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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
K. HOVNANIAN'S® FOUR SEASONS AT HILTON HEAD LAKES**

City of Hardeeville

Jasper County, South Carolina

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR K. HOVNANIAN'S® FOUR SEASONS AT HILTON HEAD LAKES

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DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**FOR****K. HOVNANIAN'S® FOUR SEASONS AT HILTON HEAD LAKES**

This Declaration of Covenants, Conditions and Restrictions for Four Seasons At Hilton Head Lakes (the "Declaration") is made effective the date of execution below by **K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC**, a South Carolina limited liability company, ("Declarant").

Declarant is the owner of the "Properties" described in Exhibit A attached hereto and made a party of this Declaration by reference. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of development and improvement for the benefit of the owners of any portion of the Properties, and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance thereof, this Declaration provides for the creation of Four Seasons at Hilton Head Lakes Association, a South Carolina non-profit corporation, to own, operate and maintain the Common Area, and to administer and enforce the provisions of the Governing Documents.

Declarant hereby declares that all of the Properties described in Exhibit A and any additional Properties subjected to this Declaration by a Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the land and title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

SECTION 1: DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 Activity Card(s): Those certain cards which are issued by the Association in accordance with the terms and conditions set forth in **Section 2.3** and which confer upon the holder rights of access to and use of recreational facilities and other Common Areas within the Properties.

1.2 Age-Qualified Occupant: Any individual (i) 50 years of age or older who owns and occupies a Dwelling Unit and was the original purchaser of the Dwelling Unit from the Declarant; or (ii) 55 years of age or older who occupies a Dwelling Unit. The terms "occupy," "occupies," "or "occupancy" shall mean staying overnight in a particular Dwelling Unit for at least ninety (90) days in any consecutive twelve (12) month period.

1.3 Architectural Review Committee or ARC: The committee established by the Board pursuant to **Section 9** to review applications for modifications to Dwelling Units.

1.4 Area of Common Responsibility: Any area for which the Association assumes responsibility for maintenance, repair or management pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement, including, without limitation, the Common Area, and regardless of whether such area is inside or outside the Properties.

1.5 Articles of Incorporation or Articles: The Articles of Incorporation of Four Seasons at Hilton Head Lakes Association filed with the Secretary of State of the State of South Carolina, as amended from time to time.

1.6 Assessments ("Charges"): The Base Assessment, Limited Common Area Assessment, Benefitted Assessments, any Special Assessment, Initial Buyer Capital Contribution, and New Member Fee, as set forth in **Section 8**, and/or any other charges or amounts which an Owner is required to pay or for which an Owner is liable under this Declaration or the Bylaws, including fines imposed as provided under **Section 4.3.2**.

1.7 Association: Four Seasons at Hilton Head Lakes Association, a South Carolina non-profit corporation, its successors or assigns.

1.8 Base Assessment: Assessments levied on all Dwelling Units subject to assessment under **Section 8** to fund Common Expenses for the general benefit of all Dwelling Units.

1.9 Benefitted Assessment: Assessments levied in accordance with **Section 8.7**.

1.10 Board of Directors or Board: The body responsible for administration of the Association, selected as provided in the Bylaws and serving the same role as a board of directors under a South Carolina not-for-profit corporation.

1.11 Builder: Any Person which purchases one or more parcels of land within the Properties for subdivision, development, construction of homes and/or resale in the ordinary course of such Person's business other than for personal residential use.

1.12 Bylaws: The Bylaws of the Association, as amended from time to time. For information, the initial Bylaws are attached hereto as Exhibit C. It is not necessary that subsequent amendments to Bylaws be recorded.

1.13 Charges ("Assessments"): The Base Assessment, Limited Common Area Assessment, Benefitted Assessments, any Special Assessment, Initial Buyer Capital Contribution, and New Member Fee, as set forth in **Section 8**, and/or any other charges or amounts which an Owner is required to pay or for which an Owner is liable under this Declaration or the Bylaws, including fines imposed as provided under **Section 4.3.2**.

1.14 Common Area: Any portions of the Properties shown or designated as "Common Area", or similar wording clearly indicating such intent (such as, without limitation, "Open Space", "Common Property", "P.O.A.", or "H.O.A."), in Exhibit A hereto or on any recorded plat of the Properties or in any recorded Supplemental Declaration, which plat or Supplemental Declaration has been approved in writing by Declarant. It shall not be necessary that Properties designated as Common Area be conveyed to the Association at the time of such designation. Until actual

conveyance to the Association, such designation as Common Area shall be deemed to make such Properties an Area of Common Responsibility. No general plan, marketing materials, conceptual plans, the Development Agreement, unrecorded survey, or similar document shall be deemed to cause the Properties shown thereon or referenced therein to be deemed Common Area. Common Area may be on a separate subdivided lot or may be part of a Dwelling Unit, but Common Area shall not include or be part of the common elements of a condominium regime. UNLESS OTHERWISE EXPRESSLY STATED, THE DESIGNATION OF ANY OF THE PROPERTIES OR IMPROVEMENTS THEREON AS COMMON AREA SHALL NOT MEAN OR IMPLY THAT THE PUBLIC AT LARGE ACQUIRES ANY EASEMENT OF USE OR ENJOYMENT THEREIN.

1.15 Common Expenses: The expenses of administration, operation, maintenance, repair, replacement, and landscaping of the Common Area; the cost of insurance premiums and deductibles; water, electricity, telephone, gas and other necessary utility expenses for the Common Area; the cost of, and the expenses incurred for, the maintenance, repair and replacement of personal property acquired and used by the Association in connection with the operation of the Common Area or Areas of Common Responsibility; costs or expenses of other Areas of Common Responsibility which are expressly assumed by the Association pursuant to this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement; the cost of general and special real estate taxes and assessments levied or assessed against any portion of the Common Area; and any other expenses lawfully incurred by the Association for the common benefit of all of the Owners (including, without limitation, costs incurred for management, administrative, accounting, legal, consulting or other professional services). The above costs and expenses relating to the Common Area shall be Common Expenses regardless of whether the Common Area has been conveyed to the Association pursuant to **Section 2.2**, below Common Expenses shall not include Limited Common Area Expenses which are expressly made the responsibility of specific Owners by this Declaration, any Supplemental Declaration or other applicable covenants, contract, or agreement.

1.16 Community: The residential real estate development known as Four Seasons at Hilton Head Lakes comprised of the Properties.

1.17 Community-Wide Standard: The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standards may be defined in the Design Guidelines or Rules and Regulations of the Board. Such standards may be specifically determined, and modified, by the Declarant at any time during the Declarant Control Period and thereafter by the Board and/or the Architectural Review Committee.

1.18 Covenant to Share Costs: Any declaration or agreement executed by Declarant and recorded in the Public Records, which grants rights or creates easements for the benefit of the Association and the present and future owners of the real estate subject thereto and which obligates the Association and such owners to share the costs related to or incurred in connection with real estate described therein.

1.19 Declarant: K Hovnanian's® Four Seasons at Hilton Head Lakes, LLC, a South Carolina limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the real estate described on Exhibits A or B for the purpose of development and/or

sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.20 Declarant Control Period: The period commencing upon the recording of this Declaration and ending upon the first to occur of:

- (a) The end of the Development Period;
- (b) The expiration of twenty (20) years from the date of recording hereof; or
- (c) The date designated in a written notice recorded by the Declarant in the Public Records as being the end of the Declarant Control Period.

1.21 Design Guidelines: Any written design and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to **Section 9**, as modified from time to time.

1.22 Development Agreement: The Second Restated and Amended Development Agreement (Argent West Tract) applicable to the Properties recorded in the Public Records in Book 708 at Page 1, and any subsequent valid amendments thereto or restatements thereof.

1.23 Development Period: The period of time commencing upon the recording of this Declaration and ending at such time as Declarant no longer holds or controls title to any portion of the real estate which is described in Exhibit A, as Exhibit A may be amended or supplemented from time to time.

1.24 Dwelling Unit: A portion of the Properties which is described and designated as a Dwelling Unit in Exhibit A or on any recorded Plat of the Properties or in any recorded Supplemental Declaration, which Plat or Supplemental Declaration has been approved in writing by Declarant, as amended from time to time. A Dwelling Unit will either be (a) a subdivided lot or portion thereof which is legally described in the deed which conveys such portion to a Person, as more fully provided in Exhibit A or a Plat, and which is, or is planned to be, improved with a single family attached or detached home or (b) a condominium unit.

1.25 Governing Documents: A collective term including the Declaration, the Bylaws, the Articles, the Design Guidelines, and Rules and Regulations adopted by the Board, the Development Agreement, and resolutions adopted by the Board of Directors of the Association, as any such documents may be amended from time to time.

1.26 Limited Common Area: A portion of the Common Area which is designated for the exclusive use of the Owners and/or Residents of one or more Dwelling Units as designated in this Declaration, in Exhibit A hereto, or on any recorded Plat of the Properties or in any recorded Supplemental Declaration, which Plat or Supplemental Declaration has been approved in writing by Declarant, as amended from time to time. By way of example, a Limited Common Area may be a fence, retaining wall, landscaped buffer area or other real estate or improvements thereto which serve or benefit one or more, but less than all Dwelling Units.

1.27 Limited Common Area Assessment: Assessments levied on Dwelling Units which have the right to use or benefit from a particular Limited Common Area, in order to pay the associated Limited Common Area Expenses and to accumulate reserves for such expenses, as more fully described in **Section 8**.

1.28 Limited Common Area Expenses: With respect to a particular Limited Common Area, the expenses of administration (including management, legal and other professional services), maintenance, operation, repair, and replacement thereof; the cost of insurance, real estate taxes and other assessments, if any, water, waste removal, electricity, telephone and other necessary utility expenses for the Limited Common Area; the cost of and the expenses incurred for the maintenance, repair and replacement of personal property used by the Association only in connection with the maintenance or operation of the Limited Common Area; any expense designated as a Limited Common Area Expense in this Declaration or any Exhibit hereto, as supplemented or amended from time to time or any Supplement hereto; and any expenses incurred by the Association which, pursuant to generally accepted accounting principles, can reasonably be allocated to the Limited Common Area. Limited Common Area Expenses shall not be deemed to be, and shall not be deemed to include, Common Expenses. In the event that certain expenses are incurred by the Association in connection with the operation of a particular Limited Common Area and another Limited Common Area and/or the Common Area (other than Limited Common Area), the decision as to whether such expenses are to be Limited Common Area Expenses and the allocation of expenses between the various Limited Common Area Expenses and the Common Expenses shall be made by the Board, based on generally accepted accounting principles, and any allocation so made shall be final and binding.

1.29 Master Plan: Declarant's conceptual land use plan for the development of the Community, as it may be amended from time to time, which plan shall include the real estate described in Exhibit A and any other real estate subjected to this Declaration with the written approval of Declarant. **DECLARANT EXPRESSLY RESERVES THE RIGHT TO MODIFY, AMEND AND REVISE THE MASTER PLAN AT ANY TIME DURING THE DEVELOPMENT PERIOD AS IT, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, DECLARANT MAY AMEND AND REVISE THE MASTER PLAN AT ANY POINT IN TIME TO INCLUDE MULTI-STORY CONDOMINIUM BUILDINGS.** Inclusion of real estate on the Master Plan shall not, under any circumstances, obligate Declarant to subject such real estate to this Declaration as part of the Properties, nor shall the exclusion of real estate from the Master Plan bar its later inclusion therein.

1.30 Member: A Person entitled to membership in the Association pursuant to **Section 3.2**.

1.31 Mortgage: A first mortgage, deed of trust, deed to secure debt, or any other form of security instrument of record encumbering title to any Dwelling Unit.

1.32 Mortgagee: A holder of a Mortgage. The Association may require that any Person provide written evidence acceptable to the Board reasonably establishing that such Person is a Mortgagee.

1.33 Owner: One (1) or more Persons, which may include the Declarant or a Builder, who hold the record title to a Dwelling Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation.

1.34 Person: A natural person, corporation, partnership, limited liability company, trustee, or any other legal entity.

1.35 Plat: A plat approved in writing by Declarant for a portion of the Properties which is recorded in the Public Records. **DECLARANT EXPRESSLY RESERVES THE RIGHT TO REVISE, MODIFY, RECONFIGURE OR WITHDRAW ANY RECORDED PLAT AT ANY TIME DURING THE DEVELOPMENT PERIOD AS IT, IN ITS SOLE DISCRETION, DEEMS APPROPRIATE.**

1.36 Private Amenities: Real estate and any improvements and facilities thereon located adjacent to or in the vicinity of the Properties, developed by the Declarant or an affiliate or designee of the Declarant, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis, use fee basis, or otherwise. A Private Amenity shall not be part of the Properties. However, a Private Amenity may be made part of the Properties pursuant to the provisions of **Section 7**, in which case it shall no longer be deemed to be a Private Amenity hereunder.

1.37 Properties: The real estate described on Exhibit A, as amended from time to time, including such additional real estate as is made subject to this Declaration after the initial recording hereof by a Supplemental Declaration or amendment to this Declaration, as provided in **Section 7**.

1.38 Public Records: The Office of the Register of Deeds for Jasper County, South Carolina.

1.39 Regulated Work: As defined in **Section 9.1**.

1.40 Resident: Any of the following Persons occupying a Dwelling Unit:

- (a) any Age-Qualified Occupant;
- (b) any Person 19 years of age or older occupying a Dwelling Unit with an Age-Qualified Occupant; and
- (c) any Person 19 years of age or older who occupied a Dwelling Unit with an Age-Qualified Occupant and who continues, without interruption, to occupy the same Dwelling Unit after termination of the Age-Qualified Occupant's occupancy thereof.

The term "occupy" or "occupancy" shall have the same meaning as set forth in **Section 1.2**. An individual who occupies a Dwelling Unit but does not satisfy the criteria of (a), (b) or (c) above shall not be deemed to be a Resident and shall not be entitled to any rights or privileges granted to a Resident hereunder.

1.41 Rules and Regulations: Procedures or policies adopted in accordance with **Section 4.3** of this Declaration.

1.42 Special Assessment: Assessments levied in accordance with **Section 8.6**.

1.43 Special Declarant Rights: As defined and described in **Sections 3.4 and 13**.

1.44 Special Services: As defined in **Section 5.3**.

1.45 Subordinate Association: As defined in **Section 16.1**.

1.46 Subordinate Declaration: As defined in **Section 16.1**.

1.47 Supplemental Declaration or Supplement: An amendment or addition to this Declaration approved in writing by Declarant and filed in the Public Records pursuant to **Section 7** which subjects additional real estate to this Declaration as part of the Properties, identifies any Common Area and Dwelling Units within the additional real estate, amends Exhibit A to reflect the addition of such real estate and the characterization thereof and/or imposes or modifies, expressly or by reference, additional covenants, conditions, restrictions, easements or obligations on the real estate described in such instrument.

1.48 Voting Member: As defined in **Section 3.3**.

1.49 Wetland: As defined in **Section 10.10**.

SECTION 2: PROPERTY RIGHTS

2.1 Use of Common Area and Limited Common Area. Each Owner shall have the non-exclusive right and easement to use and enjoy the Common Area (except the Limited Common Area). Each Owner shall have the non-exclusive right and easement to use and enjoy any Limited Common Area assigned to such Owner's Dwelling Unit, in common with the Owners of other Dwelling Units to which such Limited Common Area is assigned. Such rights and easements shall run with the land, shall be appurtenant to and pass with title to every Dwelling Unit, and shall be subject to and governed by the following:

2.1.1. This Declaration or any Supplement or amendment hereto, the Bylaws, Rules and Regulations, and all Governing Documents;

2.1.2. Any covenants, commitments, provisions, restrictions or limitations contained in any deed conveying Common Area to the Association;

2.1.3. The right of the Board to impose fines and to suspend the rights, services and privileges of an Owner or Resident including, without limitation, the right to use recreational facilities pursuant to this Declaration;

2.1.4. The right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area;

2.1.5. The right of the Board to impose reasonable membership requirements and charge reasonable admission fees or other use fees for the use of any recreational facility situated upon the Common Area;

2.1.6. The right of the Board to permit use of any Common Area by Persons other than Members upon payment of use fees established by the Board;

2.1.7. The right of the Board to create, enter agreements with, and grant easements to tax-exempt organizations under **Section 4.13**;

2.1.8. The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for Association obligations;

2.1.9. The right of the Association to rent, lease, or make available, with or without charge, for any purpose, any portion of any clubhouse and other recreational facilities within the Common Area to any Person approved by the Board for such uses as may be approved by the Board;

2.1.10. The requirement that access to and use of recreational facilities within the Properties shall be subject to the presentation of an Activity Card issued by the Association for such purpose; and

2.1.11. The rights of the Declarant hereunder.

2.2 Conveyance of Common Area to Association. The initial Common Area in the Properties identified in Exhibit A and any Common Area which is subsequently made part of the Properties shall be conveyed to the Association free of liens, easements and encumbrances that would preclude its use for such purposes within ninety (90) days after the end of the Declarant Control Period. In its discretion, Declarant may convey all or any part of the Common Area to the Association at an earlier date.

2.3 Activity Cards.

2.3.1. Issuance. If so determined by the Board, activity cards or other methods of identification ("Activity Cards") may be issued to Residents of a Dwelling Unit. No Activity Cards shall be allocated to any Dwelling Unit which is not occupied by a Resident. The Board shall determine entitlement to Activity Cards on an annual basis. Activity Cards shall be renewed annually without charge, provided the Dwelling Unit continues to be occupied by a Resident and all applicable assessments and other charges pertaining to the Dwelling Unit have been paid. The Board may establish policies, limits, and charges with regard to the issuance of additional or duplicate Activity Cards and guest privilege cards, including reasonable charges for issuance of such cards. The Board may issue Activity Cards to persons who have signed binding contracts to purchase a Dwelling Unit, subject to such policies as the Board may determine from time to time.

2.3.2. Assignment of Rights. The right to an Activity Card is based upon occupancy of a Dwelling Unit. Any Owner who leases or otherwise transfers occupancy of his or her Dwelling Unit shall be deemed to have assigned his or her rights to an Activity Card to the Residents of such Dwelling Unit. Any Owner who leases or otherwise transfers the right to occupy his or her Dwelling Unit shall provide the Association with immediate written notice thereof and shall surrender to the Association his or her previously issued Activity Card. Activity Cards shall be surrendered by any holder who ceases to occupy a Dwelling Unit, or at any time upon written notification from the Association that the holder no longer is entitled to hold an Activity Card.

2.3.3. Issuance to the Declarant. During the Development Period, the Association shall provide the Declarant, free of charge, with as many Activity Cards as the Declarant, in its sole discretion, deems necessary for the purpose of marketing the Properties or for use by Declarant's employees. The Declarant may transfer the Activity Cards to prospective purchasers of Dwelling Units subject to such terms and conditions as it, in its sole discretion, may determine. Activity Cards provided to the Declarant shall entitle the bearer to use all Common Area subject to the payment of admission fees or other use fees charged to Residents holding Activity Cards.

2.4 No Partition of Common Area. Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof. This provisions shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real estate which may or may not be subject to this Declaration.

2.5 Condemnation of Common Area. In the case of a taking or condemnation by competent authority of any part of the Common Area, the proceeds awarded in such condemnation shall be paid first to satisfy any indebtedness secured by a mortgage or other lien encumbering such portion of the Common Area and the balance to the Association. The proceeds, if any, paid to the Association, together with any reserve being held for such part of the Common Area shall be used first to restore or replace any improvements taken or condemned, and the balance, if any, shall, in the discretion of the Board, either (a) be distributed to the Owners who have the right to use such Common Area and their respective Mortgagees, as their interests may appear, in equal shares, or (b) be used for the mutual benefit of such Owners, as determined by the Board in its reasonable discretion; provided, that, during the Development Period, any such action shall be consented to by the Declarant.

2.6 Age Restriction.

2.6.1. The Community is intended to provide housing primarily for persons 55 years of age or older, subject to the rights reserved to Declarant in **Section 13.6**. The Properties shall be operated as an age-restricted community in compliance with all applicable state and federal laws. No person under 19 years of age shall stay overnight in any Dwelling Unit for a cumulative period of more than ninety (90) days in any consecutive twelve (12) month period. Subject to **Section 13.6**, each Dwelling Unit, if occupied, shall be occupied by at least one (1) individual 55 years of age or older; provided, however, that once a Dwelling Unit is occupied by an Age-Qualified Occupant, other Residents of that Dwelling Unit may continue to occupy the Dwelling Unit, regardless of the termination of the Age-Qualified Occupant's occupancy. Notwithstanding the above, at all times, at least eighty percent (80%) of the Dwelling Units within the Properties shall be occupied by at least one (1) individual 55 years of age or older.

2.6.2. The Board shall establish policies and procedures from time to time as necessary to monitor and maintain its status as an age restricted community under state or federal law. The Association shall provide, or contract for the provision of those facilities and services designed to meet the physical and social needs of older persons as may be required under such laws. The provisions of this Section may be enforced by the Association administratively under **Section 4.3** and/or by an action in law or in equity, including, without limitation, an injunction requiring specific performance hereunder.

2.7 Amenity Center. Declarant proposes to construct an “Amenity Center” on land to be included in the Properties. The Amenity Center may include recreational facilities such as a community club house, a swimming pool, tennis courts, bocce courts, and “pickle ball” courts. Notwithstanding **Section 2.2**, above, after completion of the Amenity Center, Declarant shall cause the Amenity Center to be conveyed to the Association free of liens, easements and encumbrances that would preclude its use for as a recreational facility for the Dwelling Units. All Residents of Dwelling Units shall have the right to use the Amenity Center, subject to the terms of the Governing Documents.

2.8 Easements, Leases, Licenses and Concessions and Rights:

2.8.1. The Board shall have the right and power from time to time (a) to lease or grant easements, licenses, concessions or other rights with regard to any portions or all of the Common Area or Limited Common Area for such uses and purposes as the Board deems to be in the best interests of the Owners including, without limitation, the right to grant easements relating to installation and operation of utilities, communication systems, satellite or cable television systems, and similar and related purposes and/or (b) with the agreement of the beneficiary or grantee of the easement, and any Owner whose Dwelling Unit is benefitted thereby, cancel, alter or modify any easement which affects any Common Area, Limited Common Area, as the Board in its discretion shall determine; provided, that, any action by the Board taken pursuant to this sentence which would affect Limited Common Area must be approved by the Owners of a majority of the Dwelling Units which have the right to use the Limited Common Area. Any and all proceeds from leases, easements, licenses, concessions or other rights received by the Association with respect to the Common Area shall be used to pay the Common Expenses or Limited Common Area Expenses, as applicable.

2.8.2. Each Person, by acceptance of a deed, mortgage, trust deed, other evidence of obligation, or other instrument granting an interest in a Dwelling Unit, shall be deemed to grant a power coupled with an interest to the Board, as attorney-in-fact, to exercise the powers as provided for in this Section. Any instrument executed pursuant to the power granted herein shall be executed by the President and attested to by the Secretary of the Association (or other appropriate officer) and duly recorded in the Public Records.

SECTION 3: MEMBERSHIP AND VOTING RIGHTS

3.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility; the primary entity responsible for compliance with and enforcement of the Governing Documents; and, to the extent provided for in **Section 9**, shall be responsible for exercising architectural control and for administering, monitoring compliance with, and enforcing all architectural standards, including any Design Guidelines. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of South Carolina.

3.2 Membership.

3.2.1. Every Owner shall be a “Member” of the Association and shall hold one (1) membership for each Dwelling Unit owned. If a Dwelling Unit is owned by more than one (1)

Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation, such reasonable fees and Charges as may be authorized by this Declaration, and the restrictions on voting set forth in **Section 3.3** and in the Bylaws. All such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners.

3.2.2. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, member, manager or trustee, or by any other individual having apparent authority or designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The Board of Directors may, in its sole discretion, require the individual purporting to have authority to act on behalf of an Owner to provide reasonable evidence of such authority.

3.2.3. The Declarant shall be a member of the Association during the Development Period.

3.3 Voting.

3.3.1. **During the Declarant Control Period**, all of the voting rights of the Owners at any meeting of the Members of the Association or otherwise exercised or cast as by law allowed shall be vested exclusively in the Declarant, and Owners other than the Declarant shall have no voting rights.

3.3.2. **After the End of the Declarant Control Period**, all of the voting rights at any meeting of the Members of the Association or otherwise exercised or cast as by law allowed shall be vested in the Voting Members and each Voting Member shall have one (1) vote for each Dwelling Unit which the Voting Member represents. One (1) individual shall be designated by each Owner in a written instrument provided to the Secretary of the Association to be the "Voting Member" with respect to each Dwelling Unit owned by the Owner. If no designation is made and more than one (1) person seeks to be the Voting Member for a Dwelling Unit, the Board may either recognize one (1) individual as the Voting Member or suspend the vote for the Dwelling Unit (which shall still be counted for purposes of determining whether a quorum is present) until the issue has been resolved. Any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in the Bylaws) upon an affirmative vote of a majority of the votes represented at the meeting by the Voting Members present at such meeting, except as otherwise provided herein or in the Bylaws. Votes may be conducted by written ballot in lieu of a meeting in the manner provided herein or in the Bylaws. Voting Members may vote directly or by proxy as provided in the Bylaws. The Board shall determine from time to time whether votes shall be cast in person, by mail, or by other means permitted by law.

3.4 Special Declarant Rights. Certain Declarant rights, including the right to approve, or withhold approval of, certain actions proposed under this Declaration, the Bylaws and the Articles during the Development Period and the right and power, during the Declarant Control Period, to appoint all members of the Board, are specified in the relevant sections of this Declaration, the Bylaws and the Articles. To the extent those Declarant rights conflict or are inconsistent with any provision of this Article, the Declarant rights shall control.

3.5 Attendance at Board Meetings by Owners. Members may attend meetings of the Board to the extent permitted by the Board in its discretion. The Board shall hold informational meetings from time to time, but not less frequently than once each year during the Declarant Control Period, to which all Members shall be invited and at which time the Board shall report to the Members on matters relating to the Association's activities which have arisen or been addressed since the preceding meeting and shall open the meeting for questions and comments from the Members.

SECTION 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION; DISCLOSURES AND DISCLAIMERS

4.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, and other personal property of the Association used in connection with the Common Area), and shall endeavor in good faith to keep the Common Area in good, clean, attractive, and sanitary condition, order, and repair, pursuant to this Declaration, the Bylaws, applicable laws, and consistent with the Community-Wide Standard. The Board is authorized, but not obligated, to retain or employ professional management to assist in carrying out any of the Association's responsibilities under this Declaration.

4.2 Personal Property and Real Property for Common Use. The Association, through action of its Board, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, personal property, and leasehold and other property interests as an Area of Common Responsibility, regardless of whether such real estate is specifically or formally designated as Common Area or is located within the Properties. Such property shall be accepted by the Association and thereafter shall be maintained by the Association as a Common Expense for the benefit of its Members, subject to any restrictions of record or as set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

4.3 Rules and Regulations; Administrative Enforcement of Governing Documents.

4.3.1. Rulemaking. The Association, through the Board, may make, modify, amend, cancel, limit, create exceptions to and enforce reasonable Rules and Regulations governing the use of the Properties, consistent with the rights and duties established by the Governing Documents, including, without limitation, rules, procedures and policies limiting the use of the Common Area by visitors, including visiting children. The initial Rules and Regulations are attached as **Exhibit B**. The Rules and Regulations may be adopted modified, or supplemented by the Board from time to time. The Rules and Regulations shall be part of the Governing Documents and shall be binding upon all Owners, Residents, guests, invitees, and licensees, if any, until and unless overruled, canceled, or modified in a regular or special meeting of the Association by the

vote of a majority of the total vote in the Association. The Board shall have no obligation to call such a meeting except as provided for in the Bylaws.

4.3.2. Enforcement. The Board, or the Covenants Committee, if any, established pursuant to the Bylaws, may impose sanctions for violations of the Governing Documents (including failure to pay Charges due and owing to the Association), after notice and a hearing in accordance with the procedures set forth in the Bylaws. The Board shall establish a schedule and/or a range of penalties for violations of the Governing Documents. Any range or schedule established by the Board may be changed, modified or adjusted as the Board, in its sole discretion, deems appropriate; provided, however, that changes, modification and adjustments may be applied or imposed prospectively only. Such sanctions may include, without limitation:

(a) imposing a graduated range of reasonable monetary fines which, until paid, shall constitute a lien upon the violator's Dwelling Unit. In the event that any Resident, guest or invitee of a Dwelling Unit violates the Governing Documents and a fine is imposed, the fine shall be assessed against and the obligation of the Resident, guest or invitee and the Owner, jointly and severally; and enforceable as a Benefitted Assessment;

(b) suspending an Owner's right to vote;

(c) suspending any Person's right to use any recreational facilities and amenities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress, egress or access to or from a Dwelling Unit;

(d) suspending any rights, services, or privileges provided by the Association to an Owner or the Owner's Dwelling Unit; and

(e) levying Benefitted Assessments to cover costs incurred in bringing a Dwelling Unit into compliance in accordance with **Section 8**.

4.3.3. Rights and Remedies Cumulative. The rights and remedies set forth in **Section 4.3.2** are cumulative and supplement all other rights of enforcement under applicable law. In addition, and by way of illustration and not limitation, the Board may elect to enforce any provision of the Governing Documents by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking Rules and Regulations in accordance with any applicable ordinance or requiring immediate abatement of violating activity) or by suit at law or in equity to enjoin any violation or to recover monetary damages, or both, without the necessity of compliance with the procedures set forth in the Bylaws. In any action or proceeding to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, legal fees and court costs, reasonably incurred in connection with or in the course of such action.

4.3.4. Decision to Pursue Enforcement Action. The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

- (a) the Association's position is not strong enough to justify taking any or further action;
- (b) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or
- (c) that it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the Association's right to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

4.3.5. Applicable Laws. The Association, pursuant to applicable laws, or by contract or other agreement, may enforce applicable state and local laws and ordinances and governmental bodies may enforce their respective laws and ordinances within the Properties for the benefit of the Association and its Members.

4.4 Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in the Governing Documents, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental, Educational, and Religious Interests. During the Development Period, the Declarant may designate sites within the Properties, including portions of the Common Area, for government, education or religious activities and interests, including without limitation, fire, police, and utility facilities, schools and educational facilities, houses of worship, parks and other public facilities. In the event of such a designation, the Association shall take whatever action is required with respect to such site to permit such use, including dedication or conveyance of the site, if so directed by Declarant.

4.6 Indemnification.

4.6.1. The Association shall indemnify every officer, director, and committee member and the Association's managing agent and its employees and agents against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which it, he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and/or South Carolina law.

4.6.2. The officers, directors, committee members and managing agent shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, criminal act, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and hold each

such officer, director, committee member and managing agent harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, committee member and managing agent may be entitled.

4.6.3. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is available at a reasonable cost. Decisions whether to institute litigation are no different from other decisions directors make. There is no independent legal obligation to bring a civil action against another party, and no provision of the Governing Documents shall be construed to impose a duty upon the Board to sue under any circumstances.

4.7 Dedication of Common Area. The Association may dedicate portions of the Common Area to the City of Hardeeville, South Carolina, Jasper County, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity.

4.8 Security; No Guaranty or Warranty.

4.8.1. It is the goal of all Owners, including Declarant, to have a safe and healthy environment. However, no written or oral representations regarding the safe and secure nature of the Community shall be construed in whole or in part as guarantees thereof, it being recognized that circumstances which are beyond the control of the Declarant and its affiliates, the Association, or the managing agent may arise. The Association may maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be; provided, however, that the Association shall not be obligated to maintain or support such activities nor shall any action taken by the Association in this regard be deemed or construed to create or give rise to any duty or obligation beyond any that exists under the law independent of the Association's action.

4.8.2. **The Association, the managing agent, or the Declarant shall not in any way be considered insurers or guarantors of security within the Properties. None of the foregoing shall 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 fire protection system, entry gate, patrol, alarm system or other security system or measures, including any mechanism or system for limiting or monitoring access to the Properties, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended.**

4.8.3. **Each Owner shall inform all Residents, occupants, tenants, guests, and invitees of the Owner's Dwelling Units that the Association, its Board of Directors and committees, the Declarant, and the managing agent are not insurers or guarantors of security within the Properties. Each Owner and all Residents, occupants, tenants, guests, and invitees of the Owner's Dwelling Unit assume all risks for injury, loss or damage to persons, to Dwelling Units, and to the contents of Dwelling Units and further acknowledge that the Association, its Board and committees, the managing agent, and the Declarant have made no representations or warranties, nor has any Owner, or any Resident, occupant, tenant, guest,**

or invitee of any Dwelling Unit relied upon any representations or warranties, expressed or implied, relative to any entry gate, patrolling of the Properties, any fire protection system, burglar alarm system, or other security systems recommended or installed or any security measures undertaken within the Properties.

4.9 Video, Data and Communication Service Agreements. The Association has or may hereafter enter into an agreement with any entity for the provision of cable television and/or other communication services in order to obtain access to benefits and services for the benefit of Owners and Dwelling Units located on the Properties. Payment for services and benefits provided pursuant to video, data and/or communication service agreements executed pursuant to this paragraph will be made from Charges levied and collected by the Association pursuant to the authority granted in **Section 8**. While Owners are free to obtain the same or similar services from a provider of their choice, no Owner may avoid paying any portion of Charges levied based on non-use of video, data or communication services provided and paid for by the Association with Charges.

4.10 Assumption of Risk.

4.10.1. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to promote the health, safety and welfare of the Owners and Residents. Notwithstanding anything contained in the Governing Documents or any other document binding the Association, none of the Association, the Board, the managing agent, or the Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or Resident of any Dwelling Unit or any tenant, guest or invitee of any Owner or Resident or for any property of any such Persons. Each Owner and Resident of a Dwelling Unit and each tenant, guest and invitee of any Owner or Resident shall assume all risks associated with the use and enjoyment of the Properties, including all recreational facilities.

4.10.2. **Neither the Association, the Board, the managing agent, nor the Declarant or its affiliates shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence or malfunction of utility lines, facilities or equipment on, adjacent to, near, over, or on the Properties. Each Owner and Resident of a Dwelling Unit and each tenant, guest, and invitee of any Owner or Resident shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines, facilities or equipment and further acknowledges that the Association, the Board, the managing agent, and the Declarant have made no representations or warranties, nor has any Owner or Resident, or any tenant, guest, or invitee of any Owner or Resident relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines, facilities or equipment.**

4.10.3. No provision of the Governing Documents shall be interpreted as creating any duty or obligation of the Association, the Board, the managing agent, or the Declarant to protect or further the health, safety or welfare of any individuals, even if the funds of the Association are used for any such purpose.

4.10.4. Each Owner (by virtue of his or her acceptance of title to his or her Dwelling Unit) and each other Person having an interest in or lien upon, or making any use of, any portion of the Properties (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands and causes of action against the Association, the managing agent, and the Declarant, their directors, officers, committee members, employees, agents, contractors, subcontractors, successors and assigns arising from or connected with any matter for which the liability has been disclaimed.

4.11 Change of Use of Common Area.

4.11.1. During the Declarant Control Period, without the approval or consent of the Members, and thereafter, pursuant to action of the Members taken at a duly called meeting of the Members, the Board shall have the power and right to change the use and/or configuration of portions of the Common Area or Limited Common Area. Any such change shall be pursuant to Board resolution stating that: (a) the present use, configuration or service is no longer in the best interest of the Owners, (b) the new use or configuration is for the benefit of the Owners, (c) the new use or configuration is consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Common Area and, (d) the new use or configuration is consistent with the then effective Master Plan.

4.11.2. Notwithstanding the above, if after the Declarant Control Period, the Board adopts a resolution which states that the change in use or configuration will not have an adverse effect on the Association and the Owners, the Board may give notice of the change to all Owners. The notice shall give the Owners a right to submit written objections to the change within thirty (30) days of the notice. If ten percent (10%) or more of the Members who will be affected by the change submit written objections within the period set forth in the notice, the change shall not be effective unless and until it is approved by the Membership as provided in **Section 3.3.2**.

4.12 View Impairment. Neither the Declarant nor the Association guarantees or represents that any view from any Dwelling Unit will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to relocate, prune, or thin trees or other landscaping except as set forth in **Section 5**. **Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.**

4.13 Relationship with Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, or grant exclusive and/or non-exclusive easements over the Common Area to non-profit, tax-exempt organizations for the benefit of the Properties, the Association, its Members and Residents. The Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense of the Association and included as a line item in the Association's annual budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as, but not limited to, entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

4.14 Recycling Programs. The Board may establish a recycling program and recycling center within the Properties, and in such event, all Residents shall support such program by

recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

4.15 Wildlife Notices and Restrictions.

4.15.1. *Wildlife Control.* Declarant and the Association reserve the right to undertake such measures as may be appropriate to control wildlife within the Properties including, but not limited to, the taking of deer, turkeys, alligators and large birds so long as such measures are consistent with all applicable legal requirements. Without limiting the foregoing, Declarant or the Association may, in their discretion, establish regular control programs to prevent such wildlife from nesting within and/or causing damage to the Properties or the Private Amenities or otherwise becoming a nuisance and may limit, control or prohibit the placement or distribution of food or other items consumed by or attractive to wildlife.

4.15.2. *Alligators.* All Owners by accepting a deed for a portion of the Properties acknowledge that any ponds and lagoons within the Properties may contain alligators because alligators are indigenous to this area. No Owner may feed, molest, or otherwise physically interact with any alligator. OWNERS MUST EXERCISE EXTREME CAUTION AROUND ANY POND, LAGOON, OR OTHER WATER FEATURE OF THE PROPERTIES. NEITHER THE DECLARANT NOR THE ASSOCIATION SHALL BE RESPONSIBLE FOR CAPTURING AND/OR RELOCATING ANY ALLIGATOR ON THE PROPERTIES. THE DECLARANT AND THE ASSOCIATION, THEIR MEMBERS, DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE, INCLUDING INJURY AND/OR LOSS OF LIFE TO ANY PERSON OR ANIMAL CAUSED BY AN ALLIGATOR ON THE PROPERTIES.

4.15.3. *Wildlife.* All Owners by accepting a deed for a portion of the Properties acknowledge that wildlife is abundant and thrives in coastal South Carolina, may be located throughout the Properties, and may be very destructive to residential landscaping. Owners are advised to use caution at night when driving through the Properties and to be on alert for wildlife crossing roadways. All Owners are advised to use a landscape plan for Dwelling Units that contains plants known to be wildlife resistant or tolerant. Neither Declarant nor the Association will be responsible for any damage caused by wildlife, whether such damage is to landscaping, automobiles, personal injury, or otherwise. Further, neither the Declarant nor the Association can be required to at any time or in any way control the wildlife population on the Properties; provided, however, the Declarant and the Association reserve the right in its sole discretion to control nuisance wildlife.

4.16 Stormwater Effects. The Community has been planned so that Wetlands and any low-lying areas which are adjacent to Wetlands are generally designated for open space and recreational uses. During and after storm events, however, portions of the Properties may be inundated and unavailable for recreational or other uses.

4.17 Model Homes and Sales Offices. Declarant may use certain Dwelling Units for model homes and sales offices. Without limiting the foregoing, Declarant may use any Dwelling

Units for any use permitted under applicable law, or develop the Properties or any portion of the Properties for any use permitted under applicable law.

SECTION 5: MAINTENANCE

5.1 Association's Responsibility.

5.1.1. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

(a) all Common Area (including Limited Common Area); provided, however, that nothing herein shall mandate a particular method or level of maintenance and portions of the Common Area may be maintained to different standards or left "rustic" or "natural" (not maintained) as the Board in its sole discretion deems appropriate from time to time.

(b) all water service facilities included in the Common Area;

(c) all perimeter walls or fences constructed by the Declarant surrounding the Properties or which separate a Dwelling Unit from the Common Area, regardless of whether such wall or fence is located on the Common Area or on a Dwelling Unit; provided that Owners shall be responsible for maintaining the interior surface of the perimeter wall or fence located on such Owner's Dwelling Unit as provided in **Section 5.2**. A perimeter wall or fence shall not be a Party Wall as set forth in **Section 5.7**;

(d) if, and to the extent, required under applicable City of Hardeeville or Jasper County ordinances, or the Development Agreement, landscaping, street lights and signage within public rights-of-way abutting the Properties;

(e) landscaping and other flora within any public utility easements and scenic easements within the Common Area (subject to the terms of any easement agreement relating thereto);

(f) any additional property included within the Area of Common Responsibility as may be required under the terms of this Declaration, any Supplemental Declaration, any Plat, the Development Agreement, or any contract or agreement for maintenance thereof entered into by, or which is binding upon, the Association;

(g) any property or facility owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members and identified by written notice from the Declarant to the Association until the Declarant revokes such privilege by written notice to the Association; and

(h) free-standing retaining walls constructed by the Declarant located on Dwelling Units and within Easement Areas as specifically provided for in **Section 11.10**, a freestanding retaining wall located within an Easement Area shall not be a Party Wall as set forth in **Section 5.6**.

(i) any private roads and storm drainage systems which are Common Areas or which have been determined by the Board of Directors to be an Area of Common Responsibility.

5.1.2. The Association shall also have the right and power, but not the obligation, to take such actions and adopt such rules as may be necessary for control, relocation and management of wildlife, snakes, rodents, and pests, within the Properties.

5.1.3. The Association may also maintain other property which it does not own, including, without limitation, rights-of-way and other property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law and any governmental entity directly responsible therefor.

5.1.4. Except as hereinafter provided in this Section, the costs of maintenance, repairs and replacement of (a) the Common Area and Areas of Common Responsibility shall be Common Expenses, and (b) Limited Common Area shall be Limited Common Area Expenses which shall be paid by the Owners of Dwelling Units who have the right to use the Limited Common Area in equal shares for each Dwelling Unit.

5.1.5. The Association shall maintain grassed and landscaped areas constituting part of a Dwelling Unit, except for any portion of a Dwelling Unit within a fenced area.

5.1.6. If during the Development Period the Association fails to properly perform its maintenance responsibilities hereunder, the Declarant may, upon not less than ten (10) days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, the Association shall reimburse Declarant for all costs incurred.

5.2 Owner's Responsibility.

5.2.1. Each Owner shall maintain his or her Dwelling Unit and all other improvements comprising the Dwelling Unit in a manner consistent with the Community-Wide Standard, the Rules and Regulations, and all applicable buffer requirements and covenants, unless such maintenance responsibility is otherwise expressly assumed by or assigned to the Association hereunder or pursuant to a Supplemental Declaration or to a Subordinate Association. The area located within the road right-of-way adjacent to a Dwelling Unit, and between the perimeter boundary of the Dwelling Unit and the closest edge of the paved portion of the roadway located thereon, shall initially be maintained as an Area of Common Responsibility and funded as a Common Expense; provided, however, that the Board may determine, in its sole discretion, that maintenance of such area shall be the responsibility of the adjacent Dwelling Unit Owner. Maintenance of this area within the road right-of-way shall be consistent with the Community Wide Standard, the Rules and Regulations, and all applicable laws and ordinances, if any.

5.2.2. Unless otherwise expressly determined by the Board, each Owner shall maintain any irrigation system within the Dwelling Unit in good operating condition and in such a manner that it will properly irrigate any grassed or landscaped areas adjacent to a Dwelling Unit and between the perimeter boundary of the Dwelling Unit and the closest edge of the paved portion of the roadway located within such road right-of-way.

5.2.3. In addition to any other enforcement rights, if an Owner fails to perform properly his or her maintenance responsibility, the Association shall have the right to come upon such Owner's Dwelling Unit and perform such maintenance responsibilities and assess all costs incurred as a Benefitted Assessment in accordance with **Section 8**. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency or other situation where injury, harm or damage is imminent, which determination shall be made by the Board, acting in its sole discretion.

5.3 Special Services to Units:

5.3.1. To the extent provided for in a Supplemental Declaration or by action of the Board, from time to time, the Association may furnish "Special Services" to a Dwelling Unit or a group or groups of Dwelling Units. By way of example and without limitation, a Special Service may include snow removal from driveways and/or walkways on a Dwelling Unit, or grass cutting or maintenance of landscaping on a Dwelling Unit. The cost of furnishing a Special Service shall be assessed to the benefitted owner as a Benefitted Assessment under **Section 8**; however, at least once during each year, each Owner shall be given the right to choose not to receive any Special Service which would otherwise be furnished to the Owner's Dwelling Unit, in which case the Owner shall not be charged for the Special Service and the Owner shall be responsible for furnishing the Special Service to the Owner's Dwelling Unit at the Owner's sole cost and expense. The Association may, by Board action and in its sole discretion, discontinue providing a Special Service in which case each Owner may be required to furnish the Special Service to the Dwelling Unit at Owner's sole cost and expense.

5.3.2. If the Association is required to furnish a Special Service to a Dwelling Unit, but if a portion of the Dwelling Unit with respect to which the Special Service is to be furnished is obstructed with temporary or permanent improvements, personal property or other obstructions which make it difficult or impractical for the Association's agent or contractor to furnish the Special Service, the Association shall not be required to furnish the Special Service and, in such case, the Owner shall be responsible for furnishing the Special Service to such portion of the Dwelling Unit at the Owner's sole cost and expense, so that the appearance of such portion of the Dwelling Unit is similar to that of those portions where the Special Services are furnished by the Association. Anything herein to the contrary notwithstanding, the Association shall not be obligated to furnish Special Services to condominium property or condominium units and nothing herein shall be deemed to constitute the delegation of any powers of a condominium association to the Association hereunder.

5.4 Standard of Performance.

5.4.1. Maintenance, as used in this Section, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, as determined by the Board. Without limiting the foregoing, the Board may establish standards for maintenance of portions of the Properties which are higher than those generally required under the Community Wide Standard.

5.4.2. Notwithstanding anything to the contrary contained herein, neither the Association, any Owner, nor the managing agent shall be liable for property damage or personal injury occurring on, or arising out of, the condition of property which it does not own unless, and only to the extent that, it has been negligent in the performance of its maintenance responsibilities.

5.5 Alterations, Additions or Improvements. Alterations, additions or improvements to the Common Area may be made only pursuant to action of the Board. The cost of any such alterations, additions or improvements to Common Area (other than Limited Common Area) shall be charged to all Owners of Dwelling Units in equal amounts for each Dwelling Unit. Upon delivery of a written request for an alteration, addition or improvement to a particular Limited Common Area which is signed by Owners of two-thirds (2/3) of the Dwelling Units which have the right to use the Limited Common Area and which is also approved by the Board, the requested alteration, addition or improvement shall be made and the cost thereof shall be charged to the Owners of Dwelling Units who have the right to use the Limited Common Area in equal amounts for each Dwelling Unit or, alternatively, such Owners shall be permitted to make such alteration, addition or improvement at their own cost. However, any proposed alteration, addition or improvement to Common Area or Limited Common Area which would result in a charge to a Dwelling Unit of more than ten percent (10%) of the annual Base Assessment or Limited Common Area Assessment, as applicable, then payable by Owners of Dwelling Units who will be assessed to pay the cost of such alteration, addition or improvement, shall not be authorized unless such proposed alteration, addition or improvement and the cost thereof is approved by the affirmative vote of at least two-thirds (2/3) of the votes cast by Voting Members who represent the Dwelling Units which would be assessed to pay the cost of the proposed alteration, addition or improvement at a duly called meeting of the Association members. The cost of an alteration, addition or improvement made pursuant to this Section shall be paid either from reserves or by way of a Special Assessment, as more fully provided in **Section 8** hereof.

5.6 Party Walls.

5.6.1. In General. Every wall, including the foundations therefor, which is built as a part of the original construction of a building and placed on the boundary line between separate Dwelling Units (other than condominium units) shall constitute and be a "Party Wall," and the Owner of a Dwelling Unit immediately adjacent to a Party Wall shall have the obligation and be entitled to the rights and privileges of these covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls.

5.6.2. Rights in Party Wall. Each Owner of a Dwelling Unit, which is adjacent to a Party Wall, shall have the right to use the Party Wall for support of the structure originally constructed thereon and all replacements thereof and shall have the right to keep, maintain, repair and replace therein all pipes, conduit, and ducts originally located therein and all replacements thereof.

5.6.3. Damage to Party Wall:

(a) If any Party Wall is damaged or destroyed through the act or acts of any Owner or Resident of a Dwelling Unit which is adjacent to such Party Wall, or his or her agents, servants, tenants, guests, invitees, licensees, or members of his or her family,

whether such act is willful, negligent or accidental, the Owner shall forthwith proceed to rebuild or repair the same to as good a condition as in which such Party Wall existed prior to such damage or destruction without costs therefor to the Owner of the other adjoining Dwelling Unit.

(b) Any Party Wall damaged or destroyed by some act or event other than one caused by the Owner or Resident of a Dwelling Unit which is adjacent to such Party Wall, or his or her agents, servants, tenants, guests, invitees, licensees, or members of his or her family, shall be rebuilt or repaired by the Owners of the adjacent Dwelling Units to as good a condition as in which such Party Wall existed prior to such damage or destruction at joint and equal expense of such Owners, and as promptly as is reasonably possible.

(c) In the event that any Owner shall fail, within a reasonable time after the occurrence of damage or destruction referred to in this Section, to perform the necessary repair or rebuilding, then the Board may cause such repairs or rebuilding to be performed in the manner as provided in this Section and the cost thereof shall be charged to such Owner as his personal obligation and shall be a continuing lien on the Owner's Dwelling Unit.

5.6.4. Change in Party Wall: Any Owner of a Dwelling Unit who proposes to modify, rebuild, repair or make additions to any structure upon his Dwelling Unit in any manner which requires the extension, alteration or modification of any Party Wall shall first obtain the written consent thereto, as to said Party Wall, of the Owner of the other adjacent Dwelling Unit and the Board, in addition to meeting any other requirements which may apply. In the event that a Party Wall is altered, regardless of whether all required consents have been obtained, any express or implied warranties made by the Declarant concerning the structural integrity of the Party Wall or any of the Dwelling Units adjacent to the Party Wall shall be null and void and the Owner who alters the Party Wall shall be responsible for any and all damage caused to any of the adjacent Dwelling Units or improvements thereto.

5.6.5. Dispute Resolution: In the event of a disagreement between Owners of Dwelling Units adjoining a Party Wall with respect to their respective rights or obligations as to such Party Wall, upon the written request of either of said Owners to the other the matter shall be submitted to the dispute resolution provisions of **Section 14**.

5.7 Street Lighting. Street lighting for the Community will initially be provided by Dominion or a successor electric utility company regulated by the South Carolina Public Service Commission. The costs of installing, operating and maintaining such lighting, plus applicable State of South Carolina sales taxes and other charges authorized by the South Carolina Public Service Commission, shall be billed monthly to the Association and shall be a Common Expense of the Association.

SECTION 6: INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

6.1.1. Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available at reasonable costs, or if not reasonably available at reasonable costs, the most nearly equivalent coverages as are reasonably available at reasonable costs:

(a) Blanket property insurance covering “risks of direct physical loss” on a “special form” basis (or comparable coverage by whatever name denominated) for all insurable improvements within the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty, regardless of ownership. If such coverage is not generally available at reasonable cost, then “broad form” coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes; provided, however, that this coverage may include and provide for a deductible in a commercially reasonable amount as determined by the Board from time to time.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least \$2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits;

(c) Workers compensation insurance and employer’s liability insurance, if and to the extent required by law;

(d) Directors’ and officers’ liability coverage;

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Association funds in an amount determined in the Board’s best business judgment but not less than an amount equal to one-sixth (1/6) of the total annual assessments then in effect, plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of individuals serving without compensation; and

(f) Such additional insurance as the Board, in its business judgment, determines advisable.

6.1.2. Allocation of Premiums. Premiums for all insurance specified in **Section 6.1.1** shall be Common Expenses and shall be included in the Base Assessment, except that, if reasonably separable and economically feasible, premiums for property insurance relating to Limited Common Area may be Limited Common Area Expenses.

6.1.3. Coverage Review. The Association shall arrange for an annual review of the sufficiency of insurance coverage by one (1) or more qualified individuals, at least one (1) of whom must be familiar with insurable replacement costs in the metropolitan Charleston area.

6.1.4. Deductibles. The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of **Section 6.1.1**. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Limited Common Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the Bylaws, that the loss is the result of the negligence or willful misconduct of one (1) or more Owners or Residents, or their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible as a Benefitted Assessment against such Owner(s) and their Dwelling Units pursuant to **Section 8**.

6.1.5. Other Requirements. All insurance coverage obtained by the Board shall:

(a) be written with a company authorized to do business in the State of South Carolina which satisfies the requirements of the Fannie Mae, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(b) be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Areas shall be for the benefit of the Association and its Members;

(c) not be brought into contribution with insurance purchased by Owners, Residents, or their Mortgagees individually;

(d) contain an inflation guard endorsement;

(e) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(f) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association;

(g) provide a waiver of subrogation under the policy against each Owner and each Resident;

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one (1) or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(i) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one (1) or

more individual Owners, unless such Owner is acting within the scope of its authority on behalf of the Association; and

(j) provide for a certificate of insurance to be furnished, upon request, to each Member insured, to the Association and each Mortgagee.

6.1.6. Other Desired Provisions. The Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(a) a waiver of subrogation as to any claims against the directors, committee members, officers, employees, and the Association's manager, the Owners, Residents and their respective tenants, servants, agents, and guests;

(b) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;

(d) an endorsement requiring at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(e) a cross liability provision; and

(f) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

6.1.7. Damage and Destruction. Promptly after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and endeavor to obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

6.1.8. Repair of Damaged Property. Any damage to or destruction of the Common Area shall be repaired or reconstructed unless (i) at least eighty percent (80%) of the total vote in the Association or, in the case of Limited Common Area, of at least eighty percent (80%) of the vote of Owners of Dwelling Units which have a right to use the Limited Common Area, and (ii) the Declarant, during the Development Period, decide within sixty (60) days after the loss not to repair or reconstruct. However, if either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such funds or information are available, not to exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

6.1.9. If No Repair of Damaged Property. If determined in the manner described in the preceding subsection that the damage or destruction to the Common Area shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

6.1.10. Distribution of Excess Insurance Proceeds. Any insurance proceeds remaining after paying the costs of repair or reconstruction and expenses in making and administering the claim, or after such settlement as is necessary and appropriate, shall be distributed among all Owners, if such proceeds are for Common Area, among all Owners who have the right to use the Limited Common Area, if such proceeds are for Limited Common Area in equal amounts for each Dwelling Unit owned.

6.1.11. Inadequate Insurance Proceeds to Pay Cost of Repair. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for sharing in the cost of the premiums for the applicable insurance coverage.

6.2 Owner's Insurance.

6.2.1. Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Dwelling Unit, less a reasonable deductible, unless (a) the Association is expressly required to maintain insurance for the Dwelling Units; (b) the Association voluntarily carries such insurance, or (c) a Subordinate Association is responsible for maintaining such insurance. If the Association assumes responsibility for obtaining any insurance coverage on behalf of Owners, the premiums for such insurance shall be levied as a Benefitted Assessment against the benefitted Dwelling Unit and the Owner thereof pursuant to **Section 8**.

6.2.2. If an Owner is required to carry property insurance pursuant to the preceding subsection, in the event of damage to or destruction of structures on or comprising his Dwelling Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with **Section 9**, regardless of whether the insurance proceeds are sufficient to pay the cost of such work. The Owner shall pay any costs which are not covered by insurance proceeds.

SECTION 7: ANNEXATION AND WITHDRAWAL OF PROPERTIES

7.1 Annexation.

7.1.1. During the Development Period, the Declarant unilaterally may subject to the provisions of this Declaration additional real estate which is within a reasonable distance, as determined by the Board, to Properties then described in Exhibit A, as it may be amended from time-to-time. Declarant may transfer or assign this right to annex property, provided that such transfer is memorialized in a written instrument executed by Declarant and filed in the Public Records. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of additional real estate in the vicinity of the Community which is owned by Declarant or an affiliate of the Declarant in any manner whatsoever.

7.1.2. Annexation shall be accomplished by filing in the Public Records a Supplemental Declaration describing the real estate being annexed and amending Exhibit A to reflect the annexation of such real estate. Such Supplemental Declaration shall not require the consent of the Members, but shall require the consent of any owner of such real estate other than Declarant. Any such annexation shall be effective upon the filing in the Public Records of such Supplemental Declaration unless otherwise provided therein. Each Dwelling Unit subject to this Declaration, whether initially described on Exhibit A or annexed and added to Exhibit A pursuant to a Supplemental Declaration, shall have the same obligations for Charges with respect to the Dwelling Unit as are applicable to comparable Dwelling Units, except as provided in the following subsection.

7.1.3. Any Supplemental Declaration may contain covenants, conditions, restrictions and easements which apply only to the real estate being annexed and/or may create exceptions to, or otherwise modify, the terms of this Declaration as they may apply to the real estate being annexed in order to reflect the different or unique character and/or intended use of such real estate.

7.2 Withdrawal of Properties Subject to Declaration. The Declarant reserves the unilateral right during the Development Period to amend this Declaration to withdraw any portion of the Properties from the coverage of this Declaration whether originally described on Exhibit A or added thereto by a Supplemental Declaration; provided, no property which includes a Dwelling Unit shall be withdrawn after the Dwelling Unit has been conveyed by Declarant to any Person other than an affiliate of the Declarant or a Builder. Such amendment shall not require the consent of any Person other than the Owner of the real estate to be withdrawn, if not the Declarant. If the real estate is Common Area, the Association shall consent to such withdrawal upon the request of the Declarant and shall evidence such consent as may reasonable be required by the Declarant.

7.3 Amendment. This Section shall not be amended during the Development Period without the prior written consent of Declarant.

7.4 Post-Development Period Authority. After the Development Period, the Association may add and annex real estate to the Properties or withdraw and transfer real estate from the Properties pursuant to action approved by a vote of a majority of the votes represented by Voting Members present at a duly called annual or special meeting of the Members.

SECTION 8: ASSESSMENTS

8.1 Creation of Assessments; Timing; Statements.

8.1.1. Authority to Assess; Types of Charges. Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Section and elsewhere in the Governing Documents. There shall be seven (7) types of assessments (sometimes also referred to in this Declaration as "Charges"): (a) Base Assessments; (b) Limited Common Area Assessments; (c) Special Assessments; (d) Benefitted Assessments; (e) Initial Capital Contribution, and (f) New Member Fee. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay

those Charges which are applicable to such Owner. These Charges shall be in addition to and distinct from any assessments levied by a Subordinate Association.

8.1.2. Uses of Charges. The Charges levied by the Association pursuant to the authority granted in this **Section 8**, shall be used exclusively for Common Expenses, including, without limitation, maintenance, fulfilling the Association's rights and obligations hereunder, and promoting the recreation, health, safety, and welfare of the applicable Owners, as determined by the Board, or for such other purposes as are authorized or reasonably implied by this Declaration and other Governing Documents.

8.1.3. Timing of Payment of Charges. Charges shall be paid in such manner and by such dates as the Board may establish. Unless the Board otherwise provides, the Base Assessment, and any Limited Common Area Assessment shall be due and payable in advance on the first day of the Association's fiscal year; provided, that, upon the first conveyance of a Dwelling Unit to a purchaser for value, the pro rata portion of such assessments for the balance of the fiscal year shall be due and payable upon conveyance of the Dwelling Unit. If any Owner is delinquent in paying any assessments or other Charges levied on his or her Dwelling Unit, the Board may accelerate and require any unpaid installments of all outstanding assessments to be paid in full immediately.

8.1.4. No Exemption from Charges. Except as expressly set forth herein, no Owner may exempt himself or herself from liability for Charges by non-use of Common Area, abandonment of his or her Dwelling Unit, or any other means. The obligation to pay Charges is a separate and independent covenant on the part of each Owner. No diminution or abatement of Charges or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

8.2 Declarant's Obligation for Charges.

8.2.1. Declarant Option. During the Declarant Control Period, Declarant annually may elect either to pay applicable Charges on all of Declarant's Dwelling Units that remain unsold throughout the entire fiscal year or to pay the shortage for such fiscal year. For purposes hereof, the "shortage" shall be the difference between:

(a) the amount of all income and revenue of any kind received by the Association, including but not limited to, Charges collected on all other Dwelling Units, use fees, advances made by Declarant, loans, and income from all other sources; and

(b) the amount of all actual expenditures incurred by the Association during the fiscal year, including any reserve contributions for such year, but excluding all non-cash expenses such as depreciation or amortization, all expenditures and reserve contributions for making additional capital improvements or purchasing additional capital assets, and all expenditures made from reserve funds.

8.2.2. Calculating Shortage. Calculation of the shortage shall be performed on a cash basis of accounting. Unless the Declarant otherwise notifies the Board in writing at least thirty (30) days before the beginning of each fiscal year, the Declarant shall be deemed to have

elected to continue paying on the same basis as during the immediately preceding fiscal year. If the Declarant elects, or is deemed to elect, to pay the shortage for a particular fiscal year and there is no shortage for such fiscal year, then the Declarant shall not be obligated to any amounts to the Association under this Section with respect to such fiscal year.

8.2.3. Contributions. The Association is authorized to enter into subsidy contracts or contracts for “in kind” contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses or Limited Common Area Expenses. The payment of Charges or the shortage may be reduced or abated by the agreed value of any such services or materials provided in accordance with any such contract or agreement with the Association.

8.2.4. Declarant’s Mortgagee; Exempt of Charges. Notwithstanding anything contained herein to the contrary, Magnolia Residential Investors, LLC, its successors and assigns (hereinafter “Declarant’s Mortgagee”) shall not be obligated to pay, and shall be exempt from, any applicable Charges on any Dwelling Unit(s) for which it becomes the owner thereof by way of foreclosure (or deed in lieu thereof) so long as such party owns such Dwelling Unit(s), whether or not improved, until the conveyance or transfer of such Dwelling Unit(s) to any third party. This provision may not be amended or altered without the express written consent of Declarant’s Mortgagee.

8.3 Budget; Base Assessment.

8.3.1. Preparing Annual Budget. The Board shall prepare an annual budget covering the Common Expenses estimated to be incurred and the revenues to be received during the fiscal year to which the proposed budget applies (the “Budget”) and may make amendments thereto from time to time. The Budget shall include any amount required to establish one or more reserves for repair and replacement of Areas of Common Responsibility or such other purposes as the Board may reasonably determine. Reserves for repair and replacement of Areas of Common Responsibility shall, to the extent then feasible, takes into account the nature and expected life of replaceable assets within the Area of Common Responsibility and their expected repair or replacement cost, but Owners acknowledge that such projections are only estimates. The Budget, as well as any amendment to the Budget for a particular year, shall be prepared and available to members not less than thirty (30) days before the date on which it is to take effect. Failure to meet this thirty (30) day requirement for Budget preparation shall not invalidate any Budget or amendment; provided, however, that no budget or amendment shall be effective or used as a basis for an annual or amended levy of Charges until thirty (30) days after it is prepared and available to Members.

8.3.2. If New Budget Not Adopted. Notwithstanding **Section 8.3.1**, unless otherwise expressly determined by the Board, if the Board fails for any reason to adopt a Budget for the fiscal year, then, until such time as a new Budget is adopted, the Budget and Base Assessment in effect for the current fiscal year shall automatically be increased effective the first day of the next fiscal year in the same proportion as any percentage increase during the current Year over the preceding Year, in the Consumer Price Index, all Urban Consumers, United States City Average, All Items (the “CPI”) or its successor index, as determined by the Board of Directors. In order to provide time to determine any applicable increase, the “Year” for

determining the CPI shall be measured from October 1 through September 30. Such adjusted Budget shall be the Budget for the succeeding year, until a new Budget is adopted.

8.3.3. Factors to Consider. The Base Assessment shall be levied equally against all Dwelling Units subject to assessment and shall be set at a level which, combined with any other revenues of the Association, is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including contributions to reserves. In determining the level of Charges, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Dwelling Units subject to assessment under **Section 8.12** on the first day of the fiscal year for which the Budget is prepared and the number of Dwelling Units reasonably anticipated to become subject to assessment during the fiscal year.

8.3.4. Declarant Approval During Declarant Control Period. During the Declarant Control Period, the Budget and the Base Assessment must only be approved by the Declarant. Notice of the proposed Base Assessments or any amendments thereto shall be posted in a prominent place within the Properties. In addition, the Board may, in its discretion, provide additional notice to members such as including notice in the Association's newsletter, if any. There shall be no obligation to call a meeting for the purpose of considering the Budget and proposed Base Assessment.

8.3.5. Approval After Declarant Control Period. After the Declarant Control Period, the Budget and the proposed Base Assessment may be disapproved at a meeting or written ballot of the Members upon the vote of Voting Members representing at least a two-thirds (2/3) of the total Association vote, which vote shall be held upon petition of the Voting Members required to call a special meeting of Association under the Bylaws, which petition must be presented to the Board within thirty (30) days after notice of the proposed Budget and the proposed Base Assessment

8.3.6. Funding by Declarant. The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of amounts (in addition to any amounts paid by Declarant under **Section 8.2**), which may be either a contribution, an advance against future Charges due from the Declarant, or a loan, in the Declarant's discretion. Any such payments shall be disclosed as a line item in the Budget. The payment of such amounts in any year shall not obligate the Declarant to continue such payments in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

8.3.7. Reserve Funds. The Board may adopt resolutions regarding the expenditure of reserve funds, including policies designating the nature of assets for which reserve funds may be expended. Such policies may differ for general Association purposes, and for each Limited Common Area.

8.4 Limited Common Area Assessments. The Board shall prepare a separate budget covering the estimated Limited Common Area Expenses for each Limited Common Area on whose behalf Limited Common Area Expenses are expected to be incurred during the year to which the proposed budget applies and may make amendments thereto from time to time. The budget, as well as any amendments, shall be subject to the same general procedures as are set forth in **Section**

8.3. Limited Common Area Expenses shall be allocated equally among all Dwelling Units benefitted thereby as Limited Common Area Assessments.

8.5 Initial Capital Contribution; Escrows; Declarant Loans.

8.5.1. Amount and Timing. In order to provide initial working capital for the Association and/or to fund the reserve or escrow accounts referenced in **Section 8.5.2**, below, each initial purchaser of a Dwelling Unit, other than Declarant, an Affiliate of Declarant, or Declarant's Mortgagee, shall pay to the Association an Initial Capital Contribution of \$1,000.00 concurrently with the closing of the conveyance of the Dwelling Unit to the purchaser. After the payment of the Initial Capital Contribution, no additional Initial Capital Contribution shall be payable to the Association upon any subsequent sale of such Dwelling Unit. Except as set forth in 8.5.2, Initial Capital Contribution shall be used by the Association as determined by the Board of Directors, including, without limitation, reimbursement of the Declarant for funds paid by the Declarant as set forth in **Section 8.5.3**.

8.5.2. Reserve and Escrow Accounts. The Board may create one or more escrow or reserve accounts for deposit, disbursement or reimbursement of any fees or funds paid or payable by or for the benefit of the Association pursuant to applicable laws. Without limitation, the preceding sentence shall apply to any City of Hardeeville ordinance requiring the escrow of funds for use in maintaining roads and storm drainage systems within the Properties. Declarant discloses that Declarant has prepaid escrow funds into a bank account in the name of and controlled by the Association as required by the City of Hardeeville. Unless otherwise expressly approved by Declarant, Initial Capital Contributions paid by initial purchasers pursuant to **Section 8.5.1** shall be payable Declarant to reimburse Declarant for amounts prepaid by Declarant until such time as Declarant funds paid by Declarant pursuant to the preceding sentence have been repaid in full, without interest.

8.5.3. Funding of Reserve and Escrow Accounts by Declarant. The Declarant may, from time to time, contribute or lend funds to the Association to provide adequate funds to establish any escrow or reserves, such as those referenced in **Section 8.5.2**. Except as set forth in the last sentence of **Section 8.5.2**, any funds loaned to the Association by Declarant or any affiliate of Declarant shall be evidenced by a promissory note from the Association or other written evidence of such obligation, but any interest on any such indebtedness shall be at a rate that is no higher than would reasonably be charged by an independent financial institution, taking into consideration the assets and liabilities of the Association, as borrower, at the time of the loan.

8.6 Special Assessments.

8.6.1. Purpose. In addition to other authorized Charges, the Board may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those included in the Budget, including, without limitation, unbudgeted capital expenditures, insurance premiums and deductibles, and unanticipated legal, accounting or other professional services. Any such Special Assessment may be levied against all Dwelling Units, if such Special Assessment is for Common Expenses, or against Dwelling Units which have the right to use Limited Common Area, if such Special Assessment is for Limited Common Area Expenses.

8.6.2. Timing and Manner of Payment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and, if determined by the Board, may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. During the Declarant Control Period, only the approval of the Declarant shall be required for such Special Assessments. After the Declarant Control Period, such Special Assessments shall become effective unless disapproved by the vote of Voting Members representing at least two-thirds (2/3) of the total votes allocated to Dwelling Units which will be subject to such Special Assessment, in accordance with the procedures set forth in **Section 8.3**.

8.7 Benefitted Assessments. The Board may levy "Benefitted Assessments" against particular Dwelling Units for expenses incurred or to be incurred by the Association, as follows:

8.7.1. to cover the costs, including overhead and administrative costs, of providing benefits, items or Special Services to the Dwelling Unit or Residents thereof, which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

8.7.2. to cover costs incurred in bringing a Dwelling Unit or Dwelling Units into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or Residents of the Dwelling Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Dwelling Unit Owner prior written notice and an opportunity for a hearing, in accordance with the Bylaws, before levying any Benefitted Assessment under this subsection (b).

8.7.3. as may be otherwise provided in this Declaration or any Supplemental Declaration.

8.8 New Member Fee.

8.8.1. When Collected. In addition to any administrative or transfer fee established by the Board and collected to cover administrative costs of membership transfer, the Association shall collect a New Member Fee upon each and every transfer of title to a Dwelling Unit, other than exempt transfers as set forth in **Section 8.8.2**, below. The New Member Fee shall be charged to and payable by the purchaser of the Dwelling Unit at the closing of the transfer, but payment shall be secured by the Association's lien for Charges, which lien shall not be affected by the transfer of title. Each Owner transferring a Dwelling Unit shall notify the Association or its designee at least seven (7) days prior to the scheduled closing. Such notice shall identify the property to be transferred and include the name of the purchaser, the date of title transfer, and other information the Association may reasonably require.

8.8.2. Exemption. No New Member Fee shall be levied upon transfer of title to property:

- (a) by or to the Declarant, any affiliate of Declarant, or Declarant's Mortgagee;
- (b) by a builder or developer holding title solely for purposes of development and resale;

(c) by any Person conveying a Dwelling Residential Unit for which no deed recording fee is payable under South Carolina law (at the time of recordation of this Declaration, S.C. Code Ann. Section 12-24-10 et seq.); or

(d) to or by the Association.

8.8.3. Amount.

(a) Each initial purchaser of a Dwelling Unit, other than Declarant, an Affiliate of Declarant or Declarant's Mortgagee, shall pay a New Member Fee equal to two (2) months' of the annual Base Assessment due upon the transfer of title to the Dwelling Unit.

(b) Each purchaser other than an initial purchaser of a Dwelling Unit, shall pay a New Member Fee equal to 0.33% of the Gross Selling Price of the Dwelling Unit, with all improvements, upgrades and premiums included, due upon the transfer of title to the Dwelling Unit. For purposes hereof, the "Gross Selling Price" shall be the total cost to the purchaser of the Dwelling Unit, excluding governmental transfer taxes or recording fees based on value, if any, imposed on the transfer.

8.8.4. Documentation. The Association may require the Owners involved in a transaction to provide a closing statement, contract, deed, or other evidence providing reasonable proof of the Gross Selling Price of the Dwelling Unit.

8.8.5. Purposes. New Member Fees shall be used for purposes which the Association Board deems beneficial to meet the general operating or capital reserve needs of the Association.

8.9 Creation and Enforcement of Lien and Personal Obligation.

8.9.1. Obligation to Pay. Each Owner of a Dwelling Unit by acceptance of a deed therefor (whether or not it shall be so expressed in any such deed or other conveyance) shall be and is deemed to covenant and agree to pay to the Association all Charges made with respect to the Owner or the Owner's Dwelling Unit. Each Charge, together with interest thereon, late charges, and reasonable costs of collection (including reasonable attorney's fees), if any, as hereinafter provided, shall be a continuing lien upon the Dwelling Unit against which such Charge is made and also shall be the personal obligation of the Owner of the Dwelling Unit at the time when the Charge becomes due. The lien or personal obligation created under this Section shall be in favor of and shall be enforceable by the Association.

8.9.2. Remedies of Association. If an Owner fails to pay any Charge within thirty (30) days of the date on which it is due, the Association may pursue all actions and remedies allowed by law to enforce and collect the Charge. The enforcement rights of the Association shall include, but not be limited to, the filing of a Notice of Claim of Lien in the Public Records, which lien may thereafter be immediately foreclosed in the same manner as a mortgage under South Carolina law. The Association may also bring an action of law against any Owner personally obligated to pay all or any portion of the Charges due. The amount secured and recoverable shall include (a) all Charges accrued at the date of filing and those accruing thereafter through the date

of judgment, (b) all additional charges as provided and permitted in **Section 8.10**, and (c) reasonable attorney's fees and collection costs. All enforcement rights of the Association shall be cumulative.

8.10 Non-Payment of Charges. Any Charge which is not paid to the Association when due shall be deemed delinquent. Any Charge which is delinquent for thirty (30) days or more shall bear interest at eighteen percent (18%) (or the maximum allowed by law, if less), per annum from the due date to the date when paid. In addition, the Association may assess reasonable late fees. The Association shall be entitled to charge and recover from the delinquent Owner the reasonable attorney's fees and collection costs it incurs, as well.

8.11 Lien for Charges Subordinated to Earlier Mortgages. The lien for a Charge provided by **Section 8.10** shall be subordinate to a Mortgage on the Dwelling Unit which was recorded prior to the date that the lien for any such Charge attached. Except as hereinafter provided, the lien for Charges, provided for in **Section 8.9**, shall not be affected by any sale or transfer of a Dwelling Unit, regardless of whether the notice permitted under **Section 8.9** is filed at the time of the sale or transfer. Where title to a Dwelling Unit is transferred pursuant to a decree of foreclosure of the Mortgage, such transfer of title shall extinguish the lien for unpaid Charges which became due prior to the date of the transfer of title. However, the transferee of the Dwelling Unit shall be personally liable for his share of the Charges with respect to which a lien against his Dwelling Unit has been extinguished pursuant to the preceding sentence where such Charges are reallocated among all the Owners pursuant to a subsequently adopted annual or revised Base Assessment, Limited Common Area Assessment, Benefitted Assessment, Special Assessment, and non-payment thereof shall result in a lien against the transferee's Dwelling Unit, as provided in this Section.

8.12 Date of Commencement of Assessments. The obligation to pay Base Assessments and Special Assessments as to each Dwelling Unit shall commence on the first day of the month following: (a) the month in which the Dwelling Unit is made subject to this Declaration, or (b) the month in which the Board first determines a Budget and levies Charges pursuant to this Section, whichever is later. An Owner's obligation to pay assessments shall commence as to each Dwelling Unit at the time of conveyance of the respective Dwelling Unit by the Declarant or Declarant's Mortgagee to an Owner other than the Declarant or Declarant's Mortgagee. The first annual Base Assessment and Limited Common Area Assessment, if any, levied on each Dwelling Unit shall be adjusted according to the number of months remaining in the fiscal year at the time such Charges commence on the Dwelling Unit.

8.13 Failure to Assess or Provide Notice. Failure of the Board to prepare a budget, to fix assessment amounts or rates or to provide notice shall not be deemed to be a waiver, modification, or release of any Owner from the obligation to pay Charges. In such event, each Owner shall continue to pay applicable Charges on the same basis as during the last period for which an Charge was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.14 Property Exempt from Charges. The following property shall be exempt from payment of Charges:

8.14.1. All Common Area and such portions of the Properties owned by the Declarant which are or are to be included in the Area of Common Responsibility; and

8.14.2. Any portion of the Properties dedicated to and accepted by any governmental authority or public utility.

In addition, the Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

8.15 Utility Costs Billed to Owners. Certain utility charges incurred in connection with the use, operation and maintenance of the Common Area may not be separately metered to the Common Area. If such charges are metered to an individual Dwelling Unit rather than being separately metered for the Common Area, then the following shall apply:

8.15.1. If, in the opinion of the Board, each Owner is sharing in a fair and equitable manner the cost of such service, then no adjustment shall be made and each Owner shall pay his own bill; or

8.15.2. If, in the opinion of the Board, the Owner of a Dwelling Unit is being billed disproportionately for costs allocable to the Common Area, then the Association shall pay, or reimburse such Owner, an amount equal to the portion of the bill which in the reasonable determination of the Board is properly allocable to the Common Area, as the case may be, and the amount thereof shall be Common Expenses or Limited Common Area Expenses hereunder, as applicable.

8.15.3. Any determinations or allocations made hereunder by the Board shall be final and binding on all parties.

8.16 Statement of Charges. Upon written request of any Owner, Mortgagee, prospective Mortgagee, lessee, or prospective purchaser or lessee of a Dwelling Unit, the Association or its duly authorized agent shall issue a written statement (which, in the absence of misrepresentation or fraud by the Owner or Person requesting, shall be conclusive upon the Association) setting forth the following:

8.16.1. the amount of any unpaid Charges, if any, applicable to such Dwelling Unit;

8.16.2. the amount of the current Charges applicable to the Dwelling Unit, and the date or dates upon which any payment thereof shall become due; and

8.16.3. The amount of any credit for advance payments of Charges for the Dwelling Unit.

The Association may charge a reasonable fee, which the Board may require to be payable in advance, to cover the reproduction, postage, administrative expenses and other expenses incurred in providing such a statement. Unless such written statement is delivered to the address within the United States shown in the request within fourteen (14) calendar days after receipt of

the request (or such longer period as is authorized in the request) and payment of any reasonable fee charged by the Association, the Association shall have no right to assert a priority lien against the Dwelling Unit for the amount of unpaid Charges, if any, applicable to such Unit.

SECTION 9: ARCHITECTURAL STANDARDS

9.1 General. For purposes hereof “Regulated Work” shall consist of and include (a) excavating, filling, grading, installation or alteration of landscaping; (b) construction, installation, or placement of any building, driveway, walkway, fence, porch, patio, deck, balcony, statuary, sign or other advertising or promotional devices or any other temporary or permanent improvement or structure on or to any portion of the Properties; or (c) any modification, alteration, major repair, renovation, addition or removal of or to any of the foregoing which is visible from outside of a Dwelling Unit. Regulated Work shall not include repainting the exterior of a structure in accordance with the originally approved color scheme or rebuilding of a damaged Dwelling Unit in accordance with originally approved plans and specifications. Regulated Work shall also not include work done by the Declarant during the Development Period. Unless specifically provided in the Supplemental Declaration which makes real estate which is part of a condominium subject to the terms of this Declaration as part of the Properties, Regulated Work shall not include any work on or to any real estate which is made subject to the South Carolina Horizontal Property Act by Declarant. During the Development Period, this Section may not be amended without the Declarant’s written consent.

9.2 Architectural and Design Review.

9.2.1. Applications, Fees and Consultants. Responsibility for administration of the Design Guidelines, as defined below, and review of all applications to do Regulated Work shall be as described in **Sections 9.2.2 and 9.2.3**. The Reviewing Entity (defined below), may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may, in its discretion, include all or a portion of the compensation paid to such persons employed by the Association in the Association’s annual operating budget as a Common Expense.

9.2.2. Declarant Control. During the Development Period, the Declarant shall have exclusive right and power to review and approve or disapprove any and all proposed Regulated Work. The Declarant may (but shall not be obligated to), in its sole discretion, delegate all or a portion of its reserved rights under this Section to the ARC (defined below) to review modifications to existing structures. Any such delegation shall be in writing, specifying the scope of responsibilities delegated, and shall be subject to (a) the right of Declarant to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated; and (b) the right of Declarant to veto any decision which it determines, in its sole discretion, to be inappropriate or inadvisable for any reason. Until the end of the Development Period, the jurisdiction of the ARC shall be limited to such matters as are specifically delegated to it. In acting pursuant to this subparagraph the Declarant shall be acting solely in its interests and shall owe no duty to the Association or any Owner or Resident.

9.2.3. Architectural Review Committee. The Board of Directors shall establish a committee (the “Architectural Review Committee” or “ARC”), which may consist of Residents or other Persons determined by the Board. Until the end of the Development Period, the ARC shall only have such rights and powers to review and approve or disapprove modifications or alterations to be made to existing structures as may be delegated to it by the Declarant provided, that, in no event shall the ARC have the right or power to review modifications to be made to any portion of the Properties which part of a condominium is under the South Carolina Horizontal Property Act. The ARC shall assume exclusive jurisdiction over all Regulated Work at the end of the Development Period. During the Development Period, the Declarant shall have the right to veto any action taken by the ARC which the Declarant determines, in its sole discretion, to be inconsistent with the Design Guidelines.

9.2.4. Reviewing Entity Defined. For purposes of this Section, the term “Reviewing Entity” shall mean the Declarant or the ARC, as applicable.

9.3 Design Guidelines and Procedures.

9.3.1. During the Development Period, the Declarant, and after the end of the Development Period, the ARC, may prepare and may amend Design Guidelines which shall apply to all Regulated Work within the Properties. Any amendments to the Design Guidelines shall apply to Regulated Work commenced after the date of such amendment only and shall not apply to require modifications to or removal of Regulated Work previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the Design Guidelines may be amended to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

9.3.2. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, intended use, the Master Plan, and any other applicable zoning ordinances. The Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewing Entity and compliance with the Design Guidelines does not guarantee approval of any application.

9.3.3. The Association shall make the Design Guidelines available to Owners and Builders who seek to engage in development or construction within the Properties and all such Persons shall conduct their activities in accordance with such Design Guidelines. The Association may charge a reasonable fee to offset the administrative and reproduction costs involved in providing the Design Guidelines. In the Declarant’s discretion, such Design Guidelines may be recorded in the Public Records, in which event the recorded version, as it may be amended unilaterally from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

9.3.4. All Regulated Work shall be done in strict compliance with the Design Guidelines in effect at the time the plans for the Regulated Work are submitted to and approved by the Declarant or the ARC, as applicable, unless a variance has been granted in writing pursuant to **Section 9.6**. So long as the Reviewing Entity has acted in good faith, its findings and

conclusions with respect to appropriateness of, applicability of or compliance with the Design Guidelines and this Declaration shall be final.

9.4 Submission of Plans and Specifications.

9.4.1. Prior to commencing any Regulated Work, an Owner shall submit an application for approval of the proposed Regulated Work to the appropriate Reviewing Entity. Such application shall be in the form required by the Reviewing Entity and shall include detailed plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor and other features of proposed construction, as applicable. The Design Guidelines shall set forth the procedure and any additional information for submission of the Plans. Before the Owner may begin the proposed Regulated Work, the application must be approved by the Reviewing Entity in accordance with the procedures described below.

9.4.2. In reviewing each submission, the Reviewing Entity may consider whatever factors it deems relevant. The Declarant or the ARC, as applicable, may require relocation of native plants within the construction site or the installation of an irrigation system for the landscaping including the natural plant life on the Dwelling Unit as a condition of approval of any submission.

9.4.3. The Reviewing Entity shall advise the party submitting the application at an address specified by such party at the time of submission, of (i) the approval of Plans, (ii) the rejection of Plans and the reasons therefor, or (iii) the partial rejection of the Plans identifying aspects of the Plans determined to be unacceptable and the reasons therefor. All responses shall be in writing. No application or Plans shall be deemed "accepted" or "approved" based on any inaction or failure of the Reviewing Entity to respond. All Regulated Work shall be in strict accordance with all applicable laws, statutes, ordinances, environmental rules or regulations regardless of whether the response or Design Guidelines so state.

9.4.4. If construction does not commence on a project for which Plans have been approved within one hundred twenty (120) days of the date of approval, as set forth in the written response of the Reviewing Entity pursuant to the preceding subsection, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the Reviewing Entity for reconsideration. If construction is not completed on a project for which plans have been approved within the period set forth in the Design Guidelines or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Section and subject to the enforcement provisions of this Section.

9.4.5. If landscaping is not installed, or not to be installed, by the Declarant or Builder, each Owner of a Dwelling Unit shall, within a period of two hundred ten (210) days from the conveyance of the Dwelling Unit to the Owner by the Declarant or a Builder, install full landscaping in the Owner's yard in accordance with plans approved by the Reviewing Entity and meeting the minimum requirements set forth in the Design Guidelines.

9.5 No Waiver of Future Approvals. Each Owner acknowledges that the persons reviewing applications will change from time to time and that opinions on aesthetic matters, as

well as the interpretation, application and enforcement of the Design Guidelines, may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.6 Variance. The Reviewing Entity may authorize variances from its guidelines and procedures, but only: (a) in accordance with duly adopted Rules and Regulations, (b) when unique circumstances dictate, such as unusual topography, natural obstructions, hardship or aesthetic or environmental considerations, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. **All variances must be in writing.** Inability to obtain or the terms of any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance. Notwithstanding the above, during the Development Period, the ARC may not authorize variances without the written consent of the Declarant.

9.7 Limitation of Liability.

9.7.1. The standards and procedures established by this Section are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Community; they do not create any duty to any Person. Review and approval of any application pursuant to this Section is made on the basis of aesthetic considerations only, and the Reviewing Entity shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

9.7.2. Declarant, the Association, the Board, any committee, or member of any of the foregoing shall not be held liable for soil conditions, drainage or other general site work; any defects in plans revised or approved hereunder; any loss or damage arising out of the action, inaction, integrity, financial condition or quality of work of any contractor or its subcontractors, employees or agents, whether or not Declarant has approved or featured such contractor as a builder in The Community; or any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Dwelling Unit. In all matters, the Declarant, the Board, the ARC, and the members of each shall be defended and indemnified by the Association as provided in **Section 4**.

9.8 Enforcement.

9.8.1. Non-Conforming Work; Cure. Any construction, alteration or other work done without prior written approval or otherwise in violation of this Section or the Design Guidelines shall be deemed to be non-conforming. Upon written request from the Declarant, the ARC, or the Board, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the requester or restore the property, Dwelling Unit and/or Dwelling Units to substantially the same condition as existed prior to the non-conforming work. Should an Owner fail to remove and restore as required, the Declarant, the Association or its designees shall have the right to enter the property,

remove the violation, and restore the property to substantially the same condition as previously existed. All such costs, together with the interest at the rate established by the Board (not to exceed the maximum rate then allowed by law), may be assessed against the benefitted Dwelling Unit and collected as a Benefitted Assessment unless otherwise prohibited in this Declaration.

9.8.2. Approval Conditions. All approvals granted hereunder shall be deemed conditioned upon proper completion of all elements of the approved work and all work previously approved with respect to the same Dwelling Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work by the deadline set forth in the approval, the Declarant or the Association shall be authorized, after notice to the Owner of the Dwelling Unit and an opportunity to be heard in accordance with the Bylaws, to enter upon the Dwelling Unit and remove or complete any incomplete work and to assess all costs incurred against the Dwelling Unit and the Owner thereof as a Benefitted Assessment unless otherwise prohibited in this Declaration.

9.8.3. Other Remedies of Association. The above rights to enter and correct shall be in addition to and not in lieu of all the rights and remedies available to the Association under this Declaration or applicable law. If an Owner's failure to act make entry necessary or desirable, neither the Declarant, the Association, nor its designees shall incur any liability to the Owner for doing so, all potential liability and/or claims being expressly waived and released.

9.8.4. Owner Responsible for Its Agents. All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Section and the Design Guidelines may be excluded from the Properties, subject to the notice and hearing procedures contained in the Bylaws. In such event, none of the Declarant, the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

9.8.5. Right of Enforcement. The Association shall be primarily responsible for enforcement of this **Section 9**. If, however, in the discretion of the Declarant, the Association fails to take appropriate enforcement action, as authorized herein, within a reasonable time period, the Declarant, during the Development Period, may, but shall not be obligated to, exercise enforcement rights in the same manner as set forth above. In addition to the foregoing, the Association and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Section and the decisions of the Reviewing Entity.

SECTION 10: USE RESTRICTIONS

10.1 Residential Use. Except as expressly provided in **Section 10.2**, below, the Properties shall be used only for residential, recreational, and related purposes.

10.2 Restrictions on Business Use.

10.2.1. Except as expressly provided below, no commercial activity, business, trade, or similar activity shall be conducted in or from any Dwelling Unit. "Commercial", "business" and "trade" shall be construed to have their ordinary, generally accepted meanings and

shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer of such goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (a) such activity is engaged in full or part time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

10.2.2. Notwithstanding the preceding subsection, an Owner or Resident may conduct ancillary business activities within the Dwelling Unit so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve regular visitation of the Dwelling Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; (d) the business activity does not materially increase vehicular traffic in the Community or traffic by commercial vehicles; (e) the business activity does not increase insurance costs for the Association; and (f) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

10.2.3. The barter, sale, or exchange of new or used personal property at any Dwelling Unit (by way of description and not limitation, such events are commonly referred to as “yard sales,” “moving sales,” “attic sales,” or “garage sales”) will be allowed only if (a) sponsored by the Association, or (b) expressly authorized in writing by the Association. The Association may, but it is not required to, adopt Rules and Regulations regarding such sales. (which may include, without limitation, offices for any managing agent or agents retained by the Association; business uses by the Declarant, the Association or their authorized agents, such as, without limitation, offices or facilities for sales, leasing, marketing, advertising, management, display, construction, utility services and security services) consistent with this Declaration and any Supplemental Declaration.

10.2.4. The business restrictions of this **Section 10.2** shall not apply to any activity conducted by the Declarant or its affiliate, or to a Builder to the extent expressly approved by the Declarant, with respect to development and sale of the Properties or its use of any Dwelling Units which it owns within the Properties. Permitted activities include, without limitation, offices for any managing agent or agents retained by the Association and other business uses by the Declarant, the Association or their authorized agents relating to the Properties, such as, without limitation, offices or facilities for sales, leasing, marketing, advertising, management, display, construction, utility services and security services) consistent with this Declaration and any Supplemental Declaration.

10.3 Rental of Dwelling Units.

10.3.1. Not A Business Use. The rental or leasing of a Dwelling Unit shall not be considered a business or trade within the meaning of this subsection. “Rental or leasing”, for purposes of this Declaration, is defined as occupancy of a Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Dwelling Units may be rented or leased only in their

entirety. No fraction or portion of any Dwelling Unit may be leased or rented. There shall be no subleasing of Dwelling Units or assignment of leases unless prior written approval is obtained from the Board. All leases or rental agreements ("Leases") shall be in writing and shall contain such terms as the Board may prescribe from time to time. All Leases shall provide that they may be terminated in the event of a violation of the Governing Documents by a tenant or a tenant's family, guests or invitees, and the Board, in its discretion, may require termination by the Owner and eviction of the tenant in such event. Failure to include such a provision shall not preclude the right of the Board to act in such circumstances.

10.3.2. Term of Lease. All Leases shall be for an initial term of no less than six (6) months, except: (a) with the prior written consent of the Board or (b) as initially authorized by Declarant in a Supplemental Declaration for certain Dwelling Units. The Owners may not amend this provision to prohibit leasing of Dwelling Units authorized by Declarant for rental to transient tenants and for a term less than six (6) months until the end of the Development Period.

10.3.3. Notice of Leases. Notice of any Lease; the name(s), home address(es), and home telephone number of the renter(s) or lessee(s); a complete copy of the Lease (which may exclude the actual rent received by the Owner); and such additional information as may reasonably be required by the Board, shall be given to the Association or its designee by the Dwelling Unit Owner within the earlier of (a) fourteen (14) days after execution of the lease, or (b) seven (7) days prior to occupancy of the Dwelling Unit by the lessee or renter. The Owner must make available to the lessee copies of the Governing Documents.

10.3.4. Rules Governing Leasing. The Board may adopt reasonable Rules and Regulations regulating or restricting leasing and subleasing.

10.4 Occupants Bound. All provisions of the Governing Documents shall also apply to all Residents, tenants, lessees, guests, and invitees of any Dwelling Unit ("Occupant"). Every Owner shall cause all Occupants comply with the foregoing, and every Owner shall be responsible for all violations, losses, or damages caused by an Occupant, notwithstanding the fact that such Occupant is fully liable and may be sanctioned for any violation. In addition to all other remedies available to the Association in the event of a violation by an Occupant, the Association may require that the Occupant be removed from and not allowed to return to the Properties and/or that any lease, agreement or permission given allowing the Occupant to be present be terminated.

10.5 Quiet Enjoyment. Nothing shall be done or maintained on any part of a Dwelling Unit which emits foul or obnoxious odors outside the Dwelling Unit or creates noise or other conditions which tend to unreasonably disturb the peace, quiet, safety, comfort, or serenity of the Residents and invitees of other Dwelling Units. No activity shall be carried on upon any portion of the Properties, which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the Residents and invitees of other Dwelling Units, as may be determined in the sole discretion of the Board.

10.6 Unsightly or Unkempt Conditions. All portions of a Dwelling Unit outside of enclosed structures shall be kept in a clean and tidy condition at all times. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Dwelling Unit so as

to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other portion of the Properties. No other nuisance shall be permitted to exist or operate upon any Dwelling Unit so as to be offensive or detrimental to any other portion of the Properties. No activities shall be conducted upon or adjacent to any Dwelling Unit or within improvements constructed thereon which are or might be unsafe or hazardous to any Person or property. No Owner shall engage in any activity which materially disturbs or destroys the vegetation, wildlife, or air quality within the Properties or which result in unreasonable levels of sound or light pollution. The determination as to whether a condition or activity violates this section shall be made by the Board acting in its sole discretion.

10.7 Temporary Structures. Tents, shacks, or other structures of a temporary nature shall not be permitted on any Dwelling Unit, except as approved in accordance with **Section 9** or as may be authorized by the Declarant during initial construction within the Properties. Permitted temporary structures used during the construction or repair of a Dwelling Unit or other improvements shall be removed immediately after the completion of construction or repair.

10.8 Subdivision of Dwelling Unit. No Dwelling Unit shall be subdivided or its boundary lines changed except with the prior written approval of the Board; provided, however, the Declarant, its successors and assigns hereby expressly reserve the right unilaterally to subdivide, change the boundary line of, and re-plat any Dwelling Unit(s) owned by Declarant, its successors and assigns during the Development Period.

10.9 Time-Sharing. No Dwelling Unit shall be made subject to any type of timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Dwelling Unit rotates among multiple Persons on a fixed or floating time schedule over a period of years. However, the Declarant hereby reserves the right for itself and its assigns to operate such a program.

10.10 Wetlands. A portion of the Properties which contain wetlands, wetland buffers, submerged lands, or other critical areas and activities that is subject to the jurisdiction of the U.S. Army Corps of Engineers and/or South Carolina Department of Health and Environmental Control shall be considered "Wetlands"). Owners of Wetlands shall comply with any applicable governmental regulations, restrictions, agreements, ordinances, regulations or policies of such governmental authorities and shall be responsible for unapproved activities on such Wetlands.

10.11 Number of Persons Per Bedroom. Dwelling Units shall not be occupied by more than two (2) persons per bedroom in the Dwelling Unit; provided that this shall not apply to an infant in the care of an adult occupant.

10.12 Unlawful Acts or Omissions. Any act or omission which is in violation of any law, code, ordinance, governmental rule or regulation, shall not be done, permitted or allowed to remain or continue.

10.13 Irrigation and Wells. No sprinkler or irrigation system of any type which would draw water from creeks, streams, rivers, lakes, ponds, Wetlands, canals or other ground or surface waters within the Properties shall be installed, constructed or operated within the Properties. All sprinkler and irrigation systems shall be subject to approval in accordance with **Section 9** of this Declaration. Private wells are prohibited on the Properties. The provisions of this Section shall

not apply to wells, sprinklers or irrigation systems installed or expressly authorized by the Declarant or a regulated public or private utility company providing services to the Community.

10.14 Drainage-and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves a perpetual easement across the Properties for the purpose of altering drainage and water flow; provided, such easement right shall not be exercised in such a manner as to unreasonably interfere with the use of any Dwelling Unit without the affected Owner's consent. Private septic or sewage disposal systems are prohibited on the Properties.

SECTION 11: EASEMENTS

11.1 Easements of Encroachment. The Declarant reserves to itself and grants to the Association and to each Dwelling Unit reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Dwelling Unit and any adjacent Common Area and between adjacent Dwelling Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three (3) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.2 Easements for Utilities.

11.2.1. There are reserved to the Declarant during the Development Period, and granted to the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity. The Declarant and/or the Association may assign these rights to any local utility supplier, cable company, security company or other company providing a service or utility to the Properties subject to the limitations herein.

11.2.2. This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any Dwelling Unit, and any damage to a Dwelling Unit resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Dwelling Unit and, except in an emergency, entry onto any Dwelling Unit shall be made only after reasonable notice to the Owner or Resident.

11.2.3. Declarant grants to the local utility suppliers easements across the Properties, during normal business hours or in the event of a perceived emergency, for ingress,

egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes; provided, however, that Declarant may further define the terms and location of such easement in written easement recorded in the Public Records. However, the exercise of this easement shall not extend to permitting entry into the structures on any Dwelling Unit, nor shall any utilities be installed or relocated on the Properties, except as approved by the Board or Declarant.

11.3 Easements to Serve Additional Property.

11.3.1 During the Development Period, the Declarant reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the real estate adjacent to the Properties, whether or not such real estate is made part of the Properties. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such real estate. Declarant further agrees that if the easement is exercised for permanent access to such real estate and such real estate or any portion thereof benefitting from such easement is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such real estate.

11.3.2 Notwithstanding anything contained herein to the contrary, Declarant reserves the additional right to grant to Declarant's Mortgagee for the benefit of Declarant's Mortgagee, its successors and assigns, as owner (by foreclosure or otherwise) of any portion of Parcels 4C, 4D, and/or 4E as shown on that certain plat entitled "Subdivision Plat Parcels 4C-4E Formerly Parcel 4A and A Portion Of Shubrick Lakes Tract" prepared by Thomas & Hutton Engineering Co., Robert K. Morgan, South Carolina Professional Land Surveyor No. 26957, dated April 10, 2019, and recorded May 15, 2019 in the Office of the Register of Deeds for Jasper County, South Carolina, in Plat Book 151 at Page 178 (hereinafter the "Additional Property") the following non-exclusive, perpetual easements (collectively hereafter the "Easements"): (i) ingress and egress over, across and through any portion of the Properties, other than Dwelling Units, but only for the purpose of accessing the Additional Property; (ii) access, maintenance, installation and connection to underground utilities located on the Properties but only for the purpose of providing underground utilities to the Additional Property; and (iii) the right of owners of lots or other properties within the Additional Property to use the clubhouse, tennis or pickleball courts, walking trails, swimming pool and related parking facilities (collectively hereafter the "Amenities") which are to be constructed by Declarant on a parcel within the Properties or the Additional Property, provided that said usage rights will be the same or similar terms and conditions as owners of lots within the Properties; together with all and singular the rights, members, hereditaments and appurtenances belonging to or in any way incident or appertaining to the Easements. This provision may not be amended or altered without the express written consent of Declarant's Mortgagee.

11.4 Easements for Cross-Drainage. The Declarant reserves for itself and grants to the Association that an easement across every Dwelling Unit and all Common Area for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall

alter the natural drainage on any Dwelling Unit to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected Properties, the Board, and, during the Development Period, the Declarant.

11.5 Right of Entry. The Declarant grants to the Association an easement of access and right, but not the obligation, to enter all portions of the Properties, including each Dwelling Unit, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association, its Board, officers, or committees, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry into a structure on a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner thereof, which shall not be unreasonably withheld. This easement includes the right to enter any Dwelling Unit to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but does not authorize entry into any structure on a Dwelling Unit without permission of the Owner, except by emergency personnel acting in their official capacities.

11.6 Easements for Maintenance and Enforcement. The Declarant grants to the Association and its authorized agents, a perpetual easement and right to enter all portions of the Properties, including each Dwelling Unit to (a) perform its maintenance responsibilities under **Section 5**, (b) make inspections to ensure compliance with the Governing Documents, and (c) abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred in reasonably exercising the easement granted by (c), including reasonable attorneys' fees, shall be assessed against the violator as a Benefitted Assessment. Except in situations reasonably deemed at the time to be emergencies, entry into a structure on a Dwelling Unit shall be only during reasonable hours and after notice to and permission from the Owner which shall not be unreasonably withheld. This easement shall be exercised in a manner requiring a limited interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

11.7 Easements for Exterior Landscaping and Maintenance. The Declarant grants to the authorized agents of the Association the right to enter upon those portions of the Dwelling Unit outside of the home thereon to furnish services required or permitted to be furnished by the Association hereunder or under any Supplemental Declaration. Any damage caused by the exercise of this Easement shall be repaired by the Association at its expense.

11.8 Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant reserves for itself and its designees all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Dwelling Unit, that Declarant shall retain all such rights. Such rights shall include the reservation of an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff, and effluent. This Section may not be amended without the consent of the Declarant or its successor, and the rights created in this Section shall survive termination of this Declaration.

11.9 Easements for Freestanding Retaining Walls. Declarant reserves for itself and grants to the Association a perpetual easement over Easement Areas located on Dwelling Units for

the purpose of maintenance, repair, and replacement of the freestanding retaining walls constructed by the Declarant generally along and parallel to the real property lines of some Dwelling Units. The "Easement Area," as defined herein, shall extend for a distance of twenty feet (20') on each side of all retaining walls, shall include access as may be necessary from a public street to each retaining wall and shall burden each Dwelling Unit, a portion of which falls within the Easement Area, including those that may be necessary for access. No person shall change, modify, or affect in any way a retaining wall located within any Easement Area as defined herein without prior written authorization from the Board.

11.10 Specific Easements. Declarant reserves for itself, its successors and assigns, during the Development Period, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property subject to this Declaration.

11.11 Access Easement. Declarant reserves for itself and for its employees, agents, and designees a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area as Declarant deems appropriate in Declarant's sole discretion.

11.12 Easement for Signs. Declarant reserves for itself, the Association, and their respective successors and assigns, the alienable, transferable and perpetual right and easement upon, over, and across those strips of land ten (10) feet in width extending from the front Dwelling Unit boundary line adjacent to rights of way for the installation, maintenance, and use of sidewalks, traffic directional signs, and related improvements; provided, however, that Declarant shall have no obligation to construct any such improvements.

11.13 Easement for Special Events. Declarant reserves for itself, its successors, assigns, and designees, a perpetual, non-exclusive easement appurtenant over the Common Area for the purpose of conducting educational, cultural, entertainment, or sporting events, and other activities of general community interest at such locations and times as Declarant, in Declarant's sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Dwelling Unit, acknowledges and agrees that the exercise of the rights reserved under this easement may result in an increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of Owner's Dwelling Unit to take no action, legal or otherwise, which would interfere with the exercise of such rights or to recover damages for or as the result of any such activities.

11.14 Fire Control Easement. Declarant reserves for itself, the Association, and their respective agents, successors, and assigns, the perpetual right and easement to enter upon all portions of the Properties, including each Dwelling Unit, to cut fire breaks in the Properties and to undertake other fire prevention or control activities to control fires on the Properties.

11.15 Pest Control Easement. Declarant reserves for itself, the Association, and their respective agents, successors, and assigns, the perpetual right and easement to enter upon all portions of the Properties to dispense pesticides and take other action which is deemed necessary or desirable by either Declarant or Association to control insects, vermin, or pests.

11.16 Minimal Interference. All work associated with the exercise of the easements described in **Section 11** shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. If, however, any structure has been erected within an easement area preventing or interfering with the exercise of the easements described in this **Section 11**, the Person exercising the easement shall notify in writing the owner of the Dwelling Unit upon which the structure is located, and the Owner shall have five (5) days from the date of written notice to remove the structure. If the structure is not so removed, the Person exercising the easement shall have the right to remove such structure without recourse and shall not have the obligation to restore such structure. The exercise of these easements shall not extend to permitting entry into the structures on any Dwelling Unit, nor shall it unreasonably interfere with the use of any Dwelling Unit and, except in an emergency, entry onto any Dwelling Unit shall be made only after reasonable notice to the Owner or occupant.

SECTION 12: MORTGAGEE PROVISIONS

The following provisions are for the benefit of Mortgagees. The provisions of this Section apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

12.1 Notices of Action. An institutional Mortgagee which provides written request to the Association (such request to state the name and address of such Mortgagee, the name of the Mortgagor as shown on the records of the Mortgagee, and the street address of the Dwelling Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice, at the address of the Mortgagee on the records of the Association, of:

- (a) Any condemnation loss or any casualty loss which adversely affects a material portion of the Properties or which materially and adversely affects any Dwelling Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;
- (b) Any delinquency in the payment of Charges owed by a Dwelling Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of thirty (30) days;
- (c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association which provides coverage for the Dwelling Unit; or
- (d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

12.2 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Dwelling Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

12.3 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association in writing the name and address of the holder of any Mortgage encumbering such Owner's Dwelling Unit, the name of the mortgagor on the records of the Mortgagee, and the loan number secured by such Mortgage.

12.4 Failure of Mortgagee to Respond. Any Eligible Holder who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Eligible Holder within fourteen (14) days of the date of the Association's request, provided such request is delivered to the Eligible Holder by certified or registered mail, return receipt requested.

SECTION 13: DECLARANT RIGHTS

13.1 Assignment and Transfer of Declarant Rights.

13.1.1. Assignment. The Declarant may assign any rights and obligations of the Declarant set forth in this Declaration or the Bylaws to any affiliate of the Declarant or a Builder, or Declarant may allow any affiliate of the Declarant or a Builder to exercise such rights on behalf of the Declarant. The method of exercising such rights shall be subject to the agreement of the parties thereto, which shall not require recordation in the Public Records.

13.1.2. Transfer. The Declarant may transfer to other Persons, in whole or in part, any rights and obligations of the Declarant set forth in this Declaration or the Bylaws, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the Bylaws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

13.2 Models, Sales Offices and Management Offices. During the Development Period and for the period of twelve (12) months thereafter, the Declarant and Builders authorized by Declarant may maintain and carry on upon any Dwelling Unit owned by Declarant or a Builder or any portion of the Common Area such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Dwelling Units or other real estate, including, but not limited to, business offices, signs, model units, marketing trails, and sales offices. The Declarant and authorized Builders shall have easements for access to and use of such facilities. Except as provided below, the Declarant's or Builder's right to use the Common Area for purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Area by Owners.

13.3 Other Covenants Prohibited. During the Development Period, no Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's prior written consent. Any instrument recorded without such consent shall result in such instrument being void and of no force and effect unless subsequently approved in writing by the Declarant and recorded in the Public Records.

13.4 Master Planned Community. Each Owner, by accepting title to a Dwelling Unit and becoming an Owner, and each other Person, by acquiring any interest in the Properties, acknowledges awareness that The Community is a master planned community, the development

of which is likely to extend over many years, and agrees not to protest or otherwise object to (a) zoning or changes in zoning or to uses of, or changes in density of, the Properties during the Development Period, or (b) changes in any conceptual or master plan for the Properties, including, but not limited to, the Master Plan; provided, such revision is or would be lawful (including, but not limited to, lawful by special use permit, variance or the like) and is not inconsistent with what is permitted by the Declaration (as amended from time to time).

13.5 Equal Treatment of Declarant. During the Development Period, the Association shall not, without the prior written consent of the Declarant, adopt any policy, rule or procedure that:

13.5.1. Limits the access of the Declarant, its successors, assigns and/or affiliates or their personnel and/or guests, including visitors, to the Common Areas;

13.5.2. Limits or prevents the Declarant, its successors, assigns and/or affiliates or their personnel from advertising, marketing or using the Association or its Common Areas in promotional materials;

13.5.3. Limits or prevents purchasers of new residential housing constructed by the Declarant, any Builder, their successors, assigns and/or affiliates in The Community from becoming members of the Association or enjoying full use of its Common Areas, subject to the membership provisions of this Declaration and the Bylaws;

13.5.4. Impacts the ability of the Declarant, its successors, assigns and/or affiliates, to carry out to completion its development plans and related construction activities for The Community, as such plans are expressed in the Master Plan, as such may be amended and updated from time to time. Policies, rules or procedures affecting the provisions of existing easements established by the Declarant and limiting the establishment by the Declarant of easements necessary to complete The Community shall be expressly included in this provision. Easements that may be established by the Declarant shall include but shall not be limited to easements for development, construction and landscaping activities and utilities;

13.5.5. Impacts the ability of the Declarant, its successors, assigns and/or affiliates to develop and conduct customer service programs and activities in a customary and reasonable manner; or.

13.5.6. Interferes with the rights of the Declarant set forth in this Declaration or impede access to any portion of the Properties over the streets and other Common Areas within the Properties.

13.6 Sales By Declarant. Notwithstanding the restriction set forth in **Section 2.6**, Declarant reserves the right to sell Dwelling Units to Persons between the ages of 50 and 55, inclusive years of age; provided, such sales shall not affect The Community's compliance with all applicable state and federal laws under which the Properties may be developed and operated as an age-restricted community.

13.7 Activity Cards for Marketing or Promotion. During the Development Period, the Declarant may, in its sole discretion, issue Activity Cards to persons or entities as part of its sales, marketing, or promotional activities.

SECTION 14: DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

14.1 Prerequisites to Actions Against Declarant. Prior to any Owner or the Association filing a civil action, undertaking any action in accordance with **Section 14.4**, or retaining an expert for any such action against Declarant or any Builder or subcontractor of any portion of The Community, the Owner or the Board, as appropriate, shall notify and meet with the Members to discuss the alleged problem or deficiency. Moreover, prior to taking any action, the potential adverse party shall be notified of the alleged problem or deficiency and provided reasonable opportunity to cure the problem.

14.2 Consensus for Association Litigation. Except as provided in this Section after the Declarant Control Period, the Association shall not commence a judicial or administrative proceeding without first providing at least twenty-one (21) days written notice to its Members of a special meeting to consider such proposed action. Taking such action shall require the vote of Owners of seventy-five percent (75%) of the total number of Dwelling Units in the Association. This Section shall not apply, however, to (a) actions brought by the Association to enforce the Governing Documents (including, without limitation, the collection of Charges and the foreclosure of liens); (b) counterclaims brought by the Association in proceedings instituted against it; or (c) actions to protect the health, safety, and welfare of the Members. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

14.3 Alternative Method for Resolving Disputes. Declarant, the Association, and their respective officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Section (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances, or disputes described in **Section 14.2 (Claims)** shall be resolved using the procedures set forth in **Section 14.4** in lieu of filing suit in any court.

14.4 Claims.

14.4.1. Unless specifically exempted below, all Claims arising out of or relating to the interpretation, application, or enforcement of the Governing Documents, or the rights, obligations, and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of **Section 14.5**.

14.4.2. Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not constitute a Claim and shall not be subject to the provisions of **Section 14.5**:

(a) any suit, action or proceeding by the Association against any Bound Party to collect charges payable pursuant to the provisions of **Section 8**, or to enforce the provisions thereof;

(b) any suit, action or proceeding by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of **Section 7** and **Section 13**;

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

(d) any suit by an Owner concerning the aesthetic judgment of the Architectural Review Committee, the Association, or Declarant pursuant to their authority and powers under **Section 9**;

(e) any suit in which any indispensable party is not a Bound Party;

(f) any internal administrative process for the possible imposition of fines or suspension of rights, services or privileges as provided under **Section 4.3**; and

(g) any suit as to which any applicable statute of limitations would expire within ninety (90) days of giving the Notice required by **Section 14.5.1**, unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Section.

14.4.3. With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in **Section 14.5**.

14.5 Mandatory Dispute Resolution Procedures.

14.5.1. Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the Notice), stating plainly and concisely:

(a) the nature of the Claim, including the Persons involved and Respondents role in the Claim;

(b) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);

(c) Claimant's proposed remedy; and

(d) that Claimant will meet with Respondent to discuss good faith ways to resolve the Claim.

14.5.2. Negotiation and Mediation. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in negotiation. If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of an independent agency providing dispute resolution services in the Charleston, South Carolina, metropolitan area.

14.5.3. Waiver. If Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

14.5.4. Documentation of Settlement. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the Parties. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation, or within such time as determined by the mediator, the mediator shall issue a written notice of termination of the mediation proceedings. The notice of termination of mediation shall set forth that the Parties are at an impasse and the date that mediation was terminated.

14.6 Allocation of Mediation Costs. Each Party shall bear its own mediation costs, including attorneys’ fees, and each Party shall share equally all charges rendered by the mediator.

14.7 Enforcement of Resolution. After resolution of any Claim through negotiation or mediation, if any Party fails to abide by the terms of any agreement, then any other Party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply with the procedures set forth in **Section 14.5** or **Section 14.2**. In such event, the Party taking action to enforce the agreement shall be entitled to recover from the non-complying Party (or if more than one (1) non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement, including, without limitation, attorneys’ fees and court costs.

14.8 Attorneys’ Fees. In the event of an action or proceeding instituted to enforce any of the obligations and provisions contained in the Governing Documents, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys’ fees and costs, including administrative and lien fees, of such action or proceeding. In the event the Association is a prevailing party in such action, the amount of such attorneys’ fees and costs awarded against an Owner shall also be a Benefitted Assessment under **Section 8** with respect to that Owner’s Dwelling Unit(s).

SECTION 15: PRIVATE AMENITIES

15.1 Right to Use.

15.1.1. Access to and use of any Private Amenities are strictly subject to the rules and procedures of the Private Amenities, and no Person automatically gains any right to enter or

to use those facilities by virtue of membership in the Association, ownership of a Dwelling Unit, or occupancy of a Dwelling Unit.

15.1.2. Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether, except as may be provided in a restrictive covenant recorded against the Private Amenity for the benefit of Owners hereunder.

15.1.3. The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversions of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenity, or (c) the conveyance of a Private Amenity to one (1) or more subsidiaries, affiliates, shareholders, employees, or independent contractors of the Declarant. No consent of the Association, or any owner shall be required to effectuate such a transfer or conversion.

15.1.4. Except as expressly provided herein, no representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by the Declarant or the owner(s) of the Private Amenities which are the subject thereof.

15.2 Assumption of Risk and Indemnification.

15.2.1. Each Owner, by its purchase of a Dwelling Unit, hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of any Private Amenity.

15.2.2. Neither Declarant, the Association nor any of Declarant's affiliates or agents shall be liable to any Owner or any other person claiming any loss of damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to any Private Amenity including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents or the Association. The Owner hereby agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents, and the Association against any and all claims by Owner's visitors, tenants and others upon such Owner's Dwelling Unit or the Properties at the request of Owner or with Owner's consent.

15.3 View Impairment. None of the Declarant, the Association, or the owner or operator of any Private Amenity guarantees or represents that any view over and across any Private Amenity from Dwelling Units will be preserved without impairment. No provision of this Declaration shall be deemed to create an obligation of the Association, the owner of any Private

Amenity, nor the Declarant to prune or thin trees or other landscaping except as provided in **Section 5**. The owner of any Private Amenity may, in its sole and absolute discretion, add trees and other landscaping to such Private Amenities from time to time. Any such additions or changes to Private Amenities may diminish or obstruct any view from the Dwelling Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

15.4 Limitations on Amendments. In recognition of the fact that the provisions of this Section are for the benefit of the Private Amenities, no amendment to this Section, and no amendment in derogation of any other provisions of this Declaration benefitting any Private Amenity, may be made without the written approval of the owner of the Private Amenities affected thereby. The foregoing shall not apply, however, to amendments made by the Declarant.

SECTION 16: CONDOMINIUM AND OTHER SUBORDINATE ASSOCIATIONS

16.1 In General. Declarant may determine, in its sole discretion, that it is necessary or appropriate to have a portion of the Properties administered by a condominium or non-condominium homeowners association which is separate and apart from the Association hereunder. For example, if the Declarant desires to subject a portion of the Properties to the South Carolina Horizontal Property Act, the Declarant will record a condominium master deed with respect to such portion of the Properties which condominium master deed will provide for the creation of a not-for-profit corporation to administer and maintain the condominium common elements. Similarly, the Declarant may record a non-condominium covenants with respect to a portion of the Properties which will provide for the creation of a not-for-profit corporation to administer and maintain such portions of the Properties. An example of a situation where the Declarant may create a separate Subordinate Association to administer a portion of the Properties is where the homes which are made part of the Properties will require services which are quantitatively or qualitatively different than those which will be furnished by the Association hereunder with respect to the Common Area or Limited Common Area. For purposes hereof, any separate declaration which is recorded against a portion of the Properties shall be referred to herein as a "Subordinate Declaration" and the association which administers the real estate which is subject to the Subordinate Declaration shall be referred to herein as a "Subordinate Association."

16.2 Relationship of the Association and the Subordinate Associations. It is intended that each Subordinate Association shall operate independent of the Association hereunder. Thus, to the extent that a Subordinate Association is granted the power and authority to maintain Dwelling Units or portions of the Properties which serve Dwelling Units, the Association hereunder shall not be obligated to maintain such areas or furnish such services. Otherwise the provisions of this Declaration shall remain fully applicable to and enforceable against any portion of the Properties which is also subject to a Subordinate Declaration, and each Owner shall remain a member of this Association as well as the Subordinate Association. Nothing herein shall be deemed to restrict or limit the right of the Declarant or the ARC to approve Regulated Work as provided in **Section 9**.

SECTION 17: WETLANDS DECLARATION

Portions of the Properties designated as wetlands and wetlands buffers are subject to an Amended and Restated Declaration of Restrictive Covenants dated August 13, 2015 and recorded on August 24, 2015 in Book 903 at Page 551 in the Public Records, as amended or supplemented.

SECTION 18: RESERVED**SECTION 19: GENERAL PROVISIONS**

19.1 Term. Unless otherwise provided by South Carolina law, in which case such law shall control, this Declaration shall run with the land and have perpetual duration. This Declaration may be terminated only by an instrument signed by Owners of at least ninety percent (90%) of the total Dwelling Units within the Properties and, during the Development Period, the Declarant, which instrument is recorded in the Public Records. 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.

19.2 Amendment.

19.2.1. Amendment By Declarant During Declarant Control Period. During the Declarant Control Period, Declarant unilaterally may amend this Declaration.

19.2.2. Amendment By Declarant After Declarant Control Period. After the Declarant Control Period, but during the Development Period, the Declarant unilaterally may amend this Declaration without the consent of the Association, any Owner, any easement grantee, any lessee, or any Mortgagee if, in Declarant's opinion, such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Dwelling Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Fannie Mae or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Dwelling Units; (iv) to enable any reputable private insurance company to insure mortgage loans on the Dwelling Units; (v) to satisfy the requirements of any local, state or federal governmental agency for the development, marketing, and sale of Dwelling Units or (vi) to correct any scrivener's error, or resolve inconsistencies or ambiguities in this Declaration or any Exhibit hereto or any Supplemental Declaration

19.2.3. Amendment by Voting Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of the Voting Members voting at a meeting or by written ballot in accordance with the procedures set forth in the Bylaws, and the consent of the Declarant during the Declarant Control Period. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

19.2.4. Execution of Amendments. Except for amendments made unilaterally by Declarant during the Declarant Control Period, amendments to this Declaration shall be executed

by the President of the Association and any entity whose approval is required by this Declaration or any Supplemental Declaration.

19.2.5. Rights of Declarant. No amendment may remove, revoke, or modify any right or privilege of the Declarant, or impose any additional obligation on the Declarant without the written consent of the Declarant.

19.2.6. Actions Deemed to Be Approval. If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment. The affirmative vote or written consent of any one (1) Owner of a Dwelling Unit shall be deemed sufficient to constitute approval unless another Owner of the same Dwelling Unit objects or dissents in writing prior to the deadline established for votes to be cast or consents to be obtained.

19.2.7. Effective Date. Any amendment or supplement to this Declaration shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment or supplement. Any procedural challenge to an amendment must be made within one (1) year of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

19.3 Severability. Invalidity of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

19.4 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants and restrictions provided for in any Supplemental Declaration, and the Association may, but shall not be required to, enforce such additional covenants and restrictions. Nothing herein shall preclude any Supplemental Declaration or other recorded covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same. In the event of a conflict among the Governing Documents, the priority shall be: 1. Declaration; 2. Articles of Incorporation; 3. Bylaws; 4. Design Guidelines; 5. Rules and Regulations; and 6. Resolutions adopted by the Board of Directors.

19.5 Use of the Words “K. Hovnanian’s® Four Seasons at Hilton Head Lakes.” No Person shall use the words “K. Hovnanian’s® Four Seasons at Hilton Head Lakes” or any derivative in any printed or promotional material without the Declarant’s prior written consent.

19.6 K. Hovnanian Marks. Any use by the Association of names, marks or symbols of K. Hovnanian®, K. Hovnanian’s® Four Seasons at Hilton Head Lakes, LLC or any of its affiliates (collectively “K. Hovnanian Marks”) shall inure to the benefit of Declarant and shall be subject to Declarant’s periodic review for quality control. The Association may enter into license agreements with Declarant, terminable with or without cause and in a form specified by Declarant

in its sole discretion, with respect to permissive use of certain K. Hovnanian Marks. The Association shall not use any K. Hovnanian Mark without Declarant's prior written consent.

19.7 Compliance. Every Owner and Resident of any Dwelling Unit shall comply with the Governing Documents. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, administrative imposition of fines and suspension of services or privileges granted to an Owner by this Declaration or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Dwelling Unit Owner(s), subject, however, to the provisions of **Section 14**.

19.8 Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Dwelling Unit shall give the Board prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Dwelling Unit, including assessment obligations, until the date upon which such written notice is received by the Board, notwithstanding the transfer of title. The transferor shall also provide the transferee with a copy of this Declaration and any Supplemental or Subordinate Declaration applicable to the Dwelling Unit transferred before the sale is closed or the transfer finalized.

19.9 Notice Procedures Generally.

19.9.1. Form of Notice. Unless otherwise specifically provided by law, whenever notice is required or permitted under this Declaration, it shall be in writing and (a) personally delivered or (b) sent postage or delivery charges prepaid either (i) by United States mail, certified, return receipt requested, in which case notice shall be deemed to occur on the certified date of delivery or rejection of delivery or (ii) if within the United States, by First Class or Priority United States mail, in which case notice shall be deemed to occur four (4) calendar days after date of postmark, (iii) by any dependable delivery service that provides evidence of delivery, in which case notice shall be deemed to occur on the certified date of delivery, or (iv) any other procedure that would constitute a valid notice for service of process. Notices by other methods, such as facsimile or e-mail transmission, shall be valid if the recipient thereof acknowledges receipt in writing.

19.9.2. Notices to Owners. All notices to Owners shall be delivered or sent to such addresses as has been designated in writing to the Association, or if no address had been so designated, at the address shown on the property tax records of Jasper County.

19.9.3. Notices to Association. All notices to the Association shall be delivered or sent to:

Four Seasons at Hilton Head Lakes Association
Attn: Manager
132 Bluffton Road, Suite 202
Bluffton, SC 29910

With a copy to:

K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC
c/o Kenneth Mahieu, Esq.
K. Hovnanian Companies
4090-A Lafayette Center Drive
Chantilly, VA 20151

or to such other address as the Association may from time to time notify the Owners and the Declarant.

19.9.4. Notices to Declarant. All notices to Declarant shall be delivered or sent to:

K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC
c/o Kenneth Mahieu, Esq.
K. Hovnanian Companies
4090-A Lafayette Center Drive
Chantilly, VA 20151

With a copy to:

K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC
c/o Community Manager
132 Bluffton Road, Suite 202
Bluffton, SC 29910

or to such other address as Declarant may from time to time notify the Association.

19.9.5. Notices to Mortgagees. Any notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing in accordance with **Section 12.1.**

THE BALANCE OF THIS PAGE IS INTENTIONALLY BLANK.

SIGNATURE PAGE FOLLOWS.

IN WITNESS WHEREOF, an authorized agent of Declarant has executed this Declaration as of the date below.

WITNESSES:

K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC
a South Carolina limited liability company

Julianne Garcia
Witness Julianne Garcia

By: *Mark Rubino* (SEAL)
Mark Rubino, Area President

Carrie B Little
Notary Carrie B Little

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 7 day of March, 2025 by Mark Rubino, Area President, an authorized signatory for **K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC**, a South Carolina limited liability company, on behalf of the company.

Carrie B Little
Notary Public for the State of South Carolina
Print Name: Carrie B Little
My Commission Expires: 10/29/2030

(Seal)

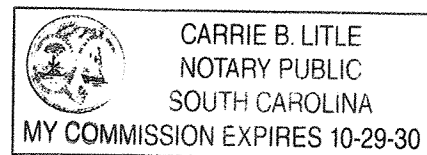


EXHIBIT A: THE PROPERTIES**Legal Description**

All that certain piece, parcel or tract of land located in Jasper County, South Carolina, containing 235.47 acres, more or less, and being more particularly described on the plat entitled "A Boundary Plat of the Omega Tract formerly known as Parcel B, TMP 042-00-06-038, being a Portion of the Argent Tract", prepared by Thomas & Hutton Engineering Co., and certified by Boyce L. Young, S.C.R.L.S. No. 11079, dated July 14, 2005, last revised September 14, 2005, and recorded in Plat Book 28, Page 199 in the Public Records, said plat being incorporated herein and made a part hereof by this reference.

BEING the property conveyed to K HOVNANIAN'S FOUR SEASONS AT HILTON HEAD LAKES, LLC by deed of WA HOLDINGS SOUTH, LLC dated July 18, 2023 and recorded July 24, 2023 in Book 1130, Page 255 in the Public Records.

Jasper County TMS 042-00-06-038

EXHIBIT B: INITIAL RULES AND REGULATIONS

NOTE: THESE INITIAL RULES AND REGULATIONS MAY BE MODIFIED OR SUPPLEMENTED FROM TIME TO TIME BY THE BOARD OF DIRECTORS OF THE ASSOCIATION IN ACCORDANCE WITH SECTION 4.3 OF THE DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR FOUR SEASONS AT HILTON HEAD LAKES (“DECLARATION”), AND SUCH AMENDMENTS OR RESTATEMENTS SHALL BE RECORDED. ATTENTION IS ALSO CALLED TO THE ARCHITECTURAL STANDARDS AND USE RESTRICTIONS SET FORTH IN SECTIONS 9 AND 10 OF THE DECLARATION AND ANY APPLICABLE RESTRICTIONS OF THE PROTECTIVE COVENANTS AND RESTRICTIONS OF HILTON HEAD LAKES.

1. ***Signs.*** No sign shall be erected, placed or displayed within the Properties, either inside or outside of buildings or improvements, without the written consent of the Board, except those required by law, including, without limitation, “For Sale” signs, “For Rent” signs, “For Lease” signs, political signs, posters, circulars and billboards. If permission is granted to any Person to erect a sign within the Properties, the Declarant or ARC, as applicable, shall have the right to restrict the size, color, lettering, and placement of such sign. The Declarant shall have the right to erect signs as they, in their discretion, deem appropriate, including, without limitation, “for sale,” entry and directional signs.

2. ***Vehicles and Parking.*** Each Dwelling Unit is permitted to have a total of 3 vehicles (personal automobile, motorcycle, boat, commercial automobile, commercial truck, trailer or golf cart) stored or parked at the Dwelling Unit, subject to the restrictions below. One non-commercial vehicle (automobile or truck) is permitted to be parked in the Dwelling Unit driveway at any time no matter how many vehicles are stored or parked at the Dwelling Unit. All Dwelling Unit vehicles must be registered with the Property Manager.

(a) No commercial automobile or truck, recreational vehicle, boat, motorcycle, trailer or other equipment, whether motorized or not motorized, shall at any time be parked or stored on any portion of the Dwelling Unit property other than in the garage. For the purposes of this policy, “Commercial vehicle” shall include any vehicle serving any commercial or business purpose, regardless of its markings or configuration.

(b) All visitors or their hosts must obtain a Visitors Pass for all visitors’ vehicles from the Gate Guard as soon as possible. The pass must be prominently displayed on the vehicle dashboard while within the Community.

(c) Visitors may park a recreational vehicle, trailer, or other wheeled vehicle on their hosts’ driveway for up to 48 hours, with a valid Visitors Permit, as long as they do not block any part of the sidewalk. Street parking of these vehicles is prohibited at all times. For any questions or to request an exception to this criteria contact the Property Manager.

(d) Residents may park a recreational vehicle that is too large to park in their dwelling driveway, on the street in front of their dwelling. The recreation vehicle may only

be parked in the street for a period not to exceed 8 hours and only during daylight hours. The vehicle may only be parked in the street in preparation for a trip or when returning from a trip. Parking should be done in a way to facilitate movement of emergency vehicles.

(e) Street parking is permitted for hosted events at Dwelling Units. Parking shall be on the odd numbered side of the street to facilitate movement of emergency vehicles and mail delivery. Vehicles shall not block any sidewalk or driveway and shall not at any time be parked on yards.

(f) All vehicles, personal property, or equipment parked or left on driveways shall at all times be operable and properly licensed and inspected as by law required. Vehicles leaking fluid are not permitted to park in the driveway and will be required to clean the driveway of residual fluid marks. The Board may request and the Owner shall provide evidence or verification of operability or proper license or inspection, from time to time.

(g) The following procedures shall be followed by all owners and operators of golf carts:

1. Golf cart operators must possess a valid driver's license. They shall observe all South Carolina vehicle traffic laws.
2. Within the Community, the *pedestrian* always has the right-of-way.
3. No golf cart shall be operated with more passengers than seating.
4. All occupants in the golf cart shall wear seat belts if the cart is so equipped.
5. Golf carts shall only be driven on roadways or parking lots.
6. When on the roadway, keep golf carts to the far right of the lane to allow other vehicles to pass. Maintain adequate distance between vehicles & pedestrians.
7. Golf carts operating at night must have headlights and taillights ON and fully operational.
8. Carts must be in sound and safe working condition.
9. No gas powered golf carts are allowed within the Community.
10. All golf carts must be registered with the Association, using the Vehicle Registration Form.
11. All golf carts must be insured and proof of insurance provided to the Association upon registration.

3. ***Exterior Lighting.*** Holiday decorations and lights shall be allowed 2 weeks prior to a holiday and must be removed no later than 2 weeks after the holiday. December decorations and lights are permitted between November 15th and January 15th. All other exterior lights must be approved in accordance with Section 9 of the Declaration.

4. ***Trash Containers and Collection.*** No garbage or trash shall be placed or kept on any Dwelling Unit, except in covered containers of a type, size and style which are approved in accordance with Section 9 of the Declaration or as required by the applicable governing jurisdiction and, if applicable, the private collection contractor. In no event shall such containers be maintained so as to be visible from outside the Dwelling Unit unless they are being made available for collection. The container shall be placed at the curb no earlier than 5:00 PM the evening before the collection day to effect such collection and shall be returned to its storage area no later than 12:00 AM (midnight) the following day of collection. All rubbish, trash, or garbage shall be removed from the Dwelling Units and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Dwelling Unit.

5. ***Animals and Pets.***

(a) No animals of any kind, including livestock and poultry, shall be raised, bred, or kept on any portion of the Properties, except that for each Dwelling Unit there shall be permitted up to a total of three (3) dogs or three (3) cats or a combination of dogs and cats not to exceed three (3) in total, not more than two (2) birds, and a reasonable number, as determined by the Board, of other usual and common household pets, subject to compliance with applicable local laws, codes and ordinances. In no event, however, shall monkeys, snakes, pigs, ferrets or exotic pets be permitted in any Dwelling Unit.

(b) Fecal waste, deposited anywhere on the Properties by any pet, shall be immediately removed and properly disposed of by the pet Owner. Invisible fencing is permitted in rear yards only. Pets shall be on a leash at all times except when in any Community dog park or behind an invisible fence. All invisible fences shall have a sign at the front and rear of the property giving notice that an invisible pet fence is installed. Sign size, color and material shall be approved by the Board of Directors. Pets which are allowed to run free, or which, in the sole discretion of the Board make objectionable noise, endanger the health or constitute a nuisance or inconvenience to the Owners of other Dwelling Units or the Owner of any portion of the Properties shall be removed from the Properties upon request of the Board. If the Owner fails to honor such request, the pet may be removed by the Board at the expense of the Owner.

(c) The Board may adopt reasonable rules designed to minimize damage and disturbance to other Owners and Residents, including rules requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on size and facilities of the Dwelling Unit and fair share use of the Common Area; provided, however, any rule prohibiting the keeping of ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept on the Properties in compliance with the rules in effect prior to the adoption of such rule. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of Residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No pets shall be kept, bred, or maintained for any commercial or business purpose.

(d) The Owner ultimately is responsible for the behavior of any pet while on the Properties. Owners will not allow their pets to trespass on the property of other Owners. The grassed area between any sidewalk and the street is a Common Area and pets are allowed in this area.

6. ***Antennae.*** Standard TV antennas and other over-the-air reception devices (including satellite dishes) of less than one (1) meter in diameter shall be permitted upon the Properties. **All other antennae, signal transmission devices or signal reception devices are prohibited.** Location and installation of permitted devices shall comply with any and all Design Guidelines, or other applicable Rules and Regulations adopted pursuant to Section 9 of the Declaration; provided, however, that such Rules and Regulations do not unreasonably delay or increase the cost of installing, maintaining, or using such devices. Declarant and the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus (of any size) for a master antenna, cable, or other communication system for the benefit of all or any portion of The Community, should any master system or systems require such exterior apparatus.

7. ***Fences, Invisible Fencing, Walls, Kennels, Dog Runs and Other Structures.*** No structure of any kind shall be constructed on any Dwelling Unit, except as approved in accordance with Section 9 of the Declaration. Dog runs, animal pens, and kennels are not permitted. Privacy fencing adjacent to a patio on a Dwelling Unit may be permitted subject to approval in accordance with Section 9 of the Declaration. Fencing and invisible fencing is permitted in rear yards only subject to approval in accordance with Section 9 of the Declaration and the Design Guidelines. If any fencing is installed for a Dwelling Unit, the owner of such Dwelling Unit shall be responsible for all landscaping maintenance within the fenced area.

8. ***Exterior Lighting.*** Except for seasonal holiday decorative lights, which may be displayed between November 15 and January 15 only, all exterior lights must be approved in accordance with Section 9 of the Declaration.

9. ***Storage.*** Placement or storage of furniture, fixtures, appliances, machinery, equipment or other goods and chattels on the Common Area is prohibited. Placement or storage of furniture, fixtures, appliances, machinery, equipment or other goods and chattels not in active use on any portion of a Dwelling Unit which is visible from outside the Dwelling Unit shall not be permitted, except as approved in accordance with Section 9 of the Declaration. Storage buildings, sheds, and any other structures detached from the primary residential dwelling are prohibited.

10. ***Firearms/Fireworks.*** The discharge of firearms or fireworks within the Properties is prohibited. The term "firearms" includes "B-B" guns, pellet guns, paintball markers, and other firearms of all types, regardless of size. Nothing herein shall be construed to prohibit the Declarant or the Association from using portions of the Common Area from time to time to put on a fireworks show.

11. ***Trash Containers and Collection.*** No garbage or trash shall be placed or kept on any Dwelling Unit, except in covered containers of a type, size and style which are approved in accordance with Section 9 of the Declaration or as required by the applicable governing jurisdiction and, if applicable, the private collection contractor. In no event shall such containers be maintained so as to be visible from outside the Dwelling Unit unless they are being made

available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Dwelling Units and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Dwelling Unit.

12. *Clothes Drying Facilities.* Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Dwelling Unit and no clothes, sheets, blankets or laundry of any kind shall be hung outside on any portion of the Properties.

13. *ATV's and Unlicensed Motorized Vehicles.* The operation of all-terrain vehicles or other unlicensed or motorized vehicles within the Properties is prohibited except as expressly permitted in writing by the Board.

14. *Bird and Squirrel Houses.* No Dwelling Unit shall be allowed to have more than three (3) bird houses and/or feeders. Permitted bird houses and feeders shall all be hung from an approved structure or mounted on a single pole. In no event shall any permitted bird house or feeder be hung or mounted higher than the height of the eave of the residence on the Dwelling Unit. With the exception of the foregoing, residents shall not house or feed wildlife or create or maintain conditions or structures which attract wildlife to the Properties.

15. *Flagpoles.* No Dwelling Unit shall be allowed to have a free standing flagpole of any type. Flags on Dwelling Units must be flown only on proper poles neatly mounted on the street side of the residence by a bracket. Notwithstanding the foregoing, one portable, removable United States flag may be displayed in a respectful manner and consistent with 36 U.S.C. Sections 171-178, as amended, on each Dwelling Unit. An Owner is permitted to install one spotlight on a Dwelling Unit, without the Architectural Review Committee's approval, to illuminate the United States flag from dusk to dawn. Illumination shall be accomplished with standard watt, incandescent (flood or spot) light fixtures, ground mounted, and aimed vertically upward. No lighting shall be permitted that constitutes a nuisance or hazard to any Owner or Resident.

16. *Swimming Pools.* The installation of a swimming pool, outdoor Jacuzzi, whirlpool, or hot-tub included on any Dwelling Unit must be installed with approval in accordance with Section 9 of the Declaration and the Design Guidelines.

17. *Air Conditioning Units.* Except as may be permitted by the Board or its designee, no window air conditioning units or window fans may be installed in any Dwelling Unit.

18. *Artificial Vegetation, Exterior Sculpture, and Similar Items.* No artificial vegetation shall be permitted on the exterior of any portion of the Properties. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with Section 9 of the Declaration, except for a United States flag as permitted in Section 15 above.

EXHIBIT C: INITIAL BYLAWS

**BYLAWS
OF
FOUR SEASONS AT HILTON HEAD LAKES ASSOCIATION**

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**BYLAWS OF
FOUR SEASONS AT HILTON HEAD LAKES ASSOCIATION
A SOUTH CAROLINA NONPROFIT CORPORATION**

Pursuant to the provisions of the South Carolina Nonprofit Corporation Act and the recorded Declaration of Covenants, Conditions and Restrictions for K. Hovnanian's® Four Seasons at Hilton Head Lakes, as it may be amended from time to time (the "Declaration"), the Board of Directors (the "Board") of Four Seasons at Hilton Head Lakes Association, a South Carolina non-profit mutual benefit corporation, hereby adopts the following Bylaws for such corporation.

1. NAME AND PRINCIPAL OFFICE

1.1. Name. The name of the nonprofit corporation is "Four Seasons at Hilton Head Laks Association", hereinafter referred to as the "Association".

1.2. Offices. The principal offices of the Association shall be in South Carolina at such location as the Board of Directors may determine from time to time.

2. DEFINITIONS; REFERENCE TO DECLARATION

2.1. Definitions. Except as otherwise provided herein or required by the context hereof, all terms defined in the Declaration shall have such defined meanings when used in these Bylaws.

2.2. Reference to Declaration. Where applicable, provisions of the Declaration shall be deemed incorporated in these Bylaws.

3. MEMBERS; VOTING; MEETINGS OF MEMBERS

3.1. Membership. As set forth in Section 3.2 of the Declaration, the following shall be applicable:

3.1.1. Every Owner shall be a "Member" of the Association and shall hold one (1) membership for each Dwelling Unit owned. If a Dwelling Unit is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation, such reasonable fees and Charges as may be authorized by the Declaration, and the restrictions on voting set forth in Section 3.2 below and in these Bylaws. All such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners.

3.1.2. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner, member, manager or trustee, or by any other individual having apparent authority or designated from time to time by the Owner in a written instrument provided to the Secretary of the Association. The Board of Directors may, in its sole discretion, require the individual purporting to have authority to act on behalf of an Owner to provide reasonable evidence of such authority.

3.1.3. The Declarant shall be a member of the Association during the Development Period.

3.2. Voting Rights. As set forth in Section 3.3 of the Declaration, the following shall be applicable:

3.2.1. During the Declarant Control Period, all of the voting rights of the Owners at any meeting of the Members of the Association or otherwise exercised or cast as by law allowed shall be vested exclusively in the Declarant, and Owners other than the Declarant shall have no voting rights.

3.2.2. After the end of the Declarant Control Period, all of the voting rights at any meeting of the Members of the Association or otherwise exercised or cast as by law allowed shall be vested in the Voting Members and each Voting Member shall have one (1) vote for each Dwelling Unit which the Voting Member represents. One (1) individual shall be designated by each Owner to be the "Voting Member" with respect to each Dwelling Unit owned by the Owner. If no designation is made and more than one (1) person seeks to be the Voting Member for a Dwelling Unit, the Board may either recognize one (1) individual as the Voting Member or suspend the vote for the Dwelling Unit (which shall still be counted for purposes of determining whether a quorum is present) until the issue has been resolved. Any action may be taken by the Voting Members at any meeting at which a quorum is present (as provided in these Bylaws) upon an affirmative vote of a majority of the votes represented at the meeting by the Voting Members present at such meeting, except as otherwise provided herein or in these Bylaws. Votes may be conducted by written ballot in lieu of a meeting in the manner provided herein or in these Bylaws. Voting Members may vote directly or by proxy as provided in these Bylaws. The Board shall determine from time to time whether votes shall be cast in person, by mail, or by other means permitted by law.

3.2.3. Only Voting Members whose right to vote has not been suspended by the Board shall be entitled to vote on a matter before the Association.

3.3. Quorum for Votes of Owners. Ten percent (10%) of the Voting Members whose right to vote has not been suspended by the Board, in person or by proxy, shall constitute a quorum for the transaction of business at any meeting of the Members.

3.4. Votes of Members. At the discretion of the Board of Directors, any matter requiring a vote of the Members shall be held either (i) by written ballot distributed to the Voting Members without a meeting; (ii) by written ballot at a meeting of the Voting Members; or by electronic voting. If a vote is by written ballot distributed to the Voting Members without a meeting or by electronic voting, the ballot or accompanying materials shall state a date by which the ballot or vote must be returned to the Association in order to be counted.

3.5. Annual Meetings of Members. The first meeting of Members shall be held within one (1) year after the date that the first Dwelling Unit is conveyed to an Owner other than Declarant, an affiliate of Declarant, or a mortgagee of Declarant. Subsequent annual or regular meetings shall be on a date determined by the Board from time to time.

3.6. *Special Meetings of Members.* Special meetings of Members shall be held upon call of the Board of Directors or as otherwise required by law.

3.7. *Special Declarant Rights.* As set forth in Section 3.4 of the Declaration, certain Declarant rights, including the right to approve, or withhold approval of, certain actions proposed under the Declaration, these Bylaws and the Articles of Incorporation during the Development Period and the right and power during the Declarant Control Period to appoint all members of the Board, are specified in the relevant sections of the Declaration, these Bylaws and the Articles. To the extent those Declarant rights conflict or are inconsistent with any provision of these Bylaws, those Declarant rights shall control.

3.8. *Notice of Conveyance of Dwelling Unit by Owners.* In order to monitor who is entitled to be a Member, upon conveyance of a Dwelling Unit, the new Owner of the Dwelling Unit shall promptly furnish to the Association a legible copy of the recorded instrument by which ownership of such Dwelling Unit has been vested in the Owner.

4. BOARD OF DIRECTORS

4.1. *Authority of Board.* The Board of Directors shall have the authority to make all decisions and undertake all actions on behalf of the Association that are authorized by applicable law, the Declaration or these Bylaws. The Board of Directors shall constitute the final administrative authority of the Association, and all decisions of the Board of Directors shall be binding upon the Association and the Owners to the extent that the Board of Directors functions in accordance with the Declaration and these Bylaws. Owners and tenants of the Properties, and their respective employees, agent, invitees and licensees shall be bound by the Declaration, these Bylaws, the Articles of Incorporation, and Rules and Regulations issued in accordance with the Declaration.

4.2. *Number, Term of Office, and Qualifications.*

4.2.1. During the Declarant Control Period, the Board of Directors shall consist of not less than three (3) or more than five (5) individuals, as designated by Declarant from time-to-time. Such Directors need not be Owners of Dwelling Units.

4.2.2. During the first January after Declarant ceases to own at least 25% of the Dwelling Units within the Properties, the Owners other than Declarant shall have the right to elect two (2) individuals to the Board of Directors, each of whom shall serve for a two (2) year term (provided that the initial term shall end at the end of the next calendar year after the calendar year in which the initial election occurs). After such election and while the Declarant Control Period continues, the Owners other than Declarant shall continue to have the right to elect individuals to the Board of Directors for two (2) year terms upon the expiration of any term of any Director elected by the Owners other than Declarant or to fill any vacancy upon the resignation or removal of any Director elected by the Owners other than Declarant.

4.2.3. After the end of the Declarant Control Period, or such earlier time as the Declarant records a Supplemental Declaration waiving its authority to designate the Board, the

successor Board shall be selected, within one hundred twenty (120) days thereafter, as follows:

A. The terms of office for directors shall be staggered to promote continuity. The successor Board shall consist of five (5) Persons, three (3) of whom shall serve for a two (2) year term (provided that the initial term shall end at the end of the next calendar year after the calendar year in which the initial election occurs) and two (2) of whom shall serve for a one (1) year term (provided that the initial term shall end at the end of the calendar year in which the initial election occurs). Thereafter each director shall serve a two (2) year term.

B. After the end of the Declarant Control Period, a Director shall be an Owner. If an Owner is not a natural person, an owner, director, trustee, partner, member, officer or other duly authorized representative designated in writing to the Secretary of the Association of such Owner may serve as a Director. No individual and a spouse shall serve on the Board of Directors at the same time.

C. After the end of the Declarant Control Period, a Director shall not serve more than three (3) consecutive two (2)-year terms.

D. The current Board of the Association shall constitute a Nominating Committee to nominate competent and responsible individuals to serve as Directors of the Association; provided, however, that Voting Members representing not less than ten percent (10%) of the Voting Members in Good Standing may, by signed written petition delivered to the Association not less than 14 days prior to an election, nominate one or more candidates for Directors (not to exceed the number of Director vacancies that shall exist at the time of election). Such nominations shall be accompanied by a written summary of the relevant qualifications of the nominee(s).

E. At the discretion of the Board of Directors, elections of Directors shall be held either (i) by written ballot distributed to the Owners of Dwelling Units without a meeting or (ii) by written ballot at a meeting of the Owners. In all cases, the Board of Directors shall determine the form of the written ballot.

F. If election is by written ballot distributed to the Owners of Dwelling Units without a meeting, the ballot or accompanying materials shall state a date by which the ballot must be returned to the Association in order to be counted. If election of Directors is at a meeting of the Owners, the Association shall cause notice to be given to all Owners that a meeting shall be held at a designated time and place in Jasper County not earlier than ten (10) days after the date such notice is given for election of Directors. The notice shall contain the names of those persons recommended by the Nominating Committee or Voting Members representing not less than ten percent (10%) of the Voting Members in Good Standing, but shall note that Voting Members may make other nominations at the meeting.

G. At each election of Directors, each Voting Member in Good Standing shall be authorized to cast as many votes as the number of Directors to be elected (i.e. if three Directors are being elected, then the Voting Member may vote for three nominees).

H. If election of Directors is at a meeting of the Voting Members, then, after giving the Voting Members (or written proxy holders) attending such meeting the opportunity to nominate other Persons, with a second by another Voting Member or proxy holder, the Directors shall be elected by written secret ballot.

4.3. Annual and Regular Meetings. The first annual meeting of the Board of Directors shall be held in January within one (1) year after the date that the first Dwelling Unit is conveyed to an Owner other than Declarant, an affiliate of Declarant, or a mortgagee of Declarant. Subsequent annual meetings shall be held in January on a date selected by the Board or at such other time as the Board of Directors determines. Regular meetings of the Board of Directors shall be held on such dates as the Board of Directors may determine.

4.4. Special Meetings. Special meetings of the Board may be called by or at the request of two Directors, or if there are only two Directors, then any Director. The Director(s) calling a special meeting of the Board may fix any place within Jasper County, South Carolina (or such other place as is approved by all Directors) as the place for holding such a meeting. Except as otherwise required or permitted by the South Carolina Nonprofit Corporation Act, notice of any special meetings shall be given at least two (2) days prior thereto. Notice shall be in accordance with the procedure set forth in Section 11.1 below, provided that notice may also be given by facsimile, internet or other electronic transmission if the Director given such notice acknowledges receipt in writing, including facsimile, internet or other electronic transmission acknowledgment. Any Director may waive notice of a meeting.

4.5. Agenda for Meetings. Unless otherwise established by resolution of the Board, *Robert's Rules of Order* (current edition) shall govern the conduct of Association meetings, and unless otherwise provided by the Board, the agenda for meetings of the Association shall be:

- 1) Sign In by Members
- 2) Call to Order and Welcome by President
- 3) Proof of Notice or Waiver of Notice
- 4) Establishment of Quorum
- 5) Review and Approval of Minutes
- 6) Property Manager/Association/Officer Reports
- 7) Committee Reports
- 8) Elections (if applicable)
 - a) Introduction of Candidates Nominated by Board
 - b) Nominations from Floor
 - c) Motion to Close Nominations
 - d) Distribution of Ballots
 - e) Vote and Collection of Ballots
 - f) Tabulation of Votes
 - g) Question and Answer Period during Tabulation
 - h) Announcement of Election Results
- 9) Other Agenda Items
- 10) Old Business
- 11) New Business
- 12) Motion and Second for Adjournment

13) Adjournment

4.6. Quorum, Telephonic Meetings and Manner of Acting. A majority of the number of Directors shall constitute a quorum for the transaction of business at any meeting of the Board. Upon approval of a majority of the Board, a meeting may be conducted by any electronic means which permits all participating Directors to communicate simultaneously (such as a telephone or video conference call). The act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board. The Directors shall act only as a Board and individual Directors shall have no powers as such. A majority of the number of Directors shall constitute a quorum for the transaction of business at any meeting of the Board. The act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board. The Directors shall act only as a Board and individual Directors shall have no powers as such.

4.7. Compensation. No Director shall receive compensation for any services that he may render to the Association as a Director; provided, however, that Directors may be reimbursed for expenses incurred in performance of their duties as Directors and, except as otherwise provided in these Bylaws, may be compensated for services rendered to the Association other than in their capacities as Directors.

4.8. Resignation and Removal. A Director may resign at any time by delivering a written resignation to either the President or the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any Director may be removed at any time for or without cause, by proper action of the Person(s) having the right to designate or elect Directors at the time of removal (see Sections 4.2.1 and 4.2.2, above).

4.9. Vacancies. During the Declarant Control Period, any vacancy in the Board shall be filled by the Declarant. Thereafter, if a vacancy shall occur in the Board by reason of the death or resignation of a Director, then such vacancy shall be filled by vote of the remaining Directors. If a vacancy shall occur in the Board by reason of removal, then such vacancy shall be filled solely by vote of the Person(s) then having the right to designate or elect Directors (i.e. by the Declarant or the Owners of the Total Assessed Dwelling Units, as set forth in Sections 4.2.1 and 4.2.2, above). Any Director designated or appointed to fill a vacancy shall serve for the unexpired term of his predecessor.

4.10. Informal Action by Directors. Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors.

5. OFFICERS

5.1. Primary Officers. The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Board. Any one individual may hold two or more of such offices, except that the President may not also be the Secretary or the Treasurer. It is not necessary that an officer be a Director or an Owner.

5.2. Election, Term of Office, and Qualifications. During the Declarant Control Period, officers shall be appointed from the Board of Directors by the Declarant. Thereafter, the officers of the Association shall be chosen by the Board at the regular annual meeting of the Board. In the event of failure to choose officers at such regular annual meeting of the Board, officers may be chosen at any regular or special meeting of the Board. Each officer (whether chosen at a regular annual meeting of the Board or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board and until his successor shall have been chosen and qualified, or until his death, or until his resignation or removal in the manner provided in these Bylaws, whichever first occurs.

5.3. Subordinate Officers and Agents. The Board may from time to time appoint such other officers or agents as it deems advisable, each of whom shall have such title, hold office for such periods, have such authority, and perform such duties as the Board may from time to time determine. The Board may from time to time delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. It is not necessary that a subordinate officer or agent be a Director or an Owner.

5.4. Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President of the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board at any time, for or without cause.

5.5. Vacancies and Newly Created Offices. During the Declarant Control Period, any vacancy in an office shall be filled by the Declarant. Thereafter, if any vacancies shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board at any regular or special meeting.

5.6. The President. The President shall preside at meetings of the Board and at meetings of Owners called by the Association. He shall sign on behalf of the Association all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things that the Board may require of him; provided that the Board may authorize other officers or Persons to act on specific matters by proper resolution of the Board.

5.7. The Vice President. The Vice President shall preside in the absence of the President and shall do and perform all other acts and things that the Board may require of him.

5.8. The Secretary. The Secretary shall keep the minutes of the Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Board may require him to keep. He shall be the custodian of the seal of the Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board may require of him.

5.9. The Treasurer. The Treasurer shall have custody and control of the funds of the Association, subject to the action of the Board, and shall, when requested by the President or the

Board to do so, report the state of the finances of the Association. He shall perform such other duties as the Board may require of him.

5.10. Officer Compensation. No officer shall receive compensation for any services that he may render to the Association as an officer; provided further, however, that officers may be reimbursed for expenses incurred in performance of their duties as officers and, except as otherwise provided in these Bylaws, may be additionally compensated for services rendered to the Association other than in their capacities as officers.

6. COMMITTEES

6.1. Designation of Committees. The Board may from time to time by resolution designate such committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall consist of such number as the Board shall determine. No committee member shall receive compensation for services that he may render to the Association as a committee member; provided, however, that committee members may be reimbursed for expenses incurred in performance of their duties as committee members and (except as otherwise provided by these Bylaws) may be compensated for services rendered to the Association other than in their capacities as committee members. It is not necessary that a committee member be a Director, an officer or an Owner.

6.2. Proceedings of Committees. Each committee designated hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may from time to time determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board. Unless expressly delegated to the committee by the Board, the power and authority of each committee shall only be to make recommendations to the Board, which shall have the final decision whether to take any action or not.

6.3. Quorum and Manner of Acting. At each meeting of any committee designated hereunder by the Board, the presence of members constituting at least a majority of the authorized membership of such committee shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

6.4. Resignation and Removal. Any member of any committee designated hereunder by the Board may resign at any time by delivering a written resignation either to the President, the Board, or the presiding officer of the committee of which he is a member. Unless otherwise specified therein, such resignation shall take effect upon delivery. The Board may at any time, for or without cause, remove any member of any committee designated by it hereunder.

6.5. Vacancies. If any vacancy shall occur in any committee designated by the Board hereunder, due to disqualification, death, resignation, removal, or otherwise, the remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

7. INDEMNIFICATION

7.1. Indemnification. Pursuant to Section 4.6 of the Declaration:

7.1.1. The Association shall indemnify every officer, director, and committee member and the Association's managing agent and its employees and agents against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which it, he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section and/or South Carolina law.

7.1.2. The officers, directors, committee members and managing agent shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, criminal act, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association. The Association shall indemnify and hold each such officer, director, committee member and managing agent harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, committee member and managing agent may be entitled.

7.1.3. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is available at a reasonable cost. Decisions whether to institute litigation are no different from other decisions directors make. There is no independent legal obligation to bring a civil action against another party, and no provision of the Governing Documents shall be construed to impose a duty upon the Board to sue under any circumstances.

7.2. Determination for Indemnification. To the extent that a Director, officer, employee, or agent of the Association had been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in Section 7.1 above, or in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Section 7.1 hereof shall be made by the Association only upon a determination that indemnification of the Director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Section 7.1 hereof. Such determination shall be made by the Board by a majority vote of a quorum consisting of Directors excluding the Person whose indemnification is being considered.

7.3. Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Section may be paid by the Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board (excluding the Person whose indemnification is being considered) and upon receipt of an undertaking by or on behalf of the Director, officer, employee, or agent to repay such amount or

amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Section.

7.4. Scope of Indemnification. The indemnification provided for by this Section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision in the Declaration, Articles of Incorporation, Bylaws, agreements, vote of disinterested members of Directors, or applicable law. The indemnification authorized by this Section shall apply to all present and future Directors, officers, employees, and agents of the Association and shall continue as to such Persons who cease to be Directors, officers, employees, or agents of the Association and shall inure to the benefit of the heirs and legal representatives of all such Persons.

8. FISCAL YEAR AND SEAL

8.1. Fiscal Year. The fiscal year of the Association shall begin on the 1st day of January each year and shall end on the 31st day of December next following, except that the first fiscal year shall begin on the date of incorporation.

8.2. Seal. The Board may by resolution provide a corporate seal which shall have inscribed thereon the name of the Association, the state of incorporation, and the words "Corporate Seal."

9. RULES AND REGULATIONS

9.1. Rules and Regulations. Pursuant to Section 4.3 of the Declaration, the Board may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Properties, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. Without limitation, such rules and regulations may include establishment of reasonable fees or fines for failure to observe the terms of the Declaration, these Bylaws, or the rules and regulations; or for any reproduction, mailing or administrative costs involved in providing copies of the Declaration, these Bylaws, the rules and regulations, or other documents relating to the affairs of the Association. It shall not be necessary to record rules and regulations.

10. NOTICES

10.1. Form of Notice. Unless otherwise specifically provided by law or the Declaration, whenever notice is required or permitted under these Bylaws, it shall be in writing and (a) personally delivered or (b) sent postage or delivery charges prepaid either (i) by United States mail, certified, return receipt requested, in which case notice shall be deemed to occur on the certified date of delivery or rejection of delivery or (ii) if within the United States, by First Class or Priority United States mail, in which case notice shall be deemed to occur four (4) calendar days after date of postmark, (iii) by any dependable delivery service that provides evidence of delivery, in which case notice shall be deemed to occur on the certified date of delivery, or (iv) any other procedure that would constitute a valid notice for service of process. Notices by other methods, such as facsimile or e-mail transmission, shall be valid if the recipient thereof acknowledges receipt in writing.

10.2. Notices to Owners. All notices to Owners shall be delivered or sent to such addresses as has been designated in writing to the Association, or if no address had been so designated, at the address shown on the property tax records of Jasper County.

10.3. Notices to Association. All notices to the Association shall be delivered or sent to:

Four Seasons at Hilton Head Lakes Association
Attn: Manager
132 Bluffton Road, Suite 202

Bluffton, SC 29910

With a copy to:

K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC
K. Hovnanian Companies
4090-A Lafayette Center Drive
Chantilly, VA 20151

or to such other address as the Association may from time to time notify the Owners and the Declarant.

10.4. Notices to Declarant. All notices to Declarant shall be delivered or sent to:

K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC
K. Hovnanian Companies
4090-A Lafayette Center Drive
Chantilly, VA 20151

With a copy to:

K. Hovnanian's® Four Seasons at Hilton Head Lakes, LLC
Attn: Community Manager
132 Bluffton Road, Suite 202
Bluffton, SC 29910

or to such other address as Declarant may from time to time notify the Association.

10.5. Notices to Mortgagees. Any notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing in accordance with Section 12.1 of the Declaration.

11. AMENDMENT OF BYLAWS

11.1. Amendment by Association. During the Declarant Control Period, these Bylaws may be amended by approval of the proposed amendment by vote of a majority of the then existing Board of Directors. Thereafter, these Bylaws may be amended by approval of the proposed amendment by vote of two thirds of the then existing Board of Directors. Notice of the proposed

amendment shall be given to the Board in writing by a Director proposing the amendment and the notice shall contain a general description of the proposed amendment and the purpose of the proposed amendment. No amendment to these Bylaws which imposes or reasonably could be construed to impose a greater economic or legal burden on Declarant than exists under the then current provisions of the Declaration shall be valid unless it is approved, in writing, by Declarant, and no amendment of these Bylaws which is contrary to this statement shall be valid.

11.2. Amendment by Declarant. Notwithstanding any other provision herein, Declarant may amend these Bylaws without the consent of the Association, any Owner, any easement grantee, any lessee, or any mortgagee if, in Declarant's opinion, such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Dwelling Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, including, for example, the Fannie Mae or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee mortgage loans on the Dwelling Units; (iv) to enable any reputable private insurance company to insure mortgage loans on the Dwelling Units; (v) to satisfy the requirements of any local, state or federal governmental agency for the development, marketing, and sale of Dwelling Units or (vi) to correct any typographical or scrivener's error, or resolve inconsistencies or ambiguities in these Bylaws or the Declaration.