

DECLARATON OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

DILLARD CREEK CROSSING

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Prepared by and return to:

Hendley Development, LLC
c/o The Randolph Group, LLC
P O Box 10168
Greenville, South Carolina 29603

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
DILLARD CREEK CROSSING

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DILLARD CREEK CROSSING (the "Declaration") is made on the date hereinafter set forth by HENDLEY DEVELOPMENT, LLC, a South Carolina limited liability company, having an office in Greenville County, South Carolina (hereinafter referred to as "Declarant").

WITNESSETH:

Declarant is the owner of the real property described on Exhibit "A" which is attached and incorporated by reference. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for the creation of Dillard Creek Crossing Homeowners' Association, Inc., to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration and the By-Laws (capitalized terms are defined in Article 1).

It is contemplated the Properties will be developed as a residential community comprised of uses allowed under the Zoning Ordinance with public streets, sidewalks, street lights, open spaces, stormwater drainage and retention areas, and other Common Areas and Improvements for the benefit of the Owners of Units made subject to the terms of this Declaration.

Declarant hereby declares that all of the Properties described in Exhibit "A" and any Additional Property subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following restrictions, covenants and conditions, which shall run with the 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.

ARTICLE 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 “Additional Property”: All of that certain real property which is more particularly described on Exhibit “B”, which is attached and incorporated herein by this reference, and which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.2 “ARB”: The Architectural Review Board, as described in Section 9.2.

1.3 “Area of Common Responsibility”: The Common Area, together with those areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, any cost sharing agreement, or other applicable covenant, contract, or agreement.

1.4 “Articles of Incorporation” or “Articles”: The Articles of Incorporation of Dillard Creek Crossing Homeowners’ Association, Inc., as filed with the Secretary of State of the State of South Carolina.

1.5 “Association”: Dillard Creek Crossing Homeowners’ Association, Inc., a South Carolina nonprofit corporation, its successors or assigns.

1.6 “Board of Directors” or “Board”: The body responsible for administration of the Association, selected as provided in the By-Laws and serving as the board of directors under South Carolina corporate law.

1.7 “By-Laws”: The By-Laws of Dillard Creek Crossing Homeowners’ Association, Inc., as they may be amended from time to time.

1.8 “Common Area”: All real and personal property, including open space, amenities area, easements, licenses and conservation easements, which the Association owns, leases or holds possessory or use rights in for the common use and enjoyment of the Owners.

1.9 “Common Expenses”: The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Development Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Members holding a Majority of the total Class “A” votes of the Association and the Class “B” Member.

1.11 “Days”: Calendar days; provided, however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.12 “Declarant”: Hendley Development, LLC, a South Carolina limited liability company, or any successor, successor-in-title, or assign who takes title to any portion of the

property 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; provided, however, there shall be only one (1) “Declarant” hereunder at any one time.

1.13 “Declaration”: This Declaration of Covenants, Conditions and Restrictions for Dillard Creek Crossing as the same may be amended, renewed or extended from time to time in the manner herein provided.

1.14 “Development Period”: The period of time during which the Declarant owns any property which is subject to this Declaration, any Additional Property, or any adjacent property, or has the unilateral right to subject Additional Property to this Declaration pursuant to Section 7.1; provided, however, the Development Period shall not terminate until one hundred percent (100%) of the total number of Units permitted by the Master Plan for the property described on Exhibits “A” and “B” have certificates of occupancy issued thereon and have been conveyed to persons other than the Declarant. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and/or terminate the Development Period upon an earlier date by a written instrument to the Board. Notwithstanding the above or any provision in the Governing Documents to the contrary, the Development Period shall terminate not later than twenty (20) years after the date that this Declaration is recorded in the Public Records.

1.15 “General Assessments”: Assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses for the general benefit on all Units, as more particularly described in Sections 8.1 and 8.2.

1.16 “Governing Documents”: The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, the Zoning Ordinance, the rules of the Association, and all additional covenants governing any portion of the Properties or any of the above, as each may be amended from time to time.

1.17 “Improvement”: Any structure or improvement, including but not limited to, buildings of a permanent or temporary nature (with temporary buildings being permitted only during the construction of other Improvements, subject to approval by the ARB), outbuildings, underground installations, slope alterations, surface water drainage facilities, sediment control devices, roads, berms, driveways, parking areas or facilities, garbage facilities, fences, screening walls, retaining walls, enclosures, stairs, decks, windbreaks, planting or removal of trees, shrubs and other landscaping materials, poles, signs, antennas and satellite dishes, utilities, heating, cooling and air circulation equipment and facilities, roofed structures, hedges, exterior illumination, changes in exterior color or shape, staking, clearing, excavation, grading, exterior alteration of existing improvements, and all other structures or landscaping improvements of every type and kind initially or at any time thereafter placed or constructed on any Unit.

1.18 “Leasehold Owner”: The lessee under any lease of a Unit and which lessee has been assigned all of the Owner’s rights and obligations under this Declaration with respect to the leased premises.

1.19 “Majority”: Those votes, Owners, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

1.20 “Master Plan”: The Preliminary Subdivision Plan for Dillard Creek Crossing prepared by Arbor Engineering, Inc., as such plan may be amended from time to time, which

plan includes the property described on Exhibit "A" that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of additional property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article 7.

1.21 "Member": A person subject to membership in the Association pursuant to Section 3.1.

1.22 "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

1.23 "Mortgagee": A beneficiary or holder of a Mortgage.

1.24 "Occupant": The Owner or Leasehold Owner of any Unit and their respective employees, agents, tenants, independent contractors, invitees and licensees or any other person who either lawfully or unlawfully occupies or comes upon such Unit. All actions or omissions of any Occupant shall be deemed the actions or omissions of the Owner or Leasehold Owner of such Unit.

1.25 "Owner": One (1) or more persons who hold the record title to any Unit, including the Declarant, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is owned by more than one (1) person, all such persons shall be jointly and severally obligated to perform the responsibilities of such Owner. An Owner (including the Declarant) who has transferred or otherwise conveyed a leasehold interest in and to any Unit to a Leasehold Owner may, in its sole discretion, assign in such lease, all of such Owner's rights and obligations as an Owner herein; provided, however, that any such assignment shall not relieve such Owner from its duties and obligations hereunder except as expressly provided herein. From and after receipt of such assignment, Declarant, the Association and the ARB shall recognize the Leasehold Owner as the Owner of such Unit.

1.27 "Plat": The plat, prepared by K. W. Tollison & Associates, LLC, entitled "Dillard Creek Crossing, Phase One," dated July 3, 2007, last revised June 13, 2008., and recorded in Plat Book 163 at Page 268, in the Register of Deeds Office for Spartanburg County, South Carolina, as well as all future recorded plats, if any, describing those certain parcels of land annexed, as described thereon, and made subject to this Declaration by amendment hereto.

1.28 "Properties": The real property described on Exhibit "A" as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article 7.

1.29 "Public Records": The Register of Deeds Office of Spartanburg County, South Carolina, or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.

1.30 "Dillard Creek Crossing": That certain residential community located on the property described on Exhibit "A" in Spartanburg County, South Carolina, and additional phases subjected to this Declaration by supplemental Declaration, developed by the Declarant, as successor in title to S & H Developers, LLC, and commonly known and referred to as Dillard Creek Crossing.

1.31 "Special Assessments": Assessments levied in accordance with Section 8.3.

1.32 "Supplemental Declaration": An instrument including but not limited to a deed of conveyance, filed in the Public Records which subjects the Additional Property to this Declaration, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument. The term shall also refer to an instrument filed by the Declarant pursuant to Section 3.2 which designates Voting Groups or pursuant to Section 7.3 which imposes additional restrictions or limits on the Declarant or the Association, any declaration or covenants, conditions and restrictions, and any declaration of condominium.

1.33 "Unit": A portion of the Properties, whether improved or not improved, which may be independently owned and conveyed. Each separately platted lot shall be deemed to be a separate Unit, regardless of the number of uses on such lot, unless otherwise specified by the applicable Supplemental Declaration. The term shall refer to the land, if any, which is part of the Unit as well as any Improvements thereon. In the case of a portion of the Properties intended and suitable for subdivision but as to which no final lot subdivision map has been filed, such property shall be deemed to be a single Unit until such time as a final lot subdivision map is filed of record with respect to all or a portion of the property. This term shall not include Common Area, or property dedicated to the public.

1.34 "Utilities": Any utilities serving any portion of the Properties or any Common Areas, including, without limitation, public water service, public sewer service, storm drains, gas, electricity, telephone, cable, digital or similar television services, solar or passive energy sources or any other utilities of any nature whatsoever.

1.36 "Zoning": The Zoning Ordinance of the City of Greer, South Carolina, applicable to Dillard Creek Crossing, as it may be amended from time to time.

ARTICLE 2: PROPERTY RIGHTS

2.1 Owner's Easements Of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

- (a) This Declaration and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) the right of the Association to permit the use of and to charge reasonable admission and other fees for the use of the Common Area and to impose reasonable limits upon the number of guests who may use the Common Area;
- (d) the right of the Association to suspend the voting rights and right to use any Common Area by an Owner for any period during which any assessment against his Unit remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;
- (e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members;

(f) the right of the Association to rent, lease or reserve any portion of the Common Area to any Owner or Occupant for the exclusive use of such Owner or Occupant and their respective employees, lessees, clients, customers, and guests upon such conditions as may be established by the Board;

(g) the right of the Board to allow persons other than Owners, Occupants and their respective employees, lessees, invitees, customers and guests to use any facilities situated upon the Common Area upon such conditions as may be established by the Board;

(h) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities thereon;

(i) the right of the Association to exchange portions of Common Area with the Declarant for substantially equal areas of the properties for the purpose of eliminating unintentional encroachments of improvements onto portions of the Common Areas;

(j) 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 money borrowed or debts incurred;

(k) the right of the Declarant to conduct activities and establish facilities within the Properties as provided in Article 14.

2.2 Delegation Of Use. Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Area to the members of his family, his tenants or contract purchasers who reside on the Unit of such Owner.

2.3 Leases Of Units. Lots may be leased for residential purposes only. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's residence on its Unit shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and By-Laws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the Lease. All Leases of Units shall be in writing. The lease shall also provide that in the event of noncompliance, the Board, in addition to any other remedies available to it, may evict the tenant on behalf of the Owner and specifically assess all costs associated therewith against the Owner and the Owner's property.

2.4 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.5 Condemnation. The Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney-in-fact for all Owners in such matters. If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain or conveyed in lieu of and under threat of condemnation by the Board acting on the written direction of Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, the written consent of the Declarant, each Owner shall be entitled to written notice of

such taking or conveyance prior to disbursement or any condemnation award or proceeds of such conveyance. Notwithstanding anything to the contrary herein, the award made for such taking or proceeds of such conveyance shall be payable to the Declarant so long as the Declarant is funding any deficits of the Association.

If the taking or conveyance involves a portion of the Common Area on which Improvements have been constructed, the Association shall restore or replace such Improvements on the remaining land included in the Common Area to the extent available, unless within sixty (60) Days after such taking the Members holding at least sixty-seven percent (67%) of the total Class "A" vote of the Association and, during the Development Period, the Declarant, shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board and the ARB. The provisions of Section 6.1(b) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any Improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Association for such purposes as the Board shall determine, subject to the rights of Declarant to receive such funds as set forth above.

ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. There shall be only one (1) membership per Unit. If a Unit is owned by more than one (1) person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Sections 3.2 and in the By-Laws. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, member, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association.

3.2 Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one vote per Unit in which they hold the interest required for membership under Section 3.1.

If there is more than one (1) Owner of a Unit, the votes for such Unit shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one (1) person seeks to exercise it. No vote shall be exercised on behalf of any Unit if any assessment for such Unit is delinquent. In addition, no vote shall be exercised for any property which is exempt from assessments under Section 8.9.

(b) Class "B". The sole Class "B" Member shall be the Declarant. Declarant shall be entitled to three (3) votes for each Unit owned by the Declarant and three (3) votes for each one-quarter (0.25) of an acre of each undeveloped Unit as shown on the Master Plan owned by the Declarant that Declarant may from time to time anticipate subjecting to this Declaration. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint

the members of the Board of Directors until termination of the Development Period. Upon termination of the Development Period, the Class "B" membership shall expire, and the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all Improvements thereon. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt pursuant to Article 11. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration. The Association shall perform its functions in accordance with the Governing Documents and the laws of the State of South Carolina.

4.2 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees, with the Declarant's prior written consent, may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Declarant shall not be required to make any Improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section. Upon written request and approval by the Declarant, the Association shall reconvey to Declarant any portions of the Properties originally conveyed by Declarant to the Association for its consideration.

4.3 Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in the By-Laws. Such sanctions may include, without limitation:

(a) imposing monetary fines which shall constitute a lien upon the Unit of the violator. In the event that any occupant, employee, lessee, invitee, client, customer or guest of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the Occupant; provided, however, if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall be notified by the Board and be responsible for paying said fines.

(b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;

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

(d) suspending any person's right to use any facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit; and

(e) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than thirty (30) Days delinquent in paying any assessment or other

charge owed to the Association.

In the event that any Occupant, employee, lessee, invitee, client, customer or guest of a Unit violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction the Occupant and/or the Owner of such Unit.

In addition, the Board may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, the towing of vehicles that are in violation of parking rules, or the correction of any maintenance, construction or other violation of the Governing Documents) without the necessity of compliance with the procedures set forth in the By-Laws.

The Association may also elect to enforce any provisions of the Governing Documents 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 By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys' fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county, city, state and federal ordinances, if applicable, and permit local and other governments to enforce ordinances on 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 this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental Interests. During the Development Period, the Declarant may designate sites within the Properties for public or quasi-public facilities. No membership approval shall be required for such designation. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by the Declarant. The sites may include other property not owned by Declarant provided the owner of such property consents.

4.6 Indemnification. The Association shall indemnify every officer, director, ARB members and committee member against all damages, liabilities and expenses, including reasonable attorney fees, 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 he or she may be a party by reason of being or having been an officer, director, ARB member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation, and South Carolina law.

The officers, directors, ARB members and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors, ARB members, and committee members 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 (except to the extent that such officers, directors, ARB members or committee members may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, ARB member and committee member 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, ARB member or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officer's and director's liability insurance to fund this obligation, if such insurance is reasonably available.

4.7 Dedication of or Grant of Easements on Common Areas. The Association, or during the Development Period, the Declarant, may dedicate or grant easements across portions of the Common Area to Greenville County, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity or utility.

4.8 Security. Each Owner and Occupant of a Unit, and their respective employees, lessees, invitees, clients, customers and guests, shall be responsible for their own personal safety and the security of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them 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 security system or measure cannot be compromised or circumvented, nor that any such security system or measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties. Any costs incurred by the Association to provide such services shall be paid by the Association and shall be charged to all Units, as a General Assessment or a Special Assessment, as determined by the Board in its sole discretion.

4.09 Future Development. Each Owner acknowledges, understands and covenants to inform its lessees and all occupants of its Unit that the Properties and areas adjacent to the Properties are subject to further development and expansion, and therefore there may be certain inconveniences during any period of construction, and Owner waives all claims with respect thereto. Owner agrees that if Owner or Owner's employees, lessees, invitees, clients, customers, guests, contractors or agents enter onto any area of construction, they do so at their own risk, and neither the Declarant, the Association, nor their respective contractors, agents, or

employees shall be liable for any damage, loss or injury to such persons.

ARTICLE 5: MAINTENANCE

5.1 Association's Responsibility.

(a) The Association shall maintain and keep in good condition, order and repair the Area of Common Responsibility, which may include, but need not be limited to:

- (i) all Common Areas;
- (ii) all street trees, landscaping and other flora, open spaces, parks, structures and Improvements, including any private alleys, infrastructure within the common areas including private water mains and private storm drain lines, sidewalks, and bike and pedestrian pathways/trails situated upon the Common Area;
- (iii) all furnishings, equipment and other personal property of the Association;
- (iv) all storm water management facilities and retention basins serving the Properties (if not maintained by a governmental agency or located on or within a Unit);
- (v) all medians or squares of the roadways within or adjacent to the Properties to the extent that the Board determines that such maintenance is necessary or desirable;
- (vi) all entry signs and features serving the Properties, constructed by or on behalf of the Declarant;
- (vii) all signage within or adjacent to public rights-of-way within or adjacent to the Properties which the Board, in its sole discretion, deems appropriate, except that signage maintained by Greenville County; and
- (ix) such additional portions of any property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association.

The Association may, as a Common Expense, maintain other property and Improvements which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable.

(b) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board.

(c) The Association may be relieved of all or any portion of its maintenance

responsibilities herein to the extent that such property is dedicated to any local, state, or federal government or quasi-governmental entity; provided, however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of the Declarant.

(d) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Governing Documents, any recorded covenants, or any agreements with the owner(s) thereof.

(e) In the event that the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, 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, shall be entitled to reimbursement from the Association for all costs incurred.

5.2 Owner's Responsibilities. Each Owner shall maintain its Unit, and all Improvements located thereon, including without limitation, all structures, parking areas, irrigation systems, drainage facilities, landscaping, setback areas and other Improvements located in rights-of-way adjacent to the Owner's Unit in a manner consistent with all Governing Documents, unless such maintenance responsibility is otherwise assumed by or assigned to the Association. Such maintenance includes but is not limited to the following:

(a) Removal of all litter, trash, refuse and waste at least once a week and keeping the trash pick-up, service and loading areas in a neat condition;

(b) Lawn mowing on a regular basis;

(c) Tree and shrub pruning;

(d) Keeping exterior lighting, signage, fixtures, and mechanical facilities in working order;

(e) Keeping plant materials within lawn and garden areas alive, and any adjoining rights-of-way or drainage ditches attractive and free of trash and debris;

(f) Promptly removing and replacing any dead plant material;

(g) Keeping parking areas and driveways in good repair;

(h) Repair of exterior damage to Improvements and keeping exterior Improvements in good repair.

Every Owner shall also be responsible for the security and safety of its Unit

notwithstanding any security systems or measures which may be provided by the Association.

In addition to any other enforcement rights, if an Owner fails properly to perform its maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 8.1.

5.3 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with all Governing Documents. Neither the Association nor any Owner shall be liable for any damage or injury occurring on, or arising out of the condition of, property which such person does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.4 Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two (2) adjoining Units shall constitute a party structure. To the extent inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

ARTICLE 6: INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

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

- (i) Blanket property and casualty insurance for all insurable Improvements within the Area of Common Responsibility;

- (ii) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members;
- (iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;
- (iv) Directors and officers liability coverage;
- (v) Fidelity insurance covering all persons responsible for handling Association funds; and
- (vi) Such additional insurance as the Board, in its best business judgment, determines advisable or is required by law.

Premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the General Assessment. In the event of an insured loss, the deductible shall be treated as a Common Expense and assessed 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 By-Laws, that the loss is the result of the negligence or willful misconduct of one (1) or more Owners, their employees, lessees, invitees, clients, customers or guests, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units.

(b) Damage and Destruction. In the event of any insured loss, only the Board or its duly authorized agent may file and adjust insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection, 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.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association, and during the Development Period the Declarant, decide within sixty (60) Days after the loss not to repair or reconstruct.

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. However, such extension shall not 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.

If determined in the manner described above 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.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

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 the premiums for the applicable insurance coverage under Section 6.1(a).

6.2 Owner' Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry liability and property insurance with limits of not less than full replacement cost of all insurable Improvements on its Unit, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising its 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 Article 9. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition. The Owner shall pay all costs which are not covered by insurance proceeds.

ARTICLE 7: ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation by Declarant. Until Ten (10) years after the recording of this Declaration in the Public Records, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the Additional Property.

The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

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

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

7.2 Annexation by Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members holding 67% of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and, during the Development Period, the written consent of the Declarant.

7.3 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association. Such additional covenants and easements shall be set forth in a Supplemental Declaration, filed either concurrently with or after the annexation of the subject property, and shall require the written consent of the owner(s) of the property affected by such additional covenants and easements, if other than the

Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

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

ARTICLE 8: ASSESSMENTS

8.1 Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area; the maintenance of storm drain lines, water and sewer mains in and upon the Common Area and alley ways; the maintenance of open spaces and alleys which have not been accepted for dedication by a public authority, roadway medians (including medians and islands located in dedicated rights-of way) and entranceways, drives and parking areas within the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws; the maintenance of retention areas or other bodies of water located within the Common Area; the maintenance of any "sign easement" areas located on any Unit, as shown on a recorded plat; the maintenance of entranceways, landscaping and lighting of Common Area; the maintenance and cul-de-sac islands; the lighting of streets (whether public or private); the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area; the costs associated with duties of the Architectural Review Board; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

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

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

account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

8.2 Maximum Annual Assessment. Until December 31, 2009, the maximum annual assessment shall be Five Hundred Fifty and No/100ths (\$550.00) Dollars per Unit, and may be collected annually at the discretion of the Board.

(a) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Unit to an Owner is made and for each calendar year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed fifteen percent (15%) of the maximum annual assessment of the previous year.

(b) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Unit to an Owner is made and for each calendar year thereafter may be increased without limit by a vote of 67% of the Class "A" Members who are voting in person or by proxy, at a meeting duly called for this purpose and with final approval by the Class "B" Member.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, subject to the provisions of Section 5 of this Article.

8.3 Special Assessments For Capital Improvements. So long as the total amount of special assessments allocable to each Unit does not exceed \$500.00 in any one fiscal year, the Board may impose the special assessment. All special assessments which exceed the \$500.00 limitation shall be effective only if such assessment shall have the assent of 67% of Owners entitled to vote who are voting in person or by proxy at a meeting duly called for this purpose. All special easements shall be fixed at a uniform rate for all Units and may be collected on a monthly or annual basis as determined by the Board and may be payable in installments.

8.4 Notice and Quorum For Any Action Authorized Under Article 8, Sections 2 and 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 2 or 3 of this Article 8 shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

8.5 Rate of Annual Assessment. Both annual and special assessments must be fixed at a uniform rate for all Units and may be collected on an annual basis or as otherwise determined by the Board in its discretion.

8.6 Date and Commencement of Annual Assessments Due. The annual assessments provided for herein shall commence as to a Unit on the date on which the Unit is conveyed to a person other than the Declarant. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in

advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment and promptly thereafter the Board of Directors shall cause written notice thereof to be sent to every Owner subject thereto. In the event the Board of Directors shall fail to fix the amount of annual assessments as described above, the assessment fixed for the immediately preceding year shall continue in effect until a new assessment amount is fixed. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Unit have been paid.

8.7 Lien for Assessments. The Association shall have a lien against each Unit to secure payment of assessments and other charges, as well as interest at a rate to be set by the Board (subject to the maximum interest rate limitations of South Carolina law), late charges in such amount as the Board may establish (subject to the limitations of South Carolina law), costs of collection and reasonable attorneys fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of recording (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien may be enforced by suit, judgment, and judicial foreclosure.

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under this Section 8.7, including such acquirer, its successors and assigns.

All other persons acquiring liens or encumbrances on any Unit after this Declaration has been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

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

8.9 Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of South Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

8.10 Payment of Assessments by Declarant. Notwithstanding anything provided in this Declaration to the contrary, neither the Declarant (as a Member of the Association or as the Owner of any Unit) nor any Declarant-related entity shall be responsible for the payment of any assessments with respect to any Units owned by Declarant or such Declarant-related entity unless the same have been improved by the erection of Improvements thereon, and in which event Declarant shall pay assessments in the manner set forth in this Article 8. For so long as the Declarant has the authority to appoint the directors and officers of the Association, the Declarant may (but shall not be required to) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association and the sum of the annual, special and specific assessment collected by the Association in any fiscal year.

ARTICLE 9: ARCHITECTURAL STANDARDS

9.1 General. No Improvements shall be placed, erected, installed, constructed or altered upon any Unit except in compliance with this Article and with the prior written approval of the appropriate reviewing body under Section 9.2, in accordance with the application and approval requirements pursuant to Section 9.3.

All Improvements constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a person licensed in the State of South Carolina to practice architecture, engineering, or landscape architecture, or other work consistent with the intended construction in accordance with applicable laws, rules and regulations, unless otherwise acceptable to the Architectural Review Board, in its sole discretion. All plans and specifications shall be subject to review as provided herein.

9.2 Architectural Review. Responsibility for review of all applications for use, construction and modifications under this Article shall be handled by the reviewing bodies described below, the members of which need not be Members of the Association or representatives of Members:

(a) Architectural Review Board. The ARB shall have exclusive jurisdiction over all construction on any portion of the Properties. Until one hundred percent (100%) of the Units have been developed and conveyed to Owners other than the Declarant and initial construction on each Unit has been completed in accordance with all approved plans, the Declarant retains the right to appoint all member(s) of the ARB who shall serve at the Declarant's discretion. There shall be no surrender of this right prior to that time except in a written instrument executed by Declarant. Upon the expiration or surrender of such right, the Board shall appoint the members of the ARB, who shall thereafter serve and may be removed in the Board's discretion.

9.3 Guidelines and Procedures.

(a) Design Guidelines. The Declarant may prepare and amend from time to time design and construction guidelines and application and review procedures for the Properties ("Design Guidelines"). Any Design Guidelines may contain general provisions applicable to all of the Properties. Any Design Guidelines will be intended to provide guidance to Owners regarding matters of particular concern to the reviewing bodies in considering applications hereunder, but shall not be the exclusive basis for decisions of the reviewing bodies.

(b) Procedures. No activities within the scope of Section 9.1 shall commence on any Unit until an application for approval of the proposed work has been submitted to and approved

by the ARB, as appropriate, and the specific use for such Unit has been approved by the Declarant in accordance with Article 9. Either committee may require the submission of application forms and information as it deems necessary to consider any application and may require multiple stages of application and review for any use, construction or modification.

In the event that the ARB fails to approve or to disapprove in writing any stage of an application within thirty (30) Days after submission of all information and materials reasonably requested, the application shall be deemed approved unless an extension of such time period is agreed to by the reviewing body and the applicant.

Notwithstanding the above, the ARB by resolution may exempt certain activities from the application and approval requirements of this Article, provided such activities are undertaken in strict compliance with the requirements of such resolution.

(c) Basis of Approval. In reviewing each submission, the reviewing body may consider (but shall not be limited to consideration of) the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, setbacks and finish grade elevation, among other things. Decisions of the reviewing bodies may be based solely on aesthetic considerations and shall be made by a Majority vote of all members of the reviewing body. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as members of the reviewing bodies change over time.

Review of the plans shall be based on general adequacy of site dimensions, conformity and harmony of the exterior design, location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, and conformity to both the specific and general restrictions and covenants set forth herein, and in any Design Guidelines. The reviewing body shall have the right to disapprove any submitted plans of any Unit if such plans are not in conformity with the provisions of this Declaration or any Design Guidelines, or if the reviewing body, acting pursuant to Article 9 hereof in its discretion (which shall be exercised in a reasonable manner) determines that such plans are not in the best interest of the contemplated development of the Properties as described by this Declaration.

(d) Commencement and Completion. All work shall be commenced and completed within such period as provided in the notice of approval; provided, however, all work shall be completed within one (1) year after commencement of construction. The reviewing body may in its sole discretion grant an extension if commencement or completion is delayed due to causes beyond the reasonable control of the Owner. In the event construction of the work called for by the approved plans has not substantially commenced within the period set forth in the notice of approval, then the approval shall be deemed expired and no construction shall thereafter commence unless a written renewal is granted by the reviewing body.

9.4 No Waiver of Future Approvals. 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.

9.5 Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be

granted, however, when unique circumstances dictate and no variance shall (a) be effected unless in writing; (b) be contrary to this Declaration; or (c) prevent the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing may not be considered a hardship warranting a variance as determined in the sole discretion of the reviewing body.

9.6 Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties only, and shall not create any duty to any person. Neither the Declarant, the Association, the Board, the ARB shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all Improvements are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners. Neither the Declarant, the Association, the Board, the ARB, or any committee, or member of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the Declarant, the Board, the ARB, and their members shall be defended and indemnified by the Association as provided in Section 4.6.

9.7 Enforcement. The Declarant, any member of the ARB, Board, or the representatives of each, shall have the right, during reasonable hours and after reasonable notice, to enter upon any Unit to inspect for the purpose of ascertaining whether any Improvement is in violation of this Article. Any Improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the ARB, Owners shall, as their own cost and expense, remove such structure or Improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore the property as required, any authorized agent of Declarant, the ARB, or the Board shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with the Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant, the ARB by any means of enforcement described in Section 4.3. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Unit.

Unless otherwise specified in writing by the committee granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. If any person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with the By-Laws, to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof.

Neither the ARB, nor any member of the foregoing, nor the Association, the Declarant, or their members, officers or directors shall be held liable to any person for exercising the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article may be excluded by the ARB from the Properties, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARB.

ARTICLE 10: EXTERIOR MAINTENANCE

10.1 The Association shall maintain the Common Area. Each Owner shall be responsible for the exterior maintenance of his or her dwelling and Unit, as follows: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, driveways, walks and other exterior improvements. In the event that the Owner neglects or fails to maintain his or her Unit and/or the exterior of his or her dwelling in a manner consistent with other Units and dwellings in Dillard Creek Crossing, the Association may provide such exterior maintenance as provided above; provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform, and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself or herself. The determination as to whether an Owner has neglected or failed to maintain his or her Unit and/or dwelling in a manner consistent with other Units and dwellings in Dillard Creek Crossing shall be made by the Board of Directors of the Association, in its sole discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Unit at all reasonable times to perform maintenance as provided in this Article.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner or the family, guests, lessees, or invitees of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs thereof shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Unit of such Owner.

ARTICLE 11: USE RESTRICTIONS

11.1 Residential Use of Property. All Units shall be used for single-family, residential purposes only, and no business or business activity shall be carried on or upon any Unit at any time, except with the written approval of the Architectural Review Board; provided, however, that nothing herein shall prevent Declarant or any builder of homes in Dillard Creek Crossing approved by Declarant from using any Unit owned by Declarant or such builder of homes for the purpose of carrying on business related to the development, improvement and sale of property in Dillard Creek Crossing; and provided further that, to the extent allowed by applicable zoning laws, private offices may be maintained in dwellings located on any of the Units so long as such use is incidental to the primary residential use of the dwellings.

11.2 Setbacks and Building Lines. Each dwelling which shall be erected on any Unit shall be situated on such Unit in accordance with the Zoning Ordinance or as shown on the Plat indicated for each Unit and approved in writing by the ARB. Approval shall be received before commencement of lot clearing preparatory to construction unless either a variance shall have been granted by the ARB or Declarant shall have amended the Plat. In no event shall any dwelling be erected and located upon any such Unit in a manner which violates the requirements and provisions of any applicable zoning ordinances and subdivision regulations.

The ARB, in its sole discretion, may vary any or all of the front, rear, and/or side setback lines by not more than twenty-five (25%) percent of the distance required herein; provided, however, that so long as Declarant owns any of the Properties, Declarant shall have the right to vary such setback lines and square footage requirements by any amount, in its sole discretion.

11.3 Walls and Fences. No fence or wall shall be erected except with prior written ARB approval.

11.4 Subdivision. Subdivision of a Unit into two (2) or more Units, the combination of two (2) or more Units to form one single building Unit, or changing the boundary lines of any Unit after the Plat has been approved and filed in the Public Records is prohibited, except with the consent of the Declarant during the Development Period.

11.5 Terraces, Eaves and Detached Garages. For the purpose of determining compliance or noncompliance with the foregoing building line requirements, terraces, stoops, eaves, wing-walls, and steps extending beyond the outside wall of a structure shall not be considered as a part of the structure. No side yard shall be required for any detached garage or accessory outbuilding which has been approved, in writing, by the ARB; provided, all such detached structures must be to the rear of the main dwelling and must not encroach upon the Unit of an adjacent Owner.

11.6 Building Requirements. The total living areas of the main structure, exclusive of open porches, porte cocheres, garages, carports and breezeways, shall be not less than 1,800 heated square feet. Declarant reserves the right to increase or decrease the foregoing minimum square footage requirement with respect to all or a portion of the additional land annexed to the Properties in accordance with Article 7 by recording an instrument which sets forth the increased or decreased minimum square footage requirement in the Public Records prior to or contemporaneous with the annexation of such additional land or portion thereof by Declarant.

11.7 Obstructions to View at Intersections. No part of any structure nor the lower branches of trees or other vegetation shall be permitted to obstruct the view at street intersections.

11.8 Delivery Receptacles and Property Identification Markers. The ARB shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers.

11.9 Temporary Structures. No structure of a temporary nature (unless approved in writing by the ARB) shall be erected or allowed to remain on any Unit. No trailer, camper, shack, tent, barn or other structure of a similar nature shall be used as a residence, either temporarily or permanently; provided, this Section shall not be construed to prevent the Declarant and those engaged in construction from using sheds or other temporary structures during construction.

11.10 Completion of Construction. The Association shall have the right to take appropriate legal action, whether at law or in equity, to compel the immediate completion of any residence not completed within one (1) year from the date of commencement of construction.

11.11 Livestock and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Unit, except that dogs, cats or other small household pets may be kept

provided that they are not kept, bred, or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Areas. Pets shall be under leash at all times when walked or exercised in any portion of the Common Areas. No pet shall be permitted to leave its excrement on any portion of the Common Areas, and the Owner of such pet shall immediately remove the same. Upon the written request of any Owner, the Board may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section 11, a particular pet is a generally recognized house pet or such pet is a nuisance, and the Board shall have the right to require the owner of a particular pet to remove such pet from the Development if such pet is found to be a nuisance or to be in violation of this Declaration. The Board shall have the further right, subject to Section 11 hereof, to fine any Owner (in an amount not to exceed \$50.00 per violation) for the violation of these pet restrictions by such Owner or an occupant of his Unit, and an Owner shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the pet of such Owner or of an occupant of such Owner's Unit. Any such fine or cost of repair shall be added to and become a part of that portion of any assessment next coming due to which such Unit and its Owner are subject. Nothing herein contained shall interfere with any provisions under the Americans with Disability Act or any similar state or local law, ordinance or regulation.

11.12 Obnoxious or Offensive Activities. No obnoxious, offensive or illegal activities shall be carried on upon any Unit, nor shall anything be done thereon which is or may become an annoyance or nuisance to the owners of other Units in Dillard Creek Crossing. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development. Any Owner, or his family, tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of \$150.00, whichever is greater, and such sum shall be added to and become a part of that portion of any assessment next becoming due to which such Owner and his Unit is subject.

11.13 Signs. No advertising signs or billboard shall be erected on any Unit or within the Property unless prior written approval of the ARB is obtained. This restriction shall not apply to signs used to identify and advertise the subdivision as a whole, nor to signs for selling Units and/or houses during the development and construction period, provided such signs are approved by the Architectural Review Board. Also, the provisions of this Article shall not apply to notices posted in connection with judicial or foreclosure sales conducted with respect to a first mortgages. The restrictions of this Section shall not apply to the Declarant

11.14 Aesthetics, Nature Growth, Screening, Underground Utility Service. Trees which have a diameter in excess of six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior approval, in writing, of the Architectural Review Board, except those trees removed in initial construction. Clotheslines, garbage cans and equipment, shall be screened to conceal them from view of neighboring Units and streets. All residential utility service and lines to residences shall be underground.

11.15 Antennas. Antennas, satellite dishes, radio or television transmission towers may be erected on any structure or within the property only after written approval of the ARB. In no event shall free standing transmission or receiving towers, satellite dishes or disks be permitted that exceed three (3') feet in diameter. All other satellite dishes and their location must be approved by the Architectural Review Board.

11.16 Parking and Vehicles.

(a) Parking of the following vehicles within the Properties is restricted: construction vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other water craft, trailers, stored vehicles or inoperable vehicles. The foregoing vehicles may be parked only in enclosed garages approved in accordance with Article 9 of the Declaration or other areas as may be designated by the Board. Construction vehicles and equipment shall be exempt from this provision during daylight hours or for such period of time that is reasonably necessary for construction within a Unit or the Common Area. In the sole discretion of the Board, limitations may be placed on the parking areas, times for parking and points of entry for construction and commercial vehicles.

(b) Operation of motorized vehicles on pedestrian ways, bike ways, sidewalks and greens maintained by the Association is prohibited unless specifically permitted in the discretion of the Board. Any use of pedestrian ways, bike ways, sidewalks and greens maintained by the Association for motorized vehicles shall be subject to local laws and ordinances, and any restrictions established by the Board in permitting such use.

(c) Nothing herein contained shall interfere with any provision under the Americans with Disabilities Act or similar state or local law, ordinance or regulation.

11.17 Garbage and Refuse Disposal. No Unit shall be used or maintained as a dumping group for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers designed for that purpose and then only in approved containers and screened from view from streets and other Units. All incinerators or other equipment for the storage or disposal of such waste material shall be kept in a clean and sanitary condition. If such litter or other materials is found on any Unit, the same will be removed by the Owner of such Unit, at the Owner's expense, upon written request of the Association.

11.18 Changing Elevations. No Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Units, unless approved in writing by the ARB.

11.19 Lighting. Exterior lighting must be approved by the ARB. Seasonal decorative lights may be used only pursuant to rules and regulations established by the Board from time to time.

11.20 Fuel Storage and Dispensing. On-site storage and dispensing of gasoline, heating, or other fuels is prohibited, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment.

11.21 Common Area, Greens, Sidewalks, and Bike and Pedestrian Pathways/Trails.

(a) Owners and occupants of Units, as well as their employees, lessees, invitees, clients, customers, guests and pets shall refrain from any actions which deter from the enjoyment by other Owners of areas within the Properties designated as Common Areas, nature preserve, pedestrian plazas, sidewalks, bike and pedestrian pathways/trails, and private streets, lanes and alleys. Prohibited activities shall include, without limitation, obstruction of Common

Area, maintenance of dogs or other pets under conditions which interfere with the use of the specified areas by other Owners, their tenants and invitees, playing of loud radios or musical instruments, holding of large gatherings without advance approval of the Board, loitering, or use of facilities, tents or other temporary structures, stages, vending machines or facilities, except for events approved in advance by the Board and otherwise permitted under this Declaration. The Board may promulgate other rules and restrictions for use of these areas.

(b) Special events held within the Properties by any person other than the Declarant including, without limitation, educational, cultural, entertainment, promotional, sporting or social events expected to draw increased vehicle, bicycle and pedestrian traffic to the Common Area, pedestrian plazas, sidewalks, and bike and pedestrian pathways/trails within the Properties shall be approved in advance by the Board. Such approval shall be in the sole discretion of the Board.

11.22 Environmental Protection. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties or adjoining buffer zones or which use excessive amounts of water or which result in unreasonable levels of sound or light pollutions are prohibited. Restricted and prohibited activities include without limitation the following:

(a) Dumping of grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any buffer zone, drainage or irrigation ditch, swale, stream, pond, wetlands or creek, or elsewhere within the Properties or adjoining areas is prohibited, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff.

(b) Obstruction, re-channeling or any other interference with drainage flows after location and installation of drainage swales, storm sewers, or storm drains is prohibited, except that the Declarant and the Association shall have such right; provided the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties are prohibited, except that Declarant and the Association shall have the right to draw water from such sources.

(d) Living trees shall be removed from the Properties only in conformance with plans approved in accordance with Article 9.

(e) All areas designated on a recorded plat as "wetlands" shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any restrictions or covenants recorded against such property and be approved by all appropriate regulatory bodies. Prior to any alteration of a Unit, the Owner shall determine if any portion thereof meets the requirements for designation as a regulatory wetland. Notwithstanding anything contained in this Section, the Declarant, the Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands.

11.23 Construction Activities. No construction, erection, or placement of any structure,

permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved is permitted, except in strict compliance with the provisions of Article 9 of the Declaration. The following restrictions shall also apply:

(a) After commencement of construction of any Improvements in the Properties, the Owner shall diligently prosecute the work thereon, to the end that the Improvements shall not remain in a partly finished condition any longer than reasonably and normally necessary for completion thereof.

(b) The Owner of the Unit on which Improvements are being constructed shall at all times keep streets and parking contiguous to the Unit free from excess dirt, mud, garbage, trash or other debris as may be occasioned by construction of the Improvements.

(c) Rocks and trees removed during construction of Improvements shall be disposed of on the Units under construction in strict conformance with plans approved in accordance with Article 9.

(d) Storage of construction materials and equipment shall strictly conform to plans approved in accordance with Article 9. The foregoing materials and equipment shall not be permitted within any natural barriers established prior to construction.

(e) No overhead utility lines, including lines for cable, digital or similar television services, shall be permitted within the Properties, except for temporary lines as required during construction and lines installed by or at the request of Declarant.

11.24 Model Homes. Declarant, as well as any builder of homes in Dillard Creek Crossing, shall have the right to construct and maintain model homes on any of the Units. "Model Homes" shall be defined as those homes used for the purposes of inducing the sale of other homes within the Properties.

11.25 Driveways and Entrance to Garage. All driveways and entrances to garages shall be concrete or other substance approved in writing by Declarant or by the ARB and of a uniform quality.

11.26 Maintenance. The Owner of each Unit, improved and unimproved, shall keep the same free of all tall grass, undergrowth, dead trees, dangerous and dead tree limbs, weeds, trash, and rubbish, which Unit shall at all times be maintained in such a manner as to prevent the same from becoming unsightly, unsanitary or a hazard to health. In the event the Owner of any Unit fails to comply with the terms of this paragraph, the Declarant, the Board, and/or the Association shall have the right (but not the obligation) to go upon such Unit and to cut and remove tall grass, undergrowth, weeds, rubbish and other unsightly or undesirable things and objects therefrom and to do all other things and perform and furnish any labor necessary to desirable in its judgment to maintain the Unit in a neat and attractive condition, all at the expense of the Unit Owner, which expense shall become payable by the Owner to the Declarant and/or the Association on demand, and if not paid on demand by such Owner, the reasonable cost of such shall be added to and become a part of the annual assessments herein provided, to which such Unit is subject. Neither the Declarant nor the Association, as the case may be, nor any of its agents, employees or contractors shall be liable for any damages to any person which may result from the exercise of any of the rights conferred upon them as set forth in this paragraph.

11.27 Firearm and Weapon Discharge. Any firearm discharge other than for defense or

protection of one's life or property is prohibited on all property shown on the Plat. Firearms shall include rifle, gun, pistol, shotgun, black powder gun, pellet or BB gun, bow and arrow and any other weapon from which any bullet, shot or projectile may be discharged. The Board shall have no obligation to take action to prevent or stop such discharge.

11.28 Swimming Pools. No swimming pool shall be constructed, erected or maintained upon any Unit without the prior written consent of the Architectural Review Board and in no event shall any above-ground swimming pool be permitted.

11.29 Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Unit Owners. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article 8 hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant pursuant to Article 1.13 hereof, or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

11.30 Rules and Regulations. In addition to the use restrictions set forth in the Article, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Properties. Such rules shall be distributed to all Owners and occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and occupants until and unless overruled, canceled or modified in a regular or special meeting by a Majority of the Members holding Class "A" votes in the Association, and, during the Development Period, the written consent of the Declarant.

ARTICLE 12: EASEMENTS

12.1 Utilities. Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on recorded plats. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of Greenville County (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over all Common Area as may be reasonably necessary for the setting, removal and reading of water meters, and the maintenance and replacement of water, sewer and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Area such additional easements as are necessary or desirable for the providing of service or utilities to the Common Area or Units.

12.2 Conservation of Open Spaces. Declarant has created or may create certain areas within Dillard Creek Crossing which are shown on the Plat as "Open Space". Neither the Declarant, the Owner(s), the Association, nor any advisory or community board shall be granted permission to remove or destroy trees or natural vegetation from such Open Spaces, nor shall any of the following be allowed, without the express written approval of the Greenville County Planning Commission: subdivision of property, filling, draining, flooding, dredging, impounding, clearing, burning, cutting or destroying vegetation, cultivating, excavating, erecting, constructing, releasing wastes, or otherwise doing any work on the Open Spaces; and changing the grade or

elevation, impairing the flow or circulation of waters, or reducing the reach of waters. The following are expressly excepted from this paragraph: a) recreational or educational activities consistent with the continuing natural condition of the Property; b) removal or trimming of vegetation hazardous to person or property, or of timber downed or damaged due to natural disaster; c) restoration or mitigation required under law; d) construction and maintenance of a trail for educational and recreational purposes; and e) discharges of storm water to and from such Open Spaces as set forth in the Stormwater Management and Sediment Reduction Plan approved by Greenville County. Declarant shall grant a conservation easement with respect to the Open Spaces to the Association which shall be recorded in the Greenville County Register of Deeds Office separately from and in addition to this Declaration.

ARTICLE 13: MORTGAGEE PROVISIONS

13.1 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any 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.

13.2 Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

13.3 Failure of Mortgagee to Respond. Any Mortgagee 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 Mortgagee within thirty (30) Days of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE 14: DECLARANT'S RIGHTS

14.1 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part to the Association or to other persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

14.2 Development and Sales. The Declarant and others authorized by Declarant may maintain and carry on the Properties such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Units, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Area during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with Members' use and enjoyment of the Common Area. In the event that any such activity necessitates exclusion of Owners from Common Areas, such activities shall not exceed seven (7) consecutive Days. The Declarant and others authorized by the Declarant shall have easements over the Properties for access, ingress and conducting such activities.

In addition, the Declarant and others authorized by Declarant may establish within the Properties such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Properties and/or the construction or sale of Units, including but not limited to, business offices, signs, model units, tents, sales offices, sales centers and related parking facilities. During the Development Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and others authorized by the Declarant shall have easements over the Properties for access, ingress, and egress and use of such facilities.

Declarant may permit the use of any facilities situated on the Common Area by persons other than Owners without the payment of any use fees.

14.3 Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such Improvements to the Common Area as it deems appropriate in its sole discretion.

14.4 Additional Covenants. No person shall record any declaration of covenants, conditions and restrictions, declaration of condominiums, easements, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any person, other than the Declarant pursuant to Section 7.4, may conflict with the Declaration, By-Laws or Articles.

14.5 Limitations in Use. During the Development Period, the Declarant, acting in its sole and absolute discretion, retains the right but not the obligation to limit the use of any portion of the Properties, including any one Unit or group of Units, to one or more, but less than all, of the permitted uses under the Zoning Ordinance.

The limitations on use imposed by the Declarant may not be changed without the written consent of the Declarant during the Development Period. Thereafter, or at such time as the Declarant assigns it rights in this regard to the Association, any change in the limitations on use shall require the consent of the Board and the Owner(s) of the affected Unit or Units, and shall be set forth in a written instrument recorded in the Public Records. Declarant shall have the further right to establish such rules, regulations and procedures for initial and continuing review, approval and enforcement of the use or uses of and for all Units as provided in Article 11. Any change on the limitations of use of a Unit and the resulting change of the actual use of such Unit may impact the assessment and voting allocations for the affected Unit. The Board may, but shall not be obligated to, revise the Association's budgets to reflect such change and send the revised budgets to the Owners in accordance with Article 8.

14.6 Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove any action, policy or program of the Association, the Board, and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant under the Governing Documents, or interfere with development of or construction on any portion of the Properties, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the

Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Class "B" Member has registered with the secretary of the Association, which notice complies with the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Class "B" Member may waive its right to receive notice in the same manner as provided in the By-Laws.

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor or any prospective action, policy or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents may make its concerns, thoughts and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) Days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) Days following receipt of written notice of the proposed action. No action, policy, or program shall be effective or implemented if the Class "B" Member exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

ARTICLE 15: GENERAL PROVISIONS

15.1 Duration.

Except as otherwise limited by South Carolina law, this Declaration shall have perpetual duration. If South Carolina law limits the period during which covenants may run with the land, then this Declaration shall automatically be extended at the expiration of the period for successive periods of twenty (20) years each. Notwithstanding the above, if any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until the year 2101 A.D.

15.2 Amendment.

(a) Unless otherwise provided by South Carolina law, this Declaration may be terminated or amended within the first twenty (20) years after the date of recording by an instrument signed by Owners of at least ninety percent (90%) of the total Units within the Properties, which instrument is recorded in the Public Records; provided, however, regardless of the provisions of South Carolina law, this Declaration may not be terminated or amended during the Development Period without the prior written consent of the Declarant. After twenty (20) years from the date of recording, this Declaration may be terminated or amended only by an instrument signed by Owners owning at least fifty-one percent (51%) of the Units and

constituting at least fifty-one percent (51%) of the total number of Owners, and by the Declarant, if the Declarant owns any portion of the Properties. 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.

(b) For the period of time in which Declarant has the right unilaterally to subject additional property to this Declaration, Declarant may unilaterally amend this Declaration for any other purpose provided that any such amendment shall not materially adversely affect the substantive rights of any Lot Owners hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

15.3 Variances.

Notwithstanding anything to the contrary contained herein, Declarant and the Board or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the By-Laws and any rule, regulation, or use restriction promulgated pursuant thereto, if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the community.

[SIGNATURES BEGIN ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned, has caused these presents to be executed in its corporate name by its officers thereunto duly authorized and its corporate seal properly attested to be hereto affixed on this the _____ day of April, 2009.

Executed and declared
in the presence of:

DECLARANT:

HENDLEY DEVELOPMENT, LLC, a South
Carolina limited liability company

Witness # 1

By: _____

Witness # 2 / Notary

Its: _____ **Manager**

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

PROBATE

Personally appeared before me the undersigned witness, who says on oath that (s)he saw the within named Limited Liability Company, by its duly authorized Manager, sign, seal and deliver the within written instrument and that (s)he with the other witness, witnessed the execution thereof.

Sworn to before me this
_____ day of April, 2009

Witness #1

Notary Public for S.C.
My Commission Expires:

[SIGNATURES CONTINUE ON THE FOLLOWING PAGES]

TABLE OF EXHIBITS

- A Property Description
- B Additional Property

EXHIBIT A

Property Description

All those certain pieces, parcels or lots of land, situate, lying and being in the State of South Carolina, County of Spartanburg, as depicted on a plat of survey entitled "Subdivision of Dillard Creek Crossing Phase I", prepared by Arbor Engineering, Inc., dated July 3, 2007, last revised June 13, 2008, and recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 163 at Page 268. Reference to said plat is hereby made for a metes and bounds description thereof.

EXHIBIT B

Additional Property Description

All that certain piece, parcel or tract of land, situate, lying and being in the State of South Carolina, County of Spartanburg, containing 34.12 acres, more or less, according to a plat of survey entitled "Boundary Survey for S & H Developers, LLC", prepared by Precision Land Surveying, Inc., dated September 28, 2006, and recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 160 at Page 639. Reference to said plat is hereby made for a metes and bounds description thereof.

LESS AND EXCEPT:

All those certain pieces, parcels or lots of land, situate, lying and being in the State of South Carolina, County of Spartanburg, as depicted on a plat of survey entitled "Subdivision of Dillard Creek Crossing Phase I", prepared by Arbor Engineering, Inc., dated July 3, 2007, last revised June 13, 2008, and recorded in the Office of the Register of Deeds for Spartanburg County in Plat Book 163 at Page 268. Reference to said plat is hereby made for a metes and bounds description thereof.