, (b) unreasonably increase the cost of installation, maintenance or use of the Regulated Receiver, or (c) preclude the reception of an acceptable quality signal.

(iii) Regulated Receivers and any required Masts shall be placed on Lots only in accordance with the following descending order of locations, with Owners required to use the first available location that does not violate the requirements of parts (a) through (c) in subsection (ii) above: (1) a location in the back yard of the Lot where the Receiver will be screened from view by landscaping or other improvements; (2) an unscreened location in the backyard of the Lot; (3) on the roof, but completely below the highest point on the roofline; (4) a location in the side yard of the Lot where the Receiver and any pole or mast will be screened from view by landscaping or other improvements; (5) on the rear roof above the roofline; (6) an unscreened location in the side yard; and (7) a location in the front yard of the Lot where the Receiver will be screened from view by landscaping or other improvements. Notwithstanding the foregoing, no Receiver or Masts shall be permitted on the roof of a TH Unit.

Notwithstanding the foregoing order of locations, if a location stated in the above list allows a Receiver to be placed so as not to be Visible from Neighboring Property, such location shall be used for the Receiver rather than any higher-listed location at which a Receiver will be Visible from Neighboring Property, provided that placement in such non-visible location will not violate the requirements of parts (a) through (c) in subsection (ii) above.

(iv) Owners shall install and maintain landscaping or other improvements (“Screening”) around Receivers and Masts to screen items that would otherwise be Visible from Neighboring Property unless such requirement would violate the requirements of parts (a) through (c) in subsection (ii) above, if an Owner is not required to install and maintain Screening due to an unreasonable delay in installation of the Receiver that such Screening would cause, the Owner shall install such screening within 30 (thirty) days following installation of the Receiver and shall thereafter maintain such Screening, unless such Screening installation or maintenance will violate the provisions of parts (a) through (c) in subsection (ii) above. If an Owner is not required to install Screening due to an unreasonable increase in the cost of installing the Receiver caused by the cost of such Screening, the Association shall have the right, at the option of the Association, to enter onto the Lot and install such Screening and, in such event, the Owner shall maintain the Screening following installation, unless such Screening installation or maintenance will violate the provisions of parts (a) through (c) in subsection (ii) above.

The provisions of this section are severable from each other; the invalidity or unenforceability of any provision or portion of this section shall not invalidate or render unenforceable any other provisions or portions of this section, and all such other provisions or portions shall remain valid and enforceable. The invalidity or unenforceability of any provisions or portions of this section to a particular type of Receiver or Mast or to a particular Receiver or Mast on a particular Lot shall not invalidate or render unenforceable such provisions or portions regarding other Receivers or Masts on other Lots.

Section 5.20. Utility Services. All lines, wires or other devices for the communication or transmission of electric current or power, including telephone, television, and radio signals, shall be contained in conduits or cables installed and maintained underground or concealed in, under, or on buildings or other structures

approved by the Architectural Committee. Temporary power or telephone structures incident to construction activities approved by the Architectural Committee are permitted.

Section 5.21. Diseases and Insects. No Owner or resident shall permit any thing or condition to exist upon a Lot that induces, breeds or harbors infectious plant diseases or noxious insects.

Section 5.22. Architectural Control.

(A) No excavation or grading work shall be performed on any Lot without the prior written approval of the Architectural Committee. Each Owner altering any grading or drainage on a Lot shall ensure that such alterations comply with all requirements of any grading or drainage plan approved by any governmental entity having jurisdiction over the Property and that such alterations do not alter or impede the flow of storm water from the manner existing prior to such alterations; approval of plans or proposed improvements by the Architectural Committee shall not constitute a waiver of this requirement or a warranty that such plans or improvements are consistent with this requirement or any other requirement of this Declaration, the Association Rules or Architectural Committee Rules, any governmental requirement or construction industry standard.

(B) No Improvements shall be constructed or installed on any Lot without the prior written approval of the Architectural Committee.

(C) No addition, alteration, repair, change or other work which in any way alters the exterior appearance, including but without limitation, the exterior color scheme, of any Lot, or the Improvements located thereon, shall be made or done without the prior written approval of the Architectural Committee.

(D) Any Owner desiring approval of the Architectural Committee for the construction, installation, addition, alteration, repair, change or replacement of any Improvement which would alter the exterior appearance of the Improvement, shall submit to the Architectural Committee a written request (in the form and manner established by Association Rules) for approval specifying in detail the nature and extent of the construction, installation, addition, alteration, repair, change or replacement of any Improvement which the Owner desires to perform. Any Owner requesting the approval of the Architectural Committee shall also submit to the Architectural Committee any additional information, plans and specifications which the Architectural Committee may request. In the event that the Architectural Committee fails to approve or disapprove an application for approval within thirty (30) days after the application, together with all supporting information, plans and specifications requested by the Architectural Committee have been submitted to it, approval will not be required and this section will be deemed to have been complied with by the Owner who had requested approval of such plans.

(E) The approval by the Architectural Committee of any construction, installation, addition, alteration, repair, change or other work pursuant to this section shall not be deemed a waiver of the Architectural Committee's right to withhold approval of any

similar construction, installation, addition, alteration, repair, change or other work subsequently submitted for approval.

(F) Upon receipt of written approval from the Architectural Committee for any construction, installation, addition, alteration, repair, change or other work, the Owner who had requested such approval shall proceed to perform, construct or make the construction, installation, addition, alteration, repair, change or other work approved by the Architectural Committee as soon as practicable and shall diligently pursue such work so that it is completed as soon as reasonably practical and within such time as may be prescribed in writing by the Architectural Committee.

(G) The approval of the Architectural Committee required by this section shall be in addition to, and not in lieu of, any approvals, consents or permits required under the ordinances or rules and regulations of any county or municipality having jurisdiction over the Project.

(H) The provisions of this section shall not apply to, and approval of the Architectural Committee shall not be required for, the construction, erection, installation, addition, alteration, repair, change or replacement of any Improvements made by, or on behalf of, the Declarant.

(I) In no event shall the Association, the Architectural Committee or any member of the Architectural Committee have any liability for any action or inaction by the Architectural Committee or its members, including without limitation any approval or disapproval of plans by the Architectural Committee. The sole remedy for an Owner asserting that the Architectural Committee has improperly withheld approval or has improperly granted approval shall be an action to compel the Architectural Committee to take appropriate action. In no event shall any damages of any nature be awarded against the Association, the Architectural Committee or any member of the Architectural Committee of any nature arising from any action or inaction described in this Section 5.22.

(J) Each Owner is strongly advised to consult with independent architects and engineers to ensure that all improvements or alterations made by such Owner are safe and in compliance with applicable governmental requirements. No approval by the Architectural Committee shall constitute a guaranty or warranty by the Association, the Architectural Committee or any member of the Architectural Committee that the matters approved will comply with this Declaration, any Association Rules or Architectural Committee Rules, or any applicable governmental requirements or that any plans or improvements are safe or properly designed. The Owner constructing or altering any improvements shall indemnify, defend and hold the Association harmless from (i) any claims or damages of any nature arising from such improvements or alterations or any approval thereof by the Architectural Committee and (ii) any claim that the Association, the Architectural Committee or any member of the Architectural Committee breached any duty to other Owners in issuing approval of such Owner's improvements or alterations.

Section 5.23. Clothes Drying Facilities. No outside clotheslines or other outside facilities for drying or airing clothes shall be erected, placed or maintained on any Lot so as to be Visible from Neighboring Property.

Section 5.24. Overhead Encroachments. No tree, shrub, or planting of any kind on any Lot shall be allowed to overhang or otherwise to encroach upon any sidewalk, street, pedestrian way or other area from ground level to a height of eight (8) feet without the prior written approval of the Architectural Committee.

Section 5.25. Drainage. No Residential Unit, structure, building, landscaping, fence, wall or other Improvement shall be constructed, installed, placed or maintained in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the drainage plans for the Project, or any part thereof, or for any Lot as shown on the approved drainage plans on file with the municipality or other governing body in which the Project is located. In addition, no Owner or other Person shall change the grade or elevation of a Lot in any manner that would obstruct, interfere with or change the direction or flow of water in accordance with the approved drainage plans.

Section 5.26. Basketball Goals and Backboards. No basketball backboard, hoop or similar structure or device shall be permitted except in accordance with the Architectural Committee Rules.

Section 5.27. Playground Equipment. No jungle gyms, swing sets or similar playground equipment which would be Visible from Neighboring Property shall be erected or installed on any Lot without the prior written approval of the Architectural Committee.

Section 5.28. Lights. Except as initially installed by the Declarant, no spotlights, floodlights or other high intensity lighting shall be placed or utilized upon any Lot or any structure erected thereon which in any manner will allow light to be directed or reflected on any other property except as approved by the Architectural Committee.

Section 5.29. Flags. The official flag of the United States, and/or the United States Army, Navy, Air Force, Space Force, Marine Corps, or Coast Guard, and/or the State of South Carolina may be displayed on any Lot provided (i) such flag is displayed in the manner required under the federal flag code from a pole attached to a Residential Unit on the Lot, (ii) the pole is no higher than the top of the Residential Unit, (iii) the pole is no longer than ten feet in length and does not extend more than ten (10) feet from the edge of the Residential Unit, (iv) the flag is no more than twenty four (24) square feet in size, (v) any flag lighting does not violate Section 5.28 of this Declaration, and (vi) the flag is maintained in good condition. The flag of another nation may be displayed in lieu of or in addition to the United States Flag on national holidays of such nation provided such display complies with the requirements for displaying the United States Flag.

Section 5.30. Yard Sales. Owners may hold “yard sales“ to sell personal property of such Owners only in compliance with the following requirements: (i) yard sales shall be limited to two (2) days per year on any Lot, (ii) no yard sale shall commence prior to 6 AM EST or EDT, as applicable, or continue after 5 PM EST or EDT, as applicable, (iii) no

Owner shall post any signs advertising any yard sale anywhere on the Property except that a temporary sign may be posted on such Owner's Lot on the day that a yard sale is being held, and (iv) if the Association ever adopts standard yard sale dates for the Property, yard sales shall be held only on such dates. The Association shall give reasonable notice to all Owners if it adopts standard yard sale dates for yard sales on the Property.

Section 5.31. Holiday Displays. Owners may display holiday decorations which are Visible from Neighboring Property only if the decorations are of the kinds normally displayed in single family residential neighborhoods, are of reasonable size and scope, and do not disturb other Owners and residents by excessive light or sound emission or by causing an unreasonable amount of spectator traffic. Holiday decorations may be displayed between October 1 and January 31 of each year and, during other times of year, from one (1) week before to one (1) week after any nationally recognized holiday.

Section 5.32. Firearms. The discharge of firearms within the Property is prohibited except as permitted by law for self-defense. The term "firearms" includes, but is not limited to, "B-B" guns, pellet guns, cross-bows and other firearms of all types, regardless of size. The Board may impose fines and exercise other enforcement remedies as set forth in this Declaration, but shall have no obligation to exercise self-help to prevent or stop any such discharge.

Section 5.33. Solar Collectors.

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

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

(C) Unless installed by Declarant or a Designated Builder, or approved in writing by the Architectural Committee, no Unregulated Solar Collectors shall be permitted on any Lot, whether attached to a building or structure or on any Lot, unless approved in writing by the Architectural Committee, with such screening as such Committee may require. Unregulated Solar Collectors must be façade or roof mounted and not visible from areas open to common or public access.

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

(i) If permitted by applicable Solar Laws, no Regulated Solar Collector shall be permitted on any Lot, whether attached to a building or structure or on any Lot, unless approved in writing by the Architectural Committee, in a location or with

such screening as such Committee may require. If such restriction is not so permitted, the provisions of subsections (ii) and (iii) below shall apply.

(ii) A Regulated Solar Collector shall be placed so as not to be visible by a person on the ground (a) on the façade of a structure that faces areas open to common or public access, (b) on a roof surface that slopes downward towards the same areas open to common or public access that the façade faces, or (c) within an area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those area of common or public access faced by the structure. Notwithstanding the foregoing, no Solar Collectors shall be permitted on the roof of a TH Unit.

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

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

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

## ARTICLE VI RESERVATION OF RIGHT TO RESUBDIVIDE AND REPLAT

Subject to the approval of any and all appropriate governmental agencies having jurisdiction, Declarant hereby reserves the right at any time, without the consent of other Owners, to resubdivide and replat any Lot or Lots that the Declarant then owns and has not sold, and any Common Area.

ARTICLE VII  
PARTY WALLS

Section 7.1. General Rules of Law to Apply. Each wall or fence, any part of which is placed on a dividing line between separate Lots shall constitute a “Party Wall“. Each adjoining Owner’s obligation with respect to party walls shall be determined by these Covenants and Restrictions and, if not inconsistent, by South Carolina law.

Section 7.2. Sharing Repair and Maintenance. Each Owner shall maintain the exterior surface of a party wall facing his Lot. Except as provided in this Article, the cost of reasonable repair shall be shared equally by adjoining Lot Owners.

Section 7.3. Damage by One Owner. If a party wall is damaged or destroyed by the act of one adjoining Owner, or his guests, tenants, licensees, agents or family members (whether or not such act is negligent or otherwise culpable), then that Owner shall immediately rebuild or repair the party wall to its prior condition without cost to the adjoining Owner and shall indemnify the adjoining Owner from any consequential damages, loss or liabilities. No Owner shall violate any of the following restrictions and any damage (whether cosmetic or structural) resulting from violation of any of the following restrictions shall be considered caused by the Owner causing such action or allowing such action to occur on such Owner’s Lot:

(i) No Owner shall allow sprinklers to spray or other water sources to deliver water within five feet (5’) of any wall, excluding rainfall that falls directly on such area (i.e. an Owner shall not collect rainfall from other portions of the Lot and deliver it within five feet (5’) of any wall);

(ii) No Owner shall allow any plant to attach themselves to any wall (e.g. ivy);

(iii) No Owner shall allow any tree to grow within six feet (6’) of any wall (with such distance measured from the above-ground part of the tree that is nearest to the wall within five feet (5’) of the ground level of the tree, including any portion of the root system that is not completely covered by dirt);

(iv) No Owner shall allow attachment of anything to any wall;  
and

(v) No Owner shall allow water to be provided (by sprinkler, drip line, hose, hand delivery or otherwise) to any plant located within five feet (5’) of any wall, excluding rainfall that falls directly on such plant (i.e. an Owner shall not collect rainfall from other portions of the Lot and deliver it to any plant within five feet (5’) of any wall).

Section 7.4. Other Damage. If a party wall is damaged or destroyed by any cause other than the act of one of the adjoining Owners, his agents, tenants, licensees, guests or family members (including ordinary wear and tear and deterioration from lapse of time),

then the adjoining Owners shall rebuild or repair the party wall to its prior condition, equally sharing the expense; provided, however, that if a party wall is damaged or destroyed as a result of an accident or circumstances that originate or occur on a particular Lot, (whether or not such accident or circumstance is caused by the action or inaction of the Owner of that Lot, or his agents, tenants, licensees, guests or family members) then in such event, the Owner of that particular Lot shall be solely responsible for the cost of rebuilding or repairing the party wall and shall immediately repair the party wall to its prior condition.

Section 7.5. Right of Entry. Each Owner shall permit the Owners of adjoining Lots, or their representatives, to enter his Lot for the purpose of installations, alteration, or repairs to a party wall on the Property of such adjoining Owners, provided that other than for emergencies, requests for entry are made in advance and that such entry is at a time reasonably convenient to the Owner of the adjoining Lot. An adjoining Owner making entry pursuant to this section shall not be deemed guilty of trespassing by reason of such entry. Such entering Owner shall indemnify the adjoining Owner from any consequential damages sustained by reason of such entry.

Section 7.6. Right of Contribution. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7.7. Consent of Adjoining Owner. In addition to meeting the requirements of this Declaration and of any applicable building code and similar regulations or ordinances, any Owner proposing to modify, alter, make additions to or rebuild (other than rebuilding in a manner materially consistent with the previously existing wall) the party wall, shall first obtain the written consent of the adjoining Owner, which shall not be unreasonably withheld or conditioned.

Section 7.8. Walls Adjacent to Streets or Common Area. A wall that is adjacent to streets or Common Area shall be treated as though the wall is a party wall with the street or common area constituting a Lot owned by the Association, except that any portion of such wall consisting of decorative metal-work that was originally on such wall (or any replacement thereof) shall be the sole responsibility of the Association (subject to an Owner's liability for repairs that would be such Owner's sole responsibility under Sections 7.3 or 7.4). Notwithstanding the foregoing, (a) the provisions in Sections 7.3 and 7.4 regarding an Owner's sole liability for repair of damage caused by such Owner's guests or licensees shall not apply to damage resulting from guests or licensees of the Association and such damage shall be considered caused by unrelated third parties and (b) the rule in Section 7.4 regarding damage arising from events occurring on a particular Owner's Lot shall not apply to damage arising from events occurring on streets or Common Areas. Notwithstanding the foregoing, any damage to a wall that is covered by the Association's casualty insurance shall, to the extent of proceeds actually received from such insurance, be paid for by the Association.

Section 7.9. Walls Forming Part of Residential Unit. If a Lot contains a wall that is (i) an exterior wall of a Residential Unit (including any garage associated with a

Residential Unit) and (ii) located on or immediately adjacent to the Lot boundary line, the provisions of this Article shall apply subject to the following:

(A) The wall shall have a perpetual easement for encroachments onto any adjoining Lot or Common Area of up to one foot, provided, however, that such easement shall only apply to initial construction of the wall and any replacements of the wall that do not encroach further than the original wall.

(B) Any roof improvements (including gutters and similar related improvements) above such wall shall have a perpetual easement for encroachments onto any adjoining Lot or Common Area of up to four feet, provided, however, that such easement shall only apply to initial construction of the roof improvements and any replacements of the roof improvements that do not encroach further than the original roof improvements.

(C) The Owner of the Lot adjacent to such wall shall not, without the written approval of the Owner of the Lot on which the Residential Unit is located, do any of the following:

- (i) use the wall for recreational purposes (e.g. bouncing balls);
- (ii) use the wall as part of an enclosure for pets; or
- (iii) otherwise take any action regarding the wall that a reasonable person would conclude has a substantial likelihood of disturbing the peaceful and undisturbed use of the interior of the Residential Unit of which the wall forms a part.

(D) Notwithstanding Section 7.7, the Owner of the Residential Unit shall not be required to obtain permission from the adjoining Lot Owner to rebuild the wall in the same manner as originally constructed.

#### ARTICLE VIII MAINTENANCE BY OWNER

Unless maintained by the Association pursuant to Article X below, each Owner shall maintain his Residential Unit and Lot in good repair. The yards and landscaping on all improved Lots shall be neatly and attractively maintained, and shall be cultivated and planted to the extent required to maintain an appearance in harmony with other improved Lots in the Property. If any sidewalk is partially or completely located on an Owner's Lot and third parties have an easement to use such sidewalk, then the Association (and not the Owner) shall be responsible for the maintenance and repair of such sidewalk. During prolonged absence, an Owner shall arrange for the continued care and upkeep of his Lot. Except for areas owned by the Association, that the Association is obligated to maintain pursuant to this Declaration, or that the Association has elected in writing to maintain, which election may be terminated by the Association at any time, each Owner shall also maintain in good condition and repair any landscaping and sidewalk improvements that are within the portion of any adjacent right of way that is located between such Owner's Lot

and the curb of the adjacent street. If an Owner fails to fulfill his maintenance and repair obligations under this Article or in the event an Owner fails to landscape his Lot as required by Section 5.13 above, the Architectural Committee may have said Lot and Residential Unit landscaped, cleaned and repaired and may charge the Lot Owner for said work in accordance with the provisions of said section. An Owner shall not allow a condition to exist on his Lot that will adversely affect any other Lots and Residential Units or other Owners. Any repainting or redecorating of the exterior surfaces of a Residential Unit that alters the original appearance of the Residential Unit will require the prior approval of the Architectural Committee.

## ARTICLE IX EASEMENTS

### Section 9.1. Owner's Easements of Enjoyment.

(A) Every Member, and any person residing with such Member, shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot and Parcel, subject to the following provisions:

(i) The right of the Association to charge reasonable admission and other fees for the use of any recreational or other facility situated upon the Common Area, including, but not limited to, any recreational vehicle storage area located upon the Common Area. The Association shall also have the right to restrict the use of such recreational vehicle storage area to only those Owners or lawful occupants of a Residential Unit who do not have such a recreational vehicle storage area available to them through a neighborhood association. The Association may permit the use of any recreational vehicle storage area situated upon the Common Area by persons who are not Members of the Association provided the Association charges such persons a reasonable admission fee or use fee for the use of such recreational vehicle storage area.

(ii) The right of the Association after Notice and Opportunity for Hearing to suspend the voting rights and right to the use of the recreational facilities, if any, located upon Common Area by any Member for any period during which any Assessment against his Lot remains delinquent.

(iii) The right of the Association to convey or encumber all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Board, provided, however, that any such action taken at any time that a Class B Member owns any Lot shall require the approval of a majority of the Class B Members. If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of the Common Area shall be subject to the Lot Owner's easement of ingress and egress.

(iv) The right of the Association to regulate the use of the Common Area through the Association Rules and to prohibit or limit access to such

portions of the Common Area, such as landscaped rights-of-way, not intended for use by the Owners or other lawful occupants of a Residential Unit.

(B) If a Lot is leased or rented by the Owner thereof, the tenant and the members of his family residing with such tenant pursuant to the lease shall have the right to use the Common Area during the term of the lease, and the Owner of such Lot shall have no right to use the Common Area until the termination or expiration of such lease.

(C) The guest and invitees of any Member or other person entitled to use the Common Area pursuant to this Declaration may use any recreational facility located on the Common Area provided they are accompanied by a Member or other person entitled to use the recreational facilities pursuant to this Declaration. The Board shall have the right to limit the number of guests and invitees who may use the recreational facilities located on the Common Area at any one time and may restrict the use of the recreational facilities by guests and invitees to certain specified times.

Section 9.2. Drainage Easements. There is hereby created a blanket stormwater management easement for drainage of ground water on, over and across each Lot in such locations as Stormwater Control Facilities are located. An Owner shall not at any time hereafter fill, block or obstruct any Stormwater Control Facilities on his Lot and each Owner shall repair and maintain all Stormwater Control Facilities located on his Lot. No structure of any kind shall be constructed, and no vegetation shall be planted or allowed to grow within the drainage easements which may impede the flow of water under, over or through the easements or which may materially increase the flow of water onto another Lot. All drainage areas shall be maintained by the Owner of the Lots on which the easement area is located.

Section 9.3. Utility Easements. Except as installed by the Declarant or approved by the Architectural Committee, no lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, cable and radio signals, shall be erected, placed or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables installed and maintained underground or concealed in, under or on buildings or other structures. No structure, landscaping or other improvements shall be placed, erected or maintained upon any area designated on the Plat as a public utility easement which may damage or interfere with the installation and maintenance of utilities. Such public utility easement areas, and all improvements thereon, shall be maintained by the Owner of the Lot on which the easement area is located unless the utility company or a county, municipality or other public authority maintains said easement area. There is hereby created a utility easement for lines, wires or other devices for the transmission of electric current or power on, over, under and across each Lot in such locations as placed by the applicable utility or service company in connection with the initial development of the Lot, and there is hereby created a blanket easement upon, across, over and under the Property for ingress to, egress from and the installation, replacing, repairing and maintaining of all utility and service lines and systems including, but not limited to, water, sewer, gas, telephone, electricity, cable or communication lines and systems, such as utilities are installed in connection with the initial development of each Lot. Pursuant to this easement, a providing utility or service company may install and

maintain facilities and equipment on, over, under and across the Lots and Common Areas and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings thereon. Notwithstanding anything to the contrary contained in this section, no sewers, electrical lines, water lines, or other utility or sewer lines may be installed or relocated within the Property except as initially created or approved by Declarant without the prior written approval of, in the case of a Common Area, the Association and the Architectural Committee or, in the case of a Lot, the Owner of such Lot and the Architectural Committee. Nothing contained herein shall entitle Declarant or any utility in exercising the rights granted herein to disturb any Residential Unit constructed in accordance with the requirements hereof. Declarant further reserves temporary construction easements for utility lines, maintenance of storage tanks and facilities and access to and from such facilities.

Section 9.4. Encroachments. The Lots shall be subject to an easement for overhangs and encroachments by walls, fences or other structures upon adjacent Lots as constructed by the original builder or as reconstructed or repaired in accordance with the original plans and specifications or as a result of the reasonable repair, shifting, settlement or movement of any such structure.

Section 9.5. Declarant's Easement. Easements over the Lots for the installation and maintenance of electric, telephone cable, communications, water, gas, drainage and sanitary sewer or similar or other lines, pipes or facilities: (i) as shown on the recorded Plat or (ii) as may be hereafter required or needed to service any Lot (provided, however, no utility other than a connection line to a Residential Unit served by the utility shall be installed in any area upon which a Residential Unit has been or may legally be constructed on the Lot) are hereby reserved by the Declarant, together with the right to grant and transfer the same.

Section 9.6. Easements to Facilitate Development. Declarant hereby reserves to itself; all Designated Builders, and their successors and assigns the right to: (a) use any Lots owned or leased by such party, or any other Lot with written consent of the Owner thereof or, with the approval of a majority vote of Declarant and the Designated Builders (based on the number of Lots owned by each such party), any portion of the Common Area as models, management offices, sales offices, a visitors' center, construction, construction offices, customer service offices or sales office parking areas; and (b) with the approval of a majority of Declarant and any Designated Builders (based on the number of Lots owned by each such party), install and maintain on the Common Area, any Lot owned or leased by such party, or any other Lot with the consent of the Owner thereof, such marketing, promotional or other signs which the Declarant or a Designated Builder deem necessary for the development, sale or lease of the Property. Declarant also reserves for itself, the Association, and their successors, assigns and designees, the nonexclusive right and easement, but not the obligation, to enter upon the Common Area to construct, maintain, modify, repair and replace any Improvements thereon as Declarant or the Association deem necessary in accordance with the planned development of the Project.

Section 9.7. Dedications and Easements Required by Governmental Authority. Declarant hereby reserves to itself and its successors and assigns, the right to make any

dedications and to grant any easements, rights-of-way and licenses required by any government or governmental agency over and through all or any portion of the Common Area.

Section 9.8. Duration of Development Rights; Assignment. The rights and easements reserved by or granted to the Declarant pursuant to this Article shall continue so long as any Declarant owns one or more Lots or holds an option to purchase one or more Lots. Declarant may make limited temporary assignments of its easement rights under this Declaration to any person or entity performing construction, installation or maintenance on any portion of the Property.

Section 9.9. Easement for Maintenance and Enforcement. The Association and its directors, officers, agents, contractors and employees, the Architectural Review Committee and any other persons and entities authorized by the Board are hereby granted the right of access over and through any Lots (excluding the interior of any Residential Unit), for (i) the exercise and discharge of their respective powers and responsibilities under the Project Documents; (ii) making inspections in order to verify that all Improvements on the Lot have been constructed in accordance with the plans and specifications for such Improvements approved by the Architectural Committee and that all Improvements are being properly maintained as required by the Project Documents; (iii) correcting any condition originating in a Lot or in the Common Area threatening another Lot or the Common Area; (iv) performing installations or maintenance of utilities, landscaping or other improvements located on the Lots for which the Association is responsible for maintenance; or (v) correcting any condition which violates the Project Documents.

Section 9.10. Rights of Declarant and Designated Builders. Notwithstanding any other provision of this Declaration to the contrary, Declarant and any Designated Builder have the right to maintain construction trailers, model homes and sales offices on Lots owned or leased by such party and to construct and maintain parking areas for the purpose of accommodating persons visiting such construction trailers, model homes and sales offices and employees and contractors of such party.

## ARTICLE X MAINTENANCE

Section 10.1. Maintenance by the Association. The Association shall be responsible for the maintenance, repair and replacement of the Common Area, Exterior Building Improvements (with respect to TH Units) and Yard Improvements (with respect to TH Units), and may, without any approval of the Owners being required, do any of the following:

(A) Reconstruct, repair, replace or refinish any Improvement or portion thereof upon any such area (to the extent that such work is not done by a governmental entity, if any, responsible for the maintenance and upkeep of such area);

(B) Construct, reconstruct, repair, replace or refinish any portion of the Common Area used as a road, street, walk, driveway and parking area;

(C) Replace injured and diseased trees or other vegetation in any such area, and plant trees, shrubs and ground cover to the extent that the Board deems necessary for the conservation of water and soil and for aesthetic purposes;

(D) Place and maintain upon any such area such signs as the Board may deem appropriate for the proper identification, use and regulation thereof;

(E) Construct, maintain, repair and replace landscaped areas on any portion of the Common Area, including any entry features, sidewalks, and bike and pedestrian pathways/trails situated upon the Common Area;

(F) Maintain any portion of the Common Area or Lots on which Stormwater Control Facilities are located;

(G) Maintain any multiple-residence mailboxes used for delivery of personal mail within the Property; provided, however, that each Owner shall be responsible for repair or replacement of locks and/or keys for each Owner's mailbox;

(H) Treat for termite and wood-infestation and other pests on the Lots (except for termite or pest infestation that is caused by an Owner); and

(I) Do all such other and further acts which the Board deems necessary to preserve and protect the Common Area and the appearance thereof, in accordance with the general purposes specified in this Declaration.

Neither Declarant nor any Builder within the Property shall be responsible for maintenance, repair or replacement of Common Areas or improvements thereon transferred to the Association, except that (i) the installer of any landscaping on the Common Areas shall provide a 90 day warranty period for such landscaping and (ii) any express or implied warranties provided by any provider of labor or materials in connection with improvements shall be deemed assigned to the Association concurrently with such transfer. This paragraph shall not be subject to amendment without the written approval of the Declarant.

The Association shall also maintain any Yard Improvements installed by an Owner on a Lot with a TH Unit with prior approval and consent of the Association (but only to the extent that such consent specifically provides that the Association will maintain such added landscaping), provided, however, that: (i) if an Owner installs a fence on their Lot, the Association shall have no responsibility for maintaining any Yard Improvements inside of such fence, (ii) the Association's obligation to maintain shall not include the obligation to replace any plant, shrub or tree for any reason; and (iii) the Association shall not be responsible for repair or replacement of any Yard Improvements when such repair or replacement is necessitated by work done by or at the request of any Owner or any utility company or governmental authority. If a common irrigation system that provides irrigation for the Lots is installed by a Class B Member, the Association shall maintain, repair and

operate such system in good condition, subject to the requirements of the applicable governmental authorities, including but not limited to, any restrictions imposed or recommended during periods of drought. If individual irrigation systems are installed to serve the Lots individually, the Association may set the times at which such irrigation systems will water a Lot's landscaping, the duration of such watering and may control an Owner's use of such system, all without incurring any cost for water or other utility charge. This paragraph shall not be amended without the written approval of a majority vote of Class B Members.

Section 10.2. Damage or Destruction of Common Area by Owners. No Owner shall in any way damage or destroy any Common Area, Exterior Building Improvements or Yard Improvements, or otherwise interfere with the activities of the Association in connection therewith. Any expenses incurred by the Association by reason of any such act of an Owner shall be paid by said Owner, upon demand, to the Association to the extent that the Owner is liable therefor under South Carolina law, and such amounts shall be a lien on any Lots owned by said Owner and the Association may enforce collection of any such amounts in the same manner as provided elsewhere in this Declaration for the collection and enforcement of Assessments.

Section 10.3. Payment of Utility Charges. Each Lot shall be separately metered for water, sewer and electrical service and all charges for such services shall be the sole obligation and responsibility of the Owner of each Lot. If a common irrigation system that provides irrigation for the Lots is installed by Declarant, the cost of water and electrical service to such common irrigation system shall be a Common Expense of the Association and shall be included in the budget of the Association. The cost of water, sewer and electrical service to the Common Area shall be a Common Expense of the Association and shall be included in the budget of the Association.

Section 10.4. Maintenance by Governmental Entities. No municipality or other governmental entity is responsible for or will accept maintenance for any private facilities, landscaped areas, or Common Areas within the Project.

Section 10.5. Landscaping Replacement. Landscaping originally planted on the Common Areas may exceed the landscaping that is ultimately planned for Common Areas due to over-planting in anticipation of normal plant losses. The Board is hereby granted the authority to remove and not replace dead or damaged landscaping if, in the reasonable discretion of the Board, (a) the remaining landscaping is acceptable to the Board and (b) the remaining landscaping is generally consistent in quality and quantity with the landscaping shown on approved landscaping plans filed with governmental entities in connection with Property, even if the location of specific plants is different than the locations shown on such approved landscaping plans. Declarant reserves the right to substitute plants and trees planted on the Property or shown on approved landscaping plans with equivalent or better landscaping materials. Neither Declarant nor any other installer of landscaping in Common Areas shall be responsible for replacement of landscaping that dies more than ninety (90) days following installation or that requires replacement due to vandalism, lack of proper watering or maintenance by Association, or damage due to

negligence; the Association shall be solely responsible for such replacement (subject to potential recovery by the Association from any vandal or negligent person).

Section 10.6. Alteration of Maintenance Procedures. Following the termination of the Class B membership and so long as Declarant owns any Lot, the Association shall not, without the written approval of Declarant, alter or fail to follow the maintenance and repair procedures recommended by the Association's management company as of the termination of the Class B membership unless such alteration will provide for a higher level of maintenance and repair. Declarant shall have the right, but not the obligation, to perform any required maintenance or repair not performed by the Association within ten (10) business days following notice from Declarant that such maintenance or repair is required under this section; if Declarant performs such maintenance or repair, the costs incurred by Declarant shall be reimbursed by the Association within thirty (30) days following written demand for reimbursement accompanied by copies of invoices for such costs. This section shall not be amended without the written approval of the Declarant.

## ARTICLE XI INSURANCE

Section 11.1. Scope of Coverage. Commencing not later than the time of the first conveyance of a Lot to a person other than the Declarant, the Association shall maintain, to the extent reasonably available, the following insurance coverage:

(A) Property insurance on the Common Area insuring against all risk of direct physical loss, insured against in an amount equal to the maximum insurable replacement value of the Common Area, as determined by the Board; provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the insured Property, exclusive of land, excavations, foundations and other items normally excluded from a Property policy;

(B) Property insurance on the Exterior Building Improvements for each TH Unit, insured against in an amount equal to the maximum insurable replacement value of the Exterior Building Improvements, as determined by the Board, commonly known as "master condominium/townhome insurance," which insurance may cover the following property, regardless of ownership: the roofs, exterior shells of the buildings, fixtures, improvements and alterations that are part of the TH Units, and the stoops, decks, driveways and patio areas (the Association's insurance policy may exclude improvements and betterments made by an Owner and may exclude the finished surfaces of perimeter and partition walls, floors, and ceilings within the finished home (i.e., paint, wallpaper, paneling, other wall covering, tile, carpet, and any floor covering), in which event the Owner of each Lot shall be required to insure such of those items as are located on the Owner's Lot and the Association may require the Owners insure such items through an insurance company selected by the Association); provided, however, that the total amount of insurance after application of any deductibles shall not be less than one hundred percent (100%) of the current replacement cost of the Exterior Building Improvements, exclusive

of land, excavations, foundations and other items normally excluded from a Property policy;

(C) Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than \$1,000,000.00. Such insurance shall cover all occurrences commonly insured against for death, bodily injury and Property damage arising out of or in connection with the use, ownership or maintenance of the Common Area, and shall also include hired automobile and non-owned automobile coverages with cost liability endorsements to cover liabilities of the Owners as a group to an Owner and provide coverage for any legal liability that results from lawsuits related to employment contracts in which the Association is a party;

(D) Workmen's compensation insurance to the extent necessary to meet the requirements of the laws of South Carolina;

(E) Such other insurance as the Association shall determine from time to time to be appropriate to protect the Association or the Owners;

(F) The insurance policies purchased by the Association shall, to the extent reasonably available) contain the following provisions:

(i) Each Owner is an insured owner under the policy to the extent of the Owner's insurable interest.

(ii) That there shall be no subrogation with respect to the Association, its agents, servants, and employees, with respect to Owners and members of their household;

(iii) No act or omission by any Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery on the policy;

(iv) That the coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by Owners or their mortgagees or beneficiaries under deeds of trust;

(v) A "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners;

(vi) The Association shall be named as the Insured;

(vii) For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify the first mortgagee named in the policy at least thirty (30) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy;

(G) If the Property is located in an area identified by the Secretary of Housing & Urban Development as an area having special flood hazards, a policy of flood insurance on the Common Area must be maintained in the lesser of one hundred percent (100%) of the current replacement cost of the buildings and any other Property covered by the required form of policy or the maximum limit of coverage available under the National Insurance Act of 1968, as amended;

(H) “Agreed Amount“ and “Inflation Guard“ endorsements.

Section 11.2. Certificates of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner, mortgagee or beneficiary under a deed of trust. Any insurance obtained pursuant to this Article may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each mortgagee or beneficiary under deed of trust to whom certificates of insurance have been issued.

Section 11.3. Fidelity Bonds.

(A) Following termination of the Class B membership, the Association shall maintain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and all other persons handling or responsible for funds of or administered by the Association, including, but without limitation, officers, directors and employees of any management agent of the Association, whether or not they receive compensation for their services. The total amount of fidelity bond maintained by the Association shall be based upon the best business judgment of the Board, and shall not be less than the greater of (i) the amount equal to one hundred percent (100%) of the estimated annual operating expenses of the Association, (ii) the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond, (iii) the sum equal to three (3) months assessments on all Lots plus adequate reserve funds. Fidelity bonds obtained by the Association must also meet the following requirements:

- (i) The fidelity bonds shall name the Association as an obligee;
- (ii) The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of “employees“ or similar terms or expressions;
- (iii) The bonds shall provide that they may not be canceled or substantially modified (including cancellation from non-payment of premium) without at least ten (10) days prior written notice to the Association.

(B) The Association shall require any management agent of the Association to maintain its own fidelity bond in an amount equal to or greater than the amount of the fidelity bond to be maintained by the Association pursuant to subsection (A) of this section. The fidelity bond maintained by the management agent shall cover funds

maintained in bank accounts of the management agent and need not name the Association as an obligee.

Section 11.4. Payment of Premiums. The premiums for any insurance obtained by the Association pursuant to this Article shall be a Common Expense and included in the budget of the Association and shall be paid by the Association.

Section 11.5. Insurance Obtained by Owners. Each Owner shall be responsible for obtaining Property insurance for his own benefit and at his own expense covering his Lot, and all Improvements and personal property located thereon. Each Owner shall also be responsible for obtaining at his expense personal liability coverage for death, bodily injury or Property damage arising out of the use, ownership or maintenance of his Lot.

Section 11.6. Payment of Insurance Proceeds. With respect to any loss to the Common Area covered by Property insurance obtained by the Association in accordance with this Article, the loss shall be adjusted with the Association and the insurance proceeds shall be payable to the Association and not to any mortgagee or beneficiary under a deed of trust. Subject to the provisions of Section 11.7 of this Article, the proceeds shall be disbursed for the repair or restoration of the damage to Common Area.

Section 11.7. Repair and Replacement of Damaged or Destroyed Property. Any portion of the Common Area damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) this Declaration is terminated, or (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) Owners owning at least eighty percent (80%) of the Lots vote not to rebuild, including one hundred percent (100%) approval assigned to the limited common elements (if any) not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves shall be paid by the Association. If the entire Common Area is not repaired or replaced, insurance proceeds attributable to the damaged Common Area shall be used to restore the damaged area to a condition which is not in violation of any state or local health or safety statute or ordinance and the remainder of the proceeds shall be retained by and for the benefit of the Association.

## ARTICLE XII TERM AND ENFORCEMENT

Section 12.1. Enforcement. Subject to the provisions of Section 12.4 and of Article XIII, the Association, the Architectural Committee or any Owner shall have the right (but not the obligation) to enforce the Covenants and Restrictions in this Declaration and any amendment thereto. Failure by the Association, the Architectural Committee or any Owner to enforce the Covenants and Restrictions shall in no event be deemed a waiver of the right to do so thereafter. Deeds of conveyance of the Property may contain the Covenants and Restrictions by reference to this Declaration, but whether or not such reference is made in such deeds, each and all such Covenants and Restrictions shall be valid and binding upon the respective grantees. Violators of any one or more of the Covenants and Restrictions may be restrained by any court of competent jurisdiction and damages awarded against such violators, provided, however, that a violation of these

Covenants and Restrictions or any one or more of them shall not affect the lien of any first mortgage or first deed of trust. If the Architectural Committee enforces any provision of the Project documents, the cost of the enforcement shall be paid by the Association. In addition to any enforcement rights otherwise available to the Association, the Association shall have the right to enforce any provision of this Declaration by directly taking action necessary to cure or remove a breach of this Declaration, including without limitation, removal, repair or replacement of any improvement, sign or landscaping on any portion of the Property; in such event, the Association shall be entitled to recover the costs incurred by the Association in connection with such cure. Pursuant to such cure/removal right of the Association, the Association or its authorized agents may, upon reasonable written notice (or immediately, for willful and recurrent violations, when written notice has previously been given), enter any Lot in which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot; the Association and its agents are hereby granted an easement for such purpose. Such expenses, and such fines as may be imposed pursuant to this Declaration, the Bylaws, or Association Rules, shall constitute and be secured by an Assessment Lien upon such Lot enforceable in accordance with the provisions of this Declaration. All remedies available at law or equity shall be available in the event of any breach of any provision of this section by any Owner, tenant or other person.

Section 12.2. Term. Unless otherwise provided by South Carolina law, in which case such law shall control, this Declaration may not be terminated within thirty (30) years of the date of recording without the consent of all Owners. Thereafter, it may be terminated only by an instrument signed by Owners of at least eighty percent (80%) of the total Lots within the Property and by the Declarant, if the Declarant owns any portion of the Property, which instrument is recorded in the office of the register of deeds in the County. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement. Unless terminated as provided above, this Declaration shall have perpetual duration. If South Carolina law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of ten (10) years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Charles III, King of England.

Section 12.3. Amendment. Except as otherwise expressly provided herein, this Declaration may be amended or modified at any time by the vote or written consent of Owners having sixty-seven percent (67%) of the votes entitled to be cast in the Association; provided, however, that any amendment or modification to this Declaration must be consented to by Declarant so long as Declarant is the Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion. Any amendment or modification upon which the vote of Owners is required pursuant to this Section 12.3 shall become effective when an instrument executed by the Owners voting for

such amendment or modification is filed of record in the office of the register of deeds in the County; provided, however, such an amendment or modification, in lieu of being executed by the Owners voting for such amendment or modification, may contain a certification of the Secretary of the Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Owners, as provided in this Section 12.3. A properly executed and recorded amendment may alter the restrictions in whole or in part applicable to all or any portion of the Property and need not be uniform in application to the Property.

Notwithstanding the terms of the immediately preceding paragraph of this Section 12.3, until the termination of the Class B membership, Declarant, without obtaining the approval of any Owner or Owners other than Declarant, shall have the unilateral right, in its sole and absolute discretion, to make any amendments or modifications hereto which Declarant deems necessary or desirable, including, without limitation, amendments or modifications to any procedural, administrative or substantive provisions of this Declaration.

Any action to challenge the validity of an amendment adopted under this Section 12.3 must be brought within one (1) year of the amendment's effective date. No action to challenge any such amendment may be brought after such time.

Section 12.4. Approval of Litigation. Except for any legal proceedings initiated by the Association to (i) enforce the use restrictions contained in this Declaration; (ii) enforce the Association Rules; (iii) enforce the Architectural Committee Rules; (iv) collect any unpaid Assessments levied pursuant to this Declaration, or (v) enforce a contract entered into by the Association with vendors providing services to the Association, the Association shall not incur litigation expenses, including without limitation, attorneys' fees and costs, where the Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, without the prior approval of a majority of the Members of the Association entitled to cast a vote who are voting in person or by proxy at a meeting duly called for such purpose, excluding the vote of any Owner who would be a defendant in such proceedings. The costs of any legal proceedings initiated by the Association which are not included in the above exceptions shall be financed by the Association only with monies that are collected for that purpose by special assessment and the Association shall not borrow money, use reserve funds, or use monies collected for other Association obligations. Each Owner shall notify prospective Purchasers of such legal proceedings initiated by the Board and not included in the above exceptions and must provide such prospective Purchasers with a copy of the notice received from the Association in accordance with Section 13.3 of this Declaration. Nothing in this section shall preclude the Board from incurring expenses for legal advice in the normal course of operating the Association to (i) enforce the Project Documents; (ii) comply with the statutes or regulations related to the operation of the Association; (iii) amend the Project Documents as provided in this Declaration; (iv) grant easements or convey Common Area as provided in this Declaration or (v) perform the obligations of the Association as provided in this Declaration. Subject to the exceptions in the first sentence of this section, with respect to matters involving property or improvements to property, the Association (or Board of

Directors) additionally shall not initiate legal proceedings or join as a plaintiff in legal proceedings unless (1) such property or improvement is owned either by the Association or jointly by all Members of the Association, (2) the Association has the maintenance responsibility for such property or improvements pursuant to this Declaration, or (3) the Owner who owns such property or improvements consents in writing to the Association initiating or joining such legal proceeding.

Section 12.5. Annexation of Additional Property. Until the later of (a) seven years following recordation of this Declaration or (b) termination of the Class B Membership and thereafter with the approval of the Board, Declarant shall have the right to annex any real property that is within a one (1) mile radius of any real property that is then subject to this Declaration. Annexation shall be effective upon recordation by Declarant of a signed and acknowledged declaration of annexation with the office of the register of deeds for the County stating that such real property has been annexed to this Declaration; no consent or approval of such annexation by the Board of Directors or Members of the Association shall be necessary for an annexation by Declarant. Upon annexation, the annexed real property shall be deemed to be part of the "Property" and shall have the same rights, privileges and obligations as the Property originally subject to the terms of this Declaration, including membership in the Association, except that such rights, privileges and obligations shall not include matters arising or accruing prior to annexation; annual assessments shall be prorated for annexed property through the date of annexation.

Upon annexation, the Owners of Lots within the annexed property shall have no obligation to pay Assessments until the first Lot within the annexed property is conveyed to a Purchaser, or the first common area within the annexed property is transferred to and accepted for maintenance by the Association; further provided, that if the declaration of annexation divides such annexed property into phases, then the Lots within each phase will be subject to assessment when the first Lot in the phase is conveyed to a Purchaser or the first common area in the phase is transferred to and accepted for maintenance by the Association. Any area within the annexed property designated by a Plat as "common area" or similar designation shall be conveyed to the Association, and the Association shall accept such conveyance, upon the completion of the improvements to such common area in accordance with the approved plans. Such common area shall be conveyed to the Association, free of all monetary encumbrances (including mechanics' and materialmen's liens), except current real and personal property taxes and other easements, conditions, reservations and restrictions then of record, including without limitation, this Declaration.

Section 12.6. De-Annexation of Property. Declarant shall have the right from time to time, in its sole discretion and without the consent of any person (other than consent of the owner of the property being de-annexed), to delete from the Property and remove from the effect of this Declaration one or more portions of the Property, provided, however, that a portion of the Property may not be deleted from this Declaration unless at the time of such deletion and removal no Residential Units or material Common Area improvements have been constructed thereon (unless the de-annexation is for the purpose of accomplishing minor adjustments to the boundaries of Lots or the Property). No deletion of Property shall occur if such deletion would act to terminate access to any right-of-way or utility line unless reasonable alternative provisions are made for such access. No

deletion of Property shall affect the Assessment Lien on the deleted Property for Assessments accruing prior to deletion. Any deletion of Property hereunder shall be made by Declarant recording a notice thereof.

### ARTICLE XIII CLAIM AND DISPUTE RESOLUTION/LEGAL ACTIONS

It is intended that the Common Area, each Lot, and all Improvements constructed on the Property by persons (“Developers”) in the business of constructing improvements will be constructed in compliance with all applicable building codes and ordinances and that all Improvements will be of a quality that is consistent with the good construction and development practices in the area where the Project is located for production housing similar to that constructed within the Project. Nevertheless, due to the complex nature of construction and the subjectivity involved in evaluating such quality, disputes may arise as to whether a defect exists and the responsibility therefor. It is intended that all disputes and claims regarding alleged defects (“Alleged Defects”) in any Improvements on any Lot or Common Area will be resolved amicably, without the necessity of time-consuming and costly litigation. Accordingly, all Developers (including Declarant), the Association, the Board, and all Owners shall be bound by the following claim resolution procedures. In the event of a conflict between the terms and provisions of this Article and any agreement entered into by and between a Developer and an Owner, the terms and provisions of such agreement shall prevail. For the avoidance of doubt, Developers shall have independent standing to enforce the provisions set forth in this Article.

Section 13.1. Right to Cure Alleged Defect. If a person or entity (“Claimant”) claims, contends, or alleges an Alleged Defect, each Developer shall have the right to inspect, repair and/or replace such Alleged Defect as set forth herein.

Section 13.1.1. Notice of Alleged Defect. If a Claimant discovers an Alleged Defect, within fifteen (15) days after discovery thereof, Claimant shall give written notice of the Alleged Defect (“Notice of Alleged Defect”) to the Developer constructing the Improvement with respect to which the Alleged Defect relates.

Section 13.1.2. Right to Enter, Inspect, Repair and/or Replace. Within a reasonable time after the receipt by a Developer of a Notice of Alleged Defect, or the independent discovery of any Alleged Defect by a Developer, Developer shall have the right, upon reasonable notice to Claimant and during normal business hours, to enter onto or into the Common Area, areas of Association responsibility, any Lot or Residential Unit, and/or any Improvements for the purposes of inspecting and/or conducting testing and, if deemed necessary by Developer at its sole discretion, repairing and/or replacing such Alleged Defect. In conducting such inspection, testing, repairs and/or replacement, Developer shall be entitled to take any actions as it shall deem reasonable and necessary under the circumstances.

Section 13.2. No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Article shall be construed to impose any obligation on a Developer to inspect, test, repair, or replace any item or Alleged Defect for which such Developer is

not otherwise obligated under applicable law or any warranty provided by such Developer in connection with the sale of the Lots and Residential Units and/or the Improvements constructed thereon. The right reserved to Developer to enter, inspect, test, repair and/or replace an Alleged Defect shall be irrevocable and may not be waived or otherwise terminated with regard to a Developer except by a written document executed by such Developer and recorded in the records of the County.

Section 13.3. Legal Actions. All legal actions initiated by a Claimant shall be brought in accordance with and subject to Section 13.4 and Section 12.4 of this Declaration. If a Claimant initiates any legal action, cause of action, regulatory action, proceeding, reference, mediation, or arbitration against a Developer alleging (1) damages for costs of repairing Alleged Defect (“Alleged Defect Costs“), (2) for the diminution in value of any real or personal property resulting from such Alleged Defect, or (3) for any consequential damages resulting from such Alleged Defect, any judgment or award in connection therewith shall first be used to correct and or repair such Alleged Defect or to reimburse the Claimant for any costs actually incurred by such Claimant in correcting and/or repairing the Alleged Defect. If the Association as a Claimant recovers any funds from a Developer (or any other person or entity) to repair an Alleged Defect, any excess funds remaining after repair of such Alleged Defect shall be paid in to the Association’s reserve fund. If the Association is a Claimant, the Association must provide a written notice to all Members prior to initiation of any legal action, regulatory action, cause of action, proceeding, reference, mediation or arbitration against a Developer(s) which notice shall include at a minimum (1) a description of the Alleged Defect; (2) a description of the attempts of the Developer(s) to correct such Alleged Defect and the opportunities provided to the Developer(s) to correct such Alleged Defect; (3) a certification from an architect or engineer licensed in the State of South Carolina that such Alleged Defect exists along with a description of the scope of work necessary to cure such Alleged Defect and a resume of such architect or engineer; (4) the estimated Alleged Defect Costs; (5) the name and professional background of the attorney retained by the Association to pursue the claim against the Developer(s) and a description of the relationship between such attorney and member(s) of the Board or the Association’s management company (if any); (6) a description of the fee arrangement between such attorney and the Association; (7) the estimated attorneys’ fees and expert fees and costs necessary to pursue the claim against the Developer(s) and the source of the funds which will be used to pay such fees and expenses; (8) the estimated time necessary to conclude the action against the Developer(s); and (9) an affirmative statement from a majority of the members of the Board that the action is in the best interests of the Association and its Members.

Section 13.4. Alternative Dispute Resolution. Any dispute or claim between or among (a) a Developer (or its brokers, agents, consultants, contractors, subcontractors, or employees) on the one hand, and any Owner(s) or the Association on the other hand; or (b) any Owner and another Owner; or (c) the Association and any Owner regarding any controversy or claim between the parties, including any claim based on contract, tort, or statute, arising out of or relating to (i) the rights or duties of the parties under this Declaration; (ii) the design or construction of any portion of the Project, (iii) or an Alleged Defect, but excluding disputes relating to the payment of any type of Assessment

(collectively a “Dispute”), shall be subject first to negotiation, then mediation, and then arbitration as set forth in this Section 13.4 prior to any party to the Dispute instituting litigation with regard to the Dispute.

Section 13.4.1. Negotiation. Each party to a Dispute shall make every reasonable effort to meet in person and confer for the purpose of resolving a Dispute by good faith negotiation. Upon receipt of a written request from any party to the Dispute, the Board may appoint a representative to assist the parties in resolving the dispute by negotiation, if in its discretion the Board believes its efforts will be beneficial to the parties and to the welfare of the community. Each party to the Dispute shall bear their own attorneys’ fees and costs in connection with such negotiation.

Section 13.4.2. Mediation. If the parties cannot resolve their Dispute pursuant to the procedures described in Subsection 13.4.1 above within such time period as may be agreed upon by such parties (the “Termination of Negotiations”), the party instituting the Dispute (the “Disputing Party”) shall have thirty (30) days after the termination of negotiations within which to submit the Dispute to mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other independent entity providing similar services upon which the parties to the Dispute may mutually agree. No person shall serve as a mediator in any Dispute in which such person has a financial or personal interest in the result of the mediation, except by the written consent of all parties to the Dispute. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process. If the Disputing Party does not submit the Dispute to mediation within thirty (30) days after Termination of Negotiations, the Disputing Party shall be deemed to have waived any claims related to the Dispute and all other parties to the Dispute shall be released and discharged from any and all liability to the Disputing Party on account of such Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to persons or entities not a party to the foregoing proceedings.

Section 13.4.2.1. Position Memoranda; Pre-Mediation Conference. Within ten (10) days of the selection of the mediator, each party to the Dispute shall submit a brief memorandum setting forth its position with regard to the issues to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties to the Dispute shall attend unless otherwise agreed. The mediation shall commence within ten (10) days following submittal of the memoranda to the mediator and shall conclude within fifteen (15) days from the commencement of the mediation unless the parties to the Dispute mutually agree to extend the mediation period. The mediation shall be held in the County where the property is located or such other place as is mutually acceptable by the parties to the Dispute.

Section 13.4.2.2. Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for reaching a settlement of the Dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the Dispute and to make oral and written recommendations for settlement. Whenever necessary, the mediator may also obtain

expert advice concerning technical aspects of the dispute, provided the parties to the Dispute agree to obtain and assume the expenses of obtaining such advice as provided in Subsection 13.4.2.5 below. The mediator does not have the authority to impose a settlement on any party to the Dispute.

Section 13.4.2.3. Exclusion Agreement. Any admissions, offers of compromise or settlement negotiations or communications at the mediation shall be excluded in any subsequent dispute resolution forum.

Section 13.4.2.4. Parties Permitted at Sessions. Persons other than the parties to the Dispute may attend mediation sessions only with the permission of all parties to the Dispute and the consent of the mediator. Confidential information disclosed to a mediator by the parties to the Dispute or by witnesses in the course of the mediation shall be kept confidential. There shall be no stenographic record of the mediation process.

Section 13.4.2.5. Expenses of Mediation. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including, but not limited to, the fees and costs charged by the mediator and the expenses of any witnesses or the cost of any proof of expert advice produced at the direct request of the mediator, shall be borne equally by the parties to the Dispute unless agreed to otherwise. Each party to the Dispute shall bear their own attorneys' fees and costs in connection with such mediation.

Section 13.4.3. Final and Binding Arbitration. If the parties cannot resolve their Dispute pursuant to the procedures described in Subsection 13.4.2 above, the Disputing Party shall have thirty (30) days following termination of mediation proceedings (as determined by the mediator) to submit the Dispute to final and binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, as modified or as otherwise provided in this Section 13.4. If the Disputing Party does not submit the Dispute to arbitration within thirty days after termination of mediation proceedings, the Disputing Party shall be deemed to have waived any claims related to the Dispute and all other parties to the Dispute shall be released and discharged from any and all liability to the Disputing Party on account of such Dispute; provided, nothing herein shall release or discharge such party or parties from any liability to a person or entity not a party to the foregoing proceedings.

The existing parties to the Dispute shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the arbitration proceeding. No Developer shall be required to participate in the arbitration proceeding if all parties against whom a Developer would have necessary or permissive cross-claims or counterclaims are not or cannot be joined in the arbitration proceedings. Subject to the limitations imposed in this Section 13.4, the arbitrator shall have the authority to try all issues, whether of fact or law.

Section 13.4.3.1. Place. The arbitration proceedings shall be heard in the County where the Property is located.

Section 13.4.3.2. Arbitration. A single arbitrator shall be selected in accordance with the rules of the American Arbitration Association from panels maintained by the American Arbitration Association with experience in relevant matters which are the subject of the Dispute. The arbitrator shall not have any relationship to the parties or interest in the Project. The parties to the Dispute shall meet to select the arbitrator within ten (10) days after service of the initial complaint on all defendants named therein.

Section 13.4.3.3. Commencement and Timing of Proceeding. The arbitrator shall promptly commence the arbitration proceeding at the earliest convenient date in light of all of the facts and circumstances and shall conduct the proceeding without undue delay.

Section 13.4.3.4. Pre-hearing Conferences. The arbitrator may require one or more pre-hearing conferences.

Section 13.4.3.5. Discovery. The parties to the Dispute shall be entitled to limited discovery only, consisting of the exchange between the parties of the following matters: (i) witness lists; (ii) expert witness designations; (iii) expert witness reports; (iv) exhibits; (v) reports of testing or inspections of the property subject to the Dispute, including but not limited to, destructive or invasive testing; and (vi) trial briefs. The Developer shall also be entitled to conduct further tests and inspections as provided in Section 13.1 above. Any other discovery shall be permitted by the arbitrator upon a showing of good cause or based on the mutual agreement of the parties to the Dispute. The arbitrator shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge.

Section 13.4.3.6. Limitation on Remedies/Prohibition on the Award of Punitive Damages. Notwithstanding contrary provisions of the Commercial Arbitration Rules, the arbitrator in any proceeding shall not have the power to award punitive or consequential damages; however, the arbitrator shall have the power to grant all other legal and equitable remedies and award compensatory damages. The arbitrator's award may be enforced as provided for in the Uniform Arbitration Act, NCGS §1-569, et seq., or such similar law governing enforcement of awards in a trial court as is applicable in the jurisdiction in which the arbitration is held.

Section 13.4.3.7. Motions. The arbitrator shall have the power to hear and dispose of motions, including motions to dismiss, motions for judgment on the pleadings, and summary judgment motions, in the same manner as a trial court judge, except the arbitrator shall also have the power to adjudicate summary issues of fact or law including the availability of remedies, whether or not the issue adjudicated could dispose of an entire cause of action or defense.

Section 13.4.3.8. Expenses of Arbitration. Each party to the Dispute shall bear all of its own costs incurred prior to and during the arbitration proceedings, including the fees and costs of its attorneys or other representatives, discovery costs, and expenses of witnesses produced by such party. Each party to the Dispute shall

share equally all charges rendered by the arbitrator unless otherwise agreed to by the parties.

Section 13.5. Statute of Limitations. Nothing in this Article shall be considered to toll, stay, or extend any applicable statute of limitations.

Section 13.6. Enforcement of Resolution. If the parties to a Dispute resolve such Dispute through negotiation or mediation in accordance with Subsection 13.4.1 or Subsection 13.4.2 above, and any party thereafter fails to abide by the terms of such negotiation or mediation, or if an arbitration award is made in accordance with Subsection 13.4.3 and any party to the Dispute thereafter fails to comply with such resolution or award, then the other party to the Dispute may file suit or initiate administrative proceedings to enforce the terms of such negotiation, mediation, or award without the need to again comply with the procedures set forth in this Article. In such event, the party taking action to enforce the terms of the negotiation, mediation, or the award shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties pro rata), all costs incurred to enforce the terms of the negotiation, mediation or award including, without limitation, attorneys fees and court costs.

#### ARTICLE XIV GENERAL PROVISIONS

Section 14.1. Severability. Judicial invalidation of any part of this Declaration shall not affect the validity of any other provisions.

Section 14.2. Construction. The Article and section headings have been inserted for convenience only and shall not be considered in resolving questions of interpretation or construction. All terms and words used in this Declaration regardless of the number and gender in which they are used shall be deemed and construed to include any other number, and any other gender, as the context or sense requires. In the event of any conflict or inconsistency between this Declaration, Stormwater Covenant, the Articles, and/or the Bylaws, the provisions of Stormwater Covenant shall control over the provisions of this Declaration, the provisions of this Declaration shall control over the provision of the Articles and the Bylaws and the provisions of the Articles shall prevail over the provisions of the Bylaws.

Section 14.3. Notices. Any notice permitted or required to be delivered as provided herein may be delivered either personally or by mail, postage prepaid; if to an Owner, addressed to that Owner at the address of the Owner's Lot or if to the Architectural Committee, addressed to that Committee at the normal business address. If notice is sent by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States mail, postage pre-paid. If personally delivered, notice shall be effective on receipt. Notwithstanding the foregoing, if application for approval, plans, specifications and any other communication or documents shall not be deemed to have been submitted to the Architectural Committee, unless actually received by said Committee. Any vote, election, consent or approval of any nature by the Owners or the Board of Directors, whether hereunder or for any other purpose, may, in the

discretion of the Board of Directors and in lieu of a meeting of Members, be held by a mail-in ballot process pursuant to such reasonable rules as the Board may specify.

Section 14.4. Prices. Declarant shall have the right, from time to time, in its sole discretion, to establish and/or adjust sales prices or price levels for new Residential Units and/or Lots.

Section 14.5. Restriction of Traffic. Declarant reserves the right, until the conveyance of title to Purchaser of the last Residential Unit in the Property, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Property, in Declarant's sole discretion, to accommodate Declarant's construction activities, and sales and marketing activities; provided that no Residential Unit shall be deprived of access to a dedicated street adjacent to the Property.

Section 14.6. Other Rights. Declarant reserves all other rights, powers, and authority of Declarant set forth in this Declaration, and, to the extent not expressly prohibited by applicable South Carolina law, further reserves all other rights, powers, and authority, in Declarant's sole discretion, of a declarant under applicable South Carolina law.

Section 14.7. Disclaimers and Releases. By acceptance of a deed to a Residential Unit, each purchaser or Owner, for itself and all persons claiming under such purchaser or Owner, shall conclusively be deemed to have acknowledged and agreed: (a) that Declarant specifically disclaims any and all representations and warranties, express and implied, with regard to any of the disclosed or described matters (other than to the extent expressly set forth in the foregoing disclosures); and (b) to fully and unconditionally release Declarant and the Association, and their respective officers, managers, agents, employees, suppliers and contractors, and their successors and assigns, from any and all loss, damage or liability (including, but not limited to, any claim for nuisance or health hazards) related to or arising in connection with any disturbance, inconvenience, injury, or damage resulting from or pertaining to all and/or any one or more of the conditions, activities, occurrences described herein.

## ARTICLE XV SPECIAL PROVISIONS

### Section 15.1. Pond Area Restrictions

The following restrictions shall be applicable to any pond area owned or maintained by the Association ("Pond Area"):

(A) There shall be no swimming in the pond except in the case of an emergency or as may be provided by the Association Rules.

(B) Unless otherwise approved in writing by the Board, only boats and watercraft operated by the Association for maintenance, safety or other community purposes or by Declarant shall be allowed in the Pond Area.

(C) The Association and Declarant shall have authority to restrict the usage of all or any portion of the Pond Area by any persons, including an Owner or occupant, or their family, guests or invitees due to negligence or violation of any of the Association Rules or any other safety regulations, as well as for reasons set forth elsewhere in this Declaration. Any person whose use of the Pond Area is restricted by Declarant may request review of such restriction by the Board, the decision of which shall be binding.

(D) If forces of nature or governmental restrictions prohibit or otherwise render maintenance of the Pond Area in the size, level or formation as originally shown on any Plat for the Property not possible or unreasonable for environmental or other reasons, neither Declarant nor the Association shall be obligated to maintain the Pond Area in the size, level or formation as originally shown on any Plat.

(E) It is currently contemplated that effluent water is to be used to fill the ponds and to maintain certain landscaping in the Common Areas. Owners acknowledge that the cost of such water may fluctuate and shall be a Common Expense.

Section 15.2. Additional Disclosures and Disclaimers Regarding Ponds and Common Turf Areas. By acceptance of a deed to a Residential Unit, each Owner shall conclusively be deemed to understand, and to have acknowledged and agreed to, all of the following disclosures and disclaimers: Portions of the Property are located adjacent to or nearby ponds, Pond Areas, and adjacent Common Areas ("Ponds/Turf Areas"). In connection therewith: (a) the water facilities, hazards, other installations located on the Ponds/Turf Areas may be an attractive nuisance; (b) operation, maintenance, and use, of the Ponds/Turf Areas may result in a certain loss of privacy, and will entail various operations and applications, including (but not necessarily limited to) all or any one or more of the following: (1) the right of the Association, and its employees, agents, suppliers, and contractors, to (i) enter upon and travel over the Property to and from and between any one or more of the Property entry areas, and portions of the Ponds/Turf Areas, and (ii) enter upon the Property to maintain, repair, and replace, water and irrigation lines and pipes used in connection with Ponds/Turf Areas landscaping; (2) operation and use of noisy electric, gasoline, and other power driven vehicles and equipment, on various days of the week, including weekends, and during various times of the day, including, without limitation, early morning and late evening hours; (3) operation of sprinkler and other irrigation systems during the day and night; (4) storage, transportation, and application of insecticides, pesticides, herbicides, fertilizers, and other supplies and chemical substances (all, collectively, "chemical substances"); (5) parking and/or storage of vehicles, equipment, chemical substances, and other items; (6) irrigation of the Ponds/Turf Areas, and supply of water facilities thereon, with recycled or effluent water; (7) "overspray" of recycled or effluent water and chemicals onto the Property; and/or (8) recreational users from time to time may shout and use language (or bodily motions or gestures), which may be distinctly audible (or visible) to persons in the Property, and which language (or bodily motions or gestures) may be profane or otherwise offensive in tone and content; (c) play on the Ponds/Turf Areas may be allowed during all daylight and/or evening hours, up to and including seven days a week; (d) play on the Ponds/Turf Areas may result in damage

to the Property, including, without limitation, damage to windows, doors, sky lights, and other areas of the Residential Unit and other portions of the Property, and damage to real and personal property of Owner or others, whether outdoors or within a Residential Unit or other building, and injury to person; and (e) although fencing and other features may (but need not necessarily) be incorporated into the Residential Unit or other portions of the Property in an effort to decrease the hazards associated with such play, the Owner acknowledges that such fencing and other features may protect against some, but certainly not all, damage which may occur. All and any one or more of the matters described above may cause inconvenience and disturbance to the Owner, and other occupants of and visitors to the Resident Unit and/or Common Areas, and possible injury to person and damage to property, and the Owner has carefully considered the foregoing matters, and the location of the Property (including the Common Areas and the Residential Unit) and their proximity to the Ponds/Turf Areas, before making the decision to purchase a Residential Unit in the Property.

Section 15.3. Easements for Pond Maintenance and Flood Water. Declarant reserves for itself, the Association, and their successors, assigns and designees, the nonexclusive right and easement, but not the obligation, to enter upon the Pond Area and any other bodies of water (if any) located within the Common Areas to: (a) construct, maintain, and repair structures and equipment used for retaining water; (b) maintain such areas in a manner consistent with the Association Rules; and (c) replace, remove and/or fill in the ponds and/or such other bodies of water. Declarant, the Association, and their successors, assigns, and designees shall have an access easement over and across any of the Property abutting or containing ponds or other bodies of water to the extent reasonably necessary to exercise their rights under this Section. Declarant further reserves for itself, the Association, and their successors, assigns, and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Areas and Residential Units (but not the dwellings thereon) adjacent to or within 100 feet of ponds or other bodies of water constituting a part of the Property, in order to (x) temporarily flood and back water upon and maintain water over such portions of the Property; (y) alter in any manner and generally maintain the ponds and other bodies of water within the Common Areas; and (z) maintain and landscape the slopes and banks pertaining to such areas. All persons entitled to exercise these easements shall use reasonable care in and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other person liable for damage resulting from flooding due to hurricanes, heavy rainfall, or other natural occurrences. Security. The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. However, neither the Association, the Board, the management company of the Association, any neighborhood association, Declarant nor any land entity shall in any way be considered insurers or guarantors of security within the property, nor shall any of the above-mentioned parties be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to the property (or onsite roving patrol or resources, if applicable) cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases present loss or provide

the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and covenants to inform all occupants of its Residential Unit, and their respective families and invitees, that neither the Association, the Board, committees, neighborhood associations, nor any other person involved with the governance, maintenance, and management of the Property, including Declarant, are insurers of safety or security within the Property. All Owners and occupants, and their respective families and invitees, assume all risks of personal injury and loss or damage to persons, units, and the contents of units, and further acknowledge that neither the Association, its Board and committees, the management company of the Association, any neighborhood association, Declarant nor any land entity have made representations or warranties regarding any attended or unattended entry gate, patrolling of the property, any fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Property. All Owners and occupants, and their respective families and invitees, further acknowledge that they have not relied upon any such representations or warranties, expressed or implied. View Impairment. Neither Declarant nor the Association guarantees or represents that any view over and across the open space from adjacent Residential Units or other property will be preserved without impairment. Without limiting the foregoing, neither Declarant nor the Association shall have the obligation to relocate, prune, or thin trees or other landscaping except as set forth in Article X above. Any express or implied easements for view purposes and/or for the passage of light and air are hereby expressly disclaimed.

Section 15.6. Mailbox Easements. Mailbox structures shall be installed at such locations within the Property as Declarant and the U.S. Postal Service determine to be appropriate. If mailbox structures benefiting more than a single Residential Unit are constructed or installed on Lots, an easement shall be deemed to exist over such portion of the Lot(s) on which such structures are constructed or installed so as to facilitate the use of such mailbox structure by the U.S. Postal Service, the Owners of the Residential Units to be served by such structures, and the Association. All such common mailbox structures shall be Common Areas.

Section 15.7. Future Development. Declarant presently plans to develop only those Lots which have already been released for construction and sale, and Declarant has no obligation with respect to future phases, plans, zoning, or development of other real property contiguous to or nearby the Lots presently planned for development. The Owner of a Residential Unit may have seen proposed or contemplated residential and other developments which may have been illustrated in the plot plan or other sales literature in or from Declarant's sales office, and/or may have been advised of the same in discussions with sales personnel; however, notwithstanding such plot plans, sales literature, or discussions or representations by sales personnel or otherwise, Declarant is under no obligation to construct such future or planned developments or units, and the same may not be built in the event that Declarant, for any reason whatsoever, decides not to build same. An Owner is not entitled to rely upon, and in fact has not relied upon, the presumption or belief that the same will be built; and no sales personnel or any other person in any way associated with Declarant has any authority to make any statement contrary to the foregoing provisions. Without limiting the foregoing, Declarant reserves the right to install

bike and pedestrian pathways and/or trails within the Property, and users of the pathways and/or trails may produce noise, leave trash, loiter in the area and create other disturbances that may result in inconvenience and disturbances to Owners and occupants of the Residential Units.

Section 15.8. Easement to Inspect and Right to Correct.

(A) Easement. Declarant reserves for itself and such other persons as it may designate, perpetual, non-exclusive easements throughout the Project, to the extent reasonably necessary for the purposes of access, inspecting, testing, redesigning, correcting, or improving any portion of the Project, including Residential Units and the Common Areas. Declarant shall have the right to redesign, correct, or improve any part of the Project, including Residential Units and the Common Areas.

(B) Right of Entry. In addition to the above easement, Declarant reserves for itself and each Designated Builder a right of entry onto a Residential Unit upon reasonable notice to the Owner; provided, in an emergency, no such notice need be given. Entry into a Residential Unit shall be only after Declarant or the Designated Builder notifies the Owner (or occupant) and agrees with the Owner regarding a reasonable time to enter the Residential Unit to perform such activities. Each Owner agrees to cooperate in a reasonable manner with Declarant or the applicable Designated Builder in the exercise of the rights provided to it by this Section.

Entry onto the Common Areas and into any improvements and structures thereon may be made by Declarant at any time, provided advance notice is given to the Association; provided, in an emergency, no notice need be given.

(C) Damage. Any damage to a Residential Unit or the Common Areas resulting from the exercise of the easement and right of entry described in subsections (A) and (B) of this Section shall promptly be repaired by, and at the expense of, Declarant. The exercise of these easements shall not unreasonably interfere with the use of any Residential Unit and entry onto any Residential Unit shall be made only after reasonable notice to the Owner or occupant.

Section 15.9. Wild Animals. The Property is located adjacent or nearby to certain undeveloped areas that may contain various species of wild creatures (including, but not limited to, deer and foxes), which may from time to time stray onto the Property, and which may otherwise pose a nuisance or hazard.

Section 15.10. Construction Nuisances. Residential subdivision and new home construction are subject to and accompanied by substantial levels of noise, dust, traffic, and other construction-related "nuisances." Each Owner acknowledges and agrees that it is purchasing a Residential Unit which is within a residential subdivision currently being developed, and that the Owner will experience and accepts substantial level of construction-related "nuisances" until the subdivision (and other neighboring portions of

land being developed) have been completed and sold out. Each Class B Member reserves the right, until the conveyance of title to the Purchaser of the last Lot in the Property, to unilaterally restrict and/or re-route all pedestrian and vehicular traffic within the Property, in the Class B Member's sole discretion, to accommodate the Class B Member's construction activities, and sales and marketing activities; provided that no Lot shall be deprived of access to a dedicated street adjacent to the Property.

Section 15.11. Model Homes. Model homes are displayed for illustrative purposes only, and such display shall not constitute an agreement or commitment on the part of Declarant to deliver the Residential Unit in conformity with any model home, and any representation or inference to the contrary is hereby expressly disclaimed. None of the decorator items and other items or furnishings (including, but not limited to, decorator paint colors, wallpaper, window treatments, mirrors, upgraded carpet, decorator built-ins, model home furniture, model home landscaping, and the like) shown installed or on display in any model home are included for sale to a purchaser unless an authorized officer of Declarant has specifically agreed in a written addendum to the purchase agreement to make specific items a part of the purchase agreement.

Section 15.12. Stormwater Management. Except for maintenance responsibilities (i) placed on Owners by the Declaration, Stormwater Covenant or other legal requirements, or (ii) assumed or undertaken by other persons (for example, a governmental authority), the Association shall maintain the Stormwater Control Measures and shall pay for the maintenance thereof as part of the Common Expenses. As used in the immediately preceding sentence, the word "maintain" includes provision for maintenance of, which may include financial contributions toward maintenance of, Stormwater Control Measures located on and/or shared with other properties not subject to the Declaration. Provided, however, such maintenance obligations shall cease and terminate, or be reduced proportionally, temporarily or permanently as applicable, at such time as a governmental authority accepts responsibility to maintain, in whole or in part, the Stormwater Control Measures for the Property, or some other person is providing the necessary maintenance therefor (for example, pursuant to an agreement which requires monetary payments by the Association to the person who is performing the maintenance). Following any such assumption of maintenance by a governmental authority or other person, the Association may, without obligation, continue to provide maintenance to the extent that the governmental authority or other person fails to provide adequate maintenance, in the opinion of the Board of Directors, and shall continue to provide maintenance for those portions of the Stormwater Control Measures with respect to which the governmental authority or such other person has not assumed maintenance responsibility, or following termination of the governmental entity's or such person's maintenance responsibility. Notwithstanding anything to the contrary herein, the Owner of any Lot on, over or through which any Stormwater Control Measures or portion thereof is located shall be responsible for the following with respect thereto: (i) mowing of grass with reasonable frequency, where applicable, unless the Association assumes such responsibility; and (ii) removal of debris and other materials to the best of the Owner's ability, where such debris or materials has impeded or threatens to impede the free flow of stormwater on, over or through the Stormwater Control Measures located on the Lot. An Owner's responsibility shall include

notification of the Association of any defects in any fencing surrounding or within any such Stormwater Control Measures, any debris or other matter which the Owner reasonably believes is beyond the Owner's ability to remove, and any excessive erosion within any such Stormwater Control Measures. The Owner of a Lot on which a Stormwater Control Measure is located shall not obstruct it or interfere with its normal and intended operation. Notwithstanding anything to the contrary herein, each Owner of a Lot, and not the Association, shall be responsible for maintenance of all stormwater drainage easements and stormwater management facilities located on and used exclusively in connection with such Owner's Lot or the improvements thereon, including guttering, and pipes and drains on the Lot used exclusively for transportation of stormwater from such Lot into any Stormwater Control Measures. All issues as to whether a stormwater drainage easement or stormwater management facility is part of the Stormwater Control Measures for which the Association is responsible or whether it is the responsibility of an Owner shall be determined by the Declarant during the period of Declarant control (unless Declarant assigns such right to the Association), and thereafter by the Association.

Each Class B Member, until the termination of the Class B membership, and thereafter, the Association, subject to any approval required by a governmental authority, may grant, relocate, abandon and/or release one or more stormwater drainage easements in the Property, subject to the following: (i) the grant of any such stormwater drainage easement also shall be consented to in writing by the Owners of all portions of the Property on which such stormwater drainage easement is located, unless the stormwater drainage easement is shown on a recorded plat of such portions of the Property, in which event the consent of the Owners is not required and the Class B Member or the Association, as applicable, may grant the stormwater drainage easement by written instrument; (ii) no such relocation, abandonment or release shall materially adversely affect the portions of the Property on which the stormwater drainage easement then is located or the portions of the Property served thereby, or if it does have such material adverse effect it is consented to in writing by the Owners of all portion of the Property on which such stormwater drainage easement is located and which are served thereby; and (iii) no such grant, relocation, abandonment or release shall materially adversely affect the Stormwater Control Measures for the Property. The provisions of this paragraph also are applicable to any access easement over any portion of the Property that provides pedestrian or vehicular access from a public street right of way or other public easement or facility to and from any Stormwater Control Measures.

With respect to its obligations under this Section, the Association shall pay, post, provide for or comply with all bonds and other financial obligations under applicable legal requirements, Stormwater Covenants and other agreements related to Stormwater Control Measures that are executed by the Association (or, during the period of Declarant control, by the Declarant on behalf of the Association or for later assignment to the Association), and the Association (and, during the period of Declarant Control, the Declarant on behalf of the Association) may enter into one or more Stormwater Covenants and other agreements and amend, add to, or supplement existing Stormwater Covenants and other agreements (and when Stormwater Covenants or other agreements are referred to in the Declaration, the reference includes amendments, additions, and supplements

thereto), with a governmental authority, another association that exists for purposes similar to those of the Association, or any other person with respect to inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating and managing any part or all of the stormwater on, to, or from any part or all of the Property and/or any or all of the Stormwater Control Measures for the Property, whether such Stormwater Control Measures are located within or outside of the Property, and with respect to maintenance of the Stormwater Control Measures. Such Stormwater Covenants and other agreements shall be binding on all Owners, and may require payments from the Association or the Owners whose Lots are served by the applicable Stormwater Control Measures for the services provided by a governmental authority, such other association or such other person in inspecting, monitoring, measuring, testing, collecting, controlling, transporting, conveying, handling, storing, discharging, operating or managing any part or all of such stormwater and/or Stormwater Control Measures, and such Stormwater Covenants and other agreements may include all other terms and obligations required by all applicable legal requirements. In connection with the foregoing purposes expressed in this paragraph, the Association (and, during the period of Declarant control, the Declarant on behalf of the Association) may grant rights over, in, under, upon and through any and all stormwater drainage easements in the Property, and may grant rights over, in, under, upon and through all easements in the Property that provide pedestrian and/or vehicular access from a publicly dedicated street right of way to and from stormwater drainage easements and/or Stormwater Control Measures. Provided, however, during the period of Declarant control no such Stormwater Covenant or other agreement shall be valid unless the same shall have been consented to in writing by the Declarant.

In recognition of the fact that different Stormwater Control Measures may be necessary or desirable for different portions of the Property or phases of the Project (for example, because of the topography of the Property it may be desirable for a portion of the Property to have Stormwater Control Measures separate from and/or in addition to, other Stormwater Control Measures in or serving the Property and it may be desirable for other portions of the Property to utilize Stormwater Control Measures located outside of the Property), and in further recognition of the desire of the Declarant for the provisions of the Declaration to be as flexible as reasonably necessary in order to maximize the benefit to the Property of having or using one or more Stormwater Control Measures in accordance with sound engineering practices and approvals by the applicable governmental authorities, in fulfilling its obligations under the Declaration the Association (or, during the period of Declarant control, the Declarant on behalf of the Association or for later assignment to the Association) may enter into different Stormwater Covenants and other agreements for different portions of the Property, and/or may amend, add to, or supplement existing Stormwater Covenants and other agreements, subject to all of the other terms of the Declaration. It further is recognized and contemplated by the Declaration that if such multiple Stormwater Covenants, Stormwater Control Measures, and/or other agreements are determined to be necessary or desirable, that the costs of maintaining such Stormwater Control Measures and/or funding such Stormwater Covenants or other agreements may be different for different portions of the Property and annual assessments may be different for Lots in different portions of the Property to the extent that one or more Stormwater Control

Measures are limited Common Areas. For example, there may be different portions of the Project that have different Stormwater Control Measures or different portions of the Project that share some of the same Stormwater Control Measures but also have one or more separate Stormwater Control Measures. During the period of Declarant control, Declarant has the right to designate any Stormwater Control Measures as limited Common Area, including existing and new Stormwater Control Measures in the Property as well as existing and new Stormwater Control Measures associated with Additional Property. Stormwater Control Measures not designated by the Declarant as limited Common Area are Common Area.

Declarant hereby informs all Owners and other persons who deal with or come in contact with the Property, that as stormwater drains from the Property or other properties into any of the Stormwater Control Measures for the Property, it is possible that substances or materials that may be classified or regulated as “hazardous substances“ or “toxic substances“ or other regulated substances or materials under applicable legal requirements relating to the environment, may flow through and/or accumulate in such Stormwater Control Measures. Accordingly, each Owner and other person assumes the risk that such flowing through and/or accumulation may occur. In addition, each Owner further acknowledges that if it becomes necessary (as determined by applicable legal requirements or by the Board of Directors) for such substances to be removed from the Stormwater Control Measures or otherwise handled in accordance with applicable legal requirements, and for such Stormwater Control Measures to be cleaned-up following such removal or other handling, that the costs associated with such removal, handling and/or clean-up are Common Expenses, and that an additional assessments may be required to pay for such removal and/or resultant clean-up of the Stormwater Control Measures.

Declarant may assign to the Association, and the Association shall accept from Declarant the assignment of, all obligations of the Declarant under Stormwater Covenants and other agreements entered into by the Declarant with respect to Stormwater Control Measures for the Project, provided the Declarant has performed, or made adequate provision for the performance of, all obligations, if any, specifically required of the Declarant under the Stormwater Covenant or other agreement being assigned to the Association. The provisions of this Section shall be construed liberally in order to allow the Declarant and the Association, on behalf of the Community and all Owners, the necessary flexibility to comply with all applicable legal requirements with respect to stormwater, including the execution of Stormwater Covenants or other agreements with a governmental authority or other persons and the granting of easements to a governmental authority or other persons.

Section 15.13. Subdivision Plan Restrictions. The Lots are subject to all easements, rights of way and restrictions shown on the Plat, including, without limitation, impervious surface restrictions, if any.

Section 15.14. Pathways. Pathways located within the Common Area, if any, are open to the public and the users of the pathways may produce noise, leave trash, loiter in the area and create other disturbances which may result in inconvenience and disturbances and potential safety and security issues to Owners and occupants of the Residential Units.

Section 15.15. Freeway/Roadways. The Property is or may be located adjacent to or nearby expressways and/or arterial or major roadways, and subject to levels of traffic thereon and noise, dust, and other nuisance from such roadways and vehicles. Also, each Residential Unit is located in proximity to streets and other Residential Units within the Property, and subject to substantial levels of sound and noise.

Section 15.16. Church. The Property is or may be located in the vicinity of a church and activities at the church may cause increased traffic and congestion in the area during certain times.

Section 15.17. Amenities. If developed as planned, the Community may (but shall not be required to) include, without limitation, a pool, cabana, tot lot/playground, dog park, fire pit/gathering area and other facilities (the "Facilities"). The use of these Facilities may cause noise, night light, and other disturbances to Purchaser. Purchasers living near the Facilities will likely experience higher than normal pedestrian traffic and other disturbances associated with the use of these Facilities.

Section 15.18. Electrical Power Systems. Distribution lines and transformers, overhead power lines, underground electric transmission or a power substation are located within or near the Community. These lines are owned, operated and maintained by Duke Energy (or its subsidiaries). Please note that the size, nature, voltage and location of such distribution lines and transformers, overhead power lines, underground electric transmission or a power sub-station, whichever exist, are not within Declarant's control and are subject to change.

Section 15.19. Roadways. The Community is or may be located adjacent to or in the vicinity of the nearby arterial or major roadways that may cause noise within the Community or traffic congestion on the roadways near the Community. These roadways are subject to modifications, approvals and improvements made by the State or County. For example, alignments may be changed, proposed extensions may be deleted or changed and roadway improvements within the vicinity of the Community may be added and views may be obstructed. Purchasers may experience noise from use of these roads as well as other problems associated with traffic congestion in the area of the Community. Without limiting the generality of the foregoing, the Community is located along Gin House Road, which is a major public road.

Section 15.20. Surrounding Commercial Uses. The Community is in close proximity to (or may in the future be in close proximity to) commercial uses, including but not limited to, retail, restaurant, industrial manufacturing and/or other uses and may therefore be subject to noise, traffic, lighting, odors, and other factors associated with such uses.

*[Signature page follows]*



EXHIBIT A  
LEGAL DESCRIPTION

The land referred to herein below is situated in the County of Spartanburg, State of South Carolina, and is described as follows:

ALL THAT CERTAIN PIECE, PARCEL OR TRACT OF LAND, WITH IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE STATE OF SOUTH CAROLINA, COUNTY OF SPARTANBURG, AND FRONTING ON GIN HOUSE ROAD AND BEING SHOWN AND DESIGNATED AS 33.97 ACRES ON A BOUNDARY SURVEY PREPARED FOR EDWARDS ROAD INVESTMENTS, LLC. BY AZIMUTH CONTROL, INC. DATED JANUARY 15, 2024 AND RECORDED IN THE SPARTANBURG COUNTY REGISTER OF DEEDS IN PLAT BOOK 184 AT PAGE 797. FOR A MORE COMPLETE AND ACCURATE DESCRIPTION REFER TO ABOVE REFERENCED PLAT.

BEGINNING AT AN IPF 1/2" REBAR ON THE SOUTHERN EDGE OF THE RIGHT-OF-WAY OF GIN HOUSE ROAD AND BEING N 79°39'32" E, 533' FROM THE INTERSECTION OF KIST ROAD. SAID IPF BEING A COMMON CORNER OF LANDS N/F: AMELIA & ROBERT SPEARS.

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY ALONG A CURVE. HAVING A CHORD BEARING OF N 69°49'06"E FOR A CHORD DISTANCE OF 54.45' TO A COMMON CORNER OF LANDS N/F: SANDRA G. SIMPSON, JAMES R KEMP AND SHELBY J. ROCHESTER

THENCE LEAVING SAID RIGHT-OF-WAY AND CONTINUING ALONG COMMON LINE OF LANDS N/F: SIMPSON, KEMP AND ROCHESTER THE FOLLOWING COURSES: S 17°28'44" W FOR A DISTANCE OF 152.05' TO AN IPF 1/2" REBAR;

THENCE N 74°14'59" E FOR A DISTANCE OF 125.06' TO AN IPF 1/2" REBAR;

THENCE N 17°29'5 1" W FOR A DISTANCE OF 175.08' TO AN IPF 1/2" REBAR ON THE SOUTHERN EDGE OF GIN HOUSE ROAD RIGHT-OF-WAY;

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY THE FOLLOWING COURSES, N 73°57'56" W FOR A DISTANCE OF 2.65' TO AN IPF 1/2" REBAR;

THENCE N 19°15'02" E FOR A DISTANCE OF 7.16' TO AN IPF 1/2" REBAR;

THENCE ALONG A CURVE, HAVING A CHORD BEARING OF N 39°50'30" E FOR A CHORD DISTANCE OF 107.29' TO AN IPF 1/2" REBAR;

THENCE S 57°37'19" E FOR A DISTANCE OF 5.00' TO AN IPF 1/2" REBAR;

THENCE ALONG A CURVE, HAVING A CHORD BEARING OF N 29°26'38" E FOR A CHORD DISTANCE OF 42.80' TO AN IPF 1/2" REBAR THENCE N 63°29'26" W FOR A DISTANCE OF 12.00' TO AN IPF 1/2" REBAR;

THENCE ALONG A CURVE, HAVING A CHORD BEARING OF N 22°00'12" E FOR A CHORD DISTANCE OF 63.80' TO AN IPF 1/2" REBAR THENCE N 17°29'49" E FOR A DISTANCE OF 28.88' TO AN IPF 1/2" REBAR AT A COMMON CORNER OF LANDS N/F: EDWARDS ROAD INVESTMENTS, LLC.

THENCE LEAVING SAID RIGHT-OF-WAY AND CONTINUING ALONG COMMON LINE OF LANDS N/F: EDWARDS ROAD INVESTMENTS, LLC.

THE FOLLOWING COURSES: S 70°39'42" E FOR A DISTANCE OF 84.56' TO AN IPF 3 1/2" REBAR;

THENCE S 38°19'14" E FOR A DISTANCE OF 288.00' TO AN IPF 1/2" REBAR;  
 THENCE N 51°40'46" E FOR A DISTANCE OF 416.00' TO AN IPF 1/2" REBAR;  
 THENCE N 38°19'41" E FOR A DISTANCE OF 88.67' TO AN IPF 1/2" REBAR;  
 THENCE N 51°40'46" E FOR A DISTANCE OF 279.06' TO AN IPF 1/2" REBAR;  
 THENCE N 38°19'14" W FOR A DISTANCE OF 17.95' TO AN IPF 1/2" REBAR;

THENCE N 20°56'36" W FOR A DISTANCE OF 32.85' TO AN IPF 1/2" REBAR AT A COMMON CORNER OF LANDS N/F: JAMES EDWARD LEONARD;

THENCE CONTINUING ALONG COMMON LINE OF LEONARD N 53°30'43" E FOR A DISTANCE OF 498.86' TO AN IPF 1/2" REBAR BEING ON A COMMON LINE OF LANDS N/F: SPARTANBURG COUNTY SCHOOL DISTRICT 5;

THENCE CONTINUING ALONG COMMON LINE OF SPARTANBURG COUNTY S 36°29'20" E FOR A DISTANCE OF 736.39' TO AN IPF 1/2" REBAR BEING ON A COMMON LINE OF LANDS N/F: VICKI L. KELLY; THENCE CONTINUING ALONG COMMON LINE OF KELLY S 51°35'28" W FOR A DISTANCE OF 299.43' TO A POINT, A COMMON CORNER OF LANDS N/F: GREGORY & DAWN MITCHELL

THENCE CONTINUING ALONG COMMON LINE OF MITCHELL S 51°35'28" W FOR A DISTANCE OF 138.58' TO AN IPF 12" PIPE BEING A COMMON CORNER OF LANDS N/F: ROBERT & DIANE JOHNSON

THENCE CONTINUING ALONG COMMON LINE OF JOHNSON S 51°34'40" W FOR A DISTANCE OF 228.31' TO AN IPF 1 1/2" PIPE BEING A COMMON CORNER OF LANDS N/F: SHAWN & RACHEL JOHNSON

THENCE CONTINUING ALONG COMMON LINE OF JOHNSON S 51°46'13" W FOR A DISTANCE OF 298.78' TO AN IPF 1/2" REBAR BEING A COMMON CORNER ALONG OF LANDS N/F: CATHERINE & DANIEL WARFEL

THENCE CONTINUING ALONG COMMON LINE OF WARFEL S 51°40'44" W FOR A DISTANCE OF 222.08' TO AN IPF 3/4" PIPE BEING A COMMON CORNER OF LANDS N/F: EUGENE M. & BARBARA M. KILPATRICK, TRUSTEE

THENCE CONTINUING ALONG COMMON LINE OF KILPATRICK S 51°36'11" W FOR A DISTANCE OF 350.81' TO AN IPF 1/2" REBAR BEING A COMMON CORNER OF LANDS N/F: MBK HOLDINGS, LLC

THENCE CONTINUING ALONG COMMON LINE OF MBK HOLDINGS, LLC. S 51°33'48" W FOR A DISTANCE OF 226.94' TO AN IPF 1" ROD BEING A COMMON CORNER OF LANDS N/F: BART & LINDA BIESECKER

THENCE CONTINUING ALONG COMMON LINE OF BIESECKER THE FOLLOWING COURSES: N 36°27'03" W FOR A DISTANCE OF 104.41' TO AN IPF 1" ROD, THENCE S 52°02'58" W FOR A DISTANCE OF 308.33' TO AN IPF 1" ROD BEING ON THE EASTERN EDGE OF KIST ROAD RIGHT- OF-WAY.

THENCE CONTINUING ALONG SAID RIGHT-OF-WAY N 40°08'23" W FOR A DISTANCE OF 161.93' BEING A COMMON CORNER OF LANDS N/F: MALCOMB D. GREEN, THENCE LEAVING SAID RIGHT-OF-WAY AND CONTINUING ALONG LANDS N/F: GREEN N 00°16'58" W FOR A DISTANCE OF 424.94' TO AN IPF 1/2" REBAR BEING A COMMON CORNER OF LANDS N/F: RALIEGH D. HALL

THENCE CONTINUING ALONG COMMON LINE OF HALL N 00°16'58" W FOR A DISTANCE OF 118.80' TO AN IPF 3/4" PIPE BEING A COMMON CORNER OF LANDS N/F: AMELIA L. & ROBERT E. SPEARS

THENCE CONTINUING ALONG COMMON LINE OF SPEARS N 00°16'58" W FOR A DISTANCE OF 289.83' TO AN IPF 1/2" REBAR ON THE SOUTHERN EDGE OF GIN HOUSE ROAD RIGHT-OF-WAY AND BEING THE POINT OF BEGINNING

SAID PARCEL CONTAINING 33.97 ACRES

FURTHER SHOWN:

The property is further shown and described on that certain survey entitled "ALTA/NSPS LAND TITLE SURVEY AT THE REQUEST OF: MERITAGE HOMES OF SOUTH CAROLINA, INC. SPARTANBURG COUNTY, SOUTH CAROLINA" prepared by Azimuth Control, Inc. Land Surveying, bearing the seal and certification of Wes E. Smith, South Carolina Professional Land Surveyor No. 19897, dated February 1, 2024.

DERIVATION: This being the same property conveyed to Meritage Homes of South Carolina, Inc. by deed from Edwards Road Investments, LLC dated May 10, 2024 and recorded on May 13, 2024 in the Office of the Register of Deeds for Spartanburg County, South Carolina in Deed Book 146-L at Page 633.

TMS: 5-35-00-057.03 (now or formerly)