



BP0312787

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

ETIWAN POINTE PHASE 3 TOWNHOMES

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EXHIBITS:

Exhibit A	Land Initially Submitted
Exhibit B	Additional Property
Exhibit C	By-Laws of Etiwan Pointe Phase 3 Townhomes Homeowners Association, Inc.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ETIWAN POINTE PHASE 3 TOWNHOMES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made as of the date set forth on the signature page hereof by Southeastern Recapitalization Group II, LLC, a South Carolina limited liability company (the "Declarant").

Declarant is the owner of the real property described on **Exhibit "A,"** which is attached hereto and incorporated herein by this 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, the Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc. has been created to own, operate and maintain the Common Areas and to administer and enforce the provisions of this Declaration, the By-Laws, and the Design Guidelines (capitalized terms are defined in Article 1 below).

Declarant hereby declares that all the property described on **Exhibit "A"** and any Additional Property subjected to this Declaration by Supplemental Declaration (as discussed below) shall be held, sold, used and conveyed subject to the following easements, 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 that certain real property which is more particularly described on **Exhibit "B"**, which is attached hereto 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 any additional areas, if any, for which the Association has or assumes responsibility.

1.4 "Articles of Incorporation" or "Articles": The Articles of Incorporation of Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc., as filed and amended from time to time with the Secretary of State of the State of South Carolina.

1.5 "Association": Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc., a South Carolina mutual benefit nonprofit corporation, its successors and 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 Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc., attached as **Exhibit "C,"** as they may be amended or restated.

1.8 "Common Area": All real and personal property, including easements and licenses, which the Association owns, leases or holds possessory or use rights in for the common use and enjoyment of the Owners, including but not limited to, walkways, trails, ponds, and open spaces, as described on the plat which is referred to on **Exhibit A** attached hereto, including any ponds, marshlands, and waterways located within such areas. No representation from any party or sales agent, including those of the Declarant, or other entity, as to the existence of a Common Area, size, shape or composition of a Common Area, other than those provided herein or provided in writing by the Declarant, shall be relied upon or require, in any way, the Declarant to comply with that representation. In the event that additional Common Areas are described on subsequent plats prepared by Declarant then such areas will be deemed Common Areas as such term is defined herein.

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. The Common Expenses shall include any and all taxes (including, both personal and real property taxes) assessed for the Common Area. Common Expenses shall not include any expenses incurred during the Development Period for the 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.

1.10 "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the ARB.

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": Southeastern Recapitalization Group II, LLC, 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 as part of the Properties 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 time.

1.13 "Design Guidelines": The design, architectural and construction guidelines and application and review procedures applicable to all or any portion of the Properties promulgated and administered pursuant to Article 9.

1.14 "Development Period": The period of time during which the Declarant as the Class "B" Member may appoint the majority of the members of the Board of Directors as stated in Section 3.2(b).

1.15 "General Assessment": Assessments levied on all Townhome Units subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Townhome Units, as more particularly described in Sections 8.1 and 8.3.

1.16 "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, all Design Guidelines, 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 "Majority": Those votes, Owners, Members, or other group, as the context may indicate, totaling more than fifty-one percent (51%) of the total eligible number of votes.

1.18 "Member": A Person subject to membership in the Association pursuant to Section 3.1.

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

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

1.21 "Owner": One (1) or more Persons who hold the record title to any Townhome 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 Townhome 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.

1.22 "Person": A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.

1.23 "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.

1.24 "Public Records": The RMC Office for Charleston County, South Carolina.

1.25 "Special Assessment": Assessments levied in accordance with Section 8.4.

1.26 "Specific Assessment": Assessments levied in accordance with Section 8.5.

1.27 "Supplemental Declaration": An instrument filed in the Public Records which subjects Additional Property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.28 "Townhome Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family. Each Owner is solely responsible for the payment of any and all taxes (including, both personal and real property taxes) assessed as to his/her Townhome Unit.

ARTICLE 2. PROPERTY RIGHTS

2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, which is appurtenant to and shall pass with the title to each Townhome Unit, subject to:

- (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 Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area, including rules limiting the number of guests who may use the Common Area;
- (d) The right of the Board to suspend the right of an Owner to use any facilities within the Common Area pursuant to Section 4.3;
- (e) 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, subject to the approval requirements set forth in Sections 2.4 and 12.4;
- (f) The right of the Association, acting through the Board, to dedicate or transfer all or any portion of the Common Area, subject to any approval requirements set forth in the Governing Documents; and
- (g) The right of the Declarant to conduct activities and establish facilities within the Properties as provided in Article 13.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her-Townhome Unit shall be deemed to have assigned all such rights to the lessee of such Townhome Unit. However, the Owner will remain responsible for and obligated to pay any and all assessments and all other charges arising from the occupation or use by the lessee.

2.2 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 Section shall not prohibit the Board from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.3 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 of any condemnation award or proceeds of such conveyance. The award made for such taking or proceeds of such conveyance shall be payable to the Association.

2.4 Actions Requiring Owner Approval. The conveyance or mortgaging of Common Area, except in accordance with Section 4.2, shall require the prior approval of Members holding at least 2/3 of the total Class "A" votes in the Association, including 2/3 of the Class "A" votes held by Members other than the Declarant, if the U.S. Department of Housing and Urban Development is insuring the Mortgage on any Townhome Unit or the U.S. Department of Veterans Affairs is guaranteeing the Mortgage on any Townhome Unit. Notwithstanding anything to the contrary in Section 2.3 or this Section, the Association, acting through the Board, may grant easements over the Common Area for installation and maintenance of utilities and drainage facilities and for other purposes not inconsistent with the intended use of the Common Area, without the approval of the membership.

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 Townhome Unit. If a Townhome 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 Section 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, manager, 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. Membership shall be appurtenant to and may not be separated from ownership of a Townhome Unit. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one (1) vote be cast or office held for each Townhome Unit owned; provided, however, that the right to hold office is further subject to the restrictions contained in the By Laws.

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 (1) equal vote for each Townhome Unit in which they hold the interest required for membership under Section 3.1; provided, however,

there shall be only one (1) vote per Townhome Unit and no vote shall be exercised for any property which is exempt from assessment under Section 8.9. In any situation where there is more than one (1) Owner of a Townhome Unit, the vote for such Townhome 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 Townhome Unit's vote shall be suspended if more than one (1) Person seeks to exercise it.

(b) Class "B ". The sole Class "B" Member shall be the Declarant. 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 a Majority of the members of the Board of Directors during the Development Period which shall continue until the first to occur of the following:

(i) When residences for single family dwelling have been constructed on all of the Townhome Units shown on the Plat (both the Townhome Units listed on Exhibit A and also the list of potential future Townhome Units) referenced in **Exhibit A** and certificates of occupancy have been issued for all such residences constructed on the Townhome Units; and further, such Townhome Units have been conveyed to Owners other than Declarant;

(ii) December 31, 2025; or

(iii) When, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

Upon the conclusion of the Development Period, the Declarant may, but shall not be obligated to, evidence the termination of the Development Period by recording a written instrument in the Public Records in which the Declarant unilaterally relinquishes its rights under this Declaration. Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for any Townhome 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 10. The Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Design Guidelines. 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, subject to the provisions of Sections 2.4 and 12.4. 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"**, personal property, 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 conveyed to the Association and accepted pursuant to this Section. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3 Rules and Regulations. In addition to the use restrictions set forth herein, 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 (including their families, tenants, guests, invitees, and agents) until and unless overruled, canceled, or modified by the Board. The Board shall have the authority to impose a reasonable monetary fine and other sanctions for violation of the rules, and monetary fines may be collected by lien or foreclosure as is applicable to assessments as provided herein. In addition the Board may seek to judicially enjoin and abate violations of such rules by an Owner.

4.4 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 Section 3.22 of the By-Laws. Such sanctions may include, without limitation:

- (a) imposing monetary fines which shall constitute a lien upon the Townhome Unit of the violator;
- (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 Common Areas; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Townhome Unit; and
- (e) suspending any services provided by the Association to an Owner or the Owner's Townhome Unit (including, but not limited to, the ability of an Owner to utilize the Common Area 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, guest or invitee of a Townhome Unit violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction such occupant, guest or invitee and/or the Owner of the Townhome Unit that the violator is occupying or visiting.

In addition, the Board, or the covenants committee, if established, 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, the removal of pets that are in violation of pet 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 levy a Specific Assessment plus a ten percent (10%) administrative fee to cover all costs incurred in bringing a Townhome Unit into compliance with the Governing Documents.

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, whether suit is filed or not and including any appeals.

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 a waiver 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.

4.5 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.

4.6 Indemnification. The Association shall indemnify every officer, director, ARB member, and committee member against all damages, liabilities, and expenses, including reasonable attorneys 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 officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.7 Dedication of or Grant of Easements on Common Area. The Association may dedicate or grant easements across portions of the Common Area to the Town of Mount Pleasant, Charleston County, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity or to any private utility company. In addition, the Association may grant permits and licenses as necessary for the proper maintenance or operation of the Properties under, through, or over the Common Property, as may be reasonably necessary to or desirable for the ongoing development and operation of the Properties. In furtherance of such activities, the Board may represent the Owners and the Properties in dealing and contracting with governmental entities.

4.8 Security. Each Owner and occupant of a Townhome Unit, and their respective guests and invitees, 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. The Association, the original Declarant, and any successor Declarant shall not in any way be considered insurers or guarantors of security within the Properties, and none of them shall be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measure undertaken cannot be compromised or circumvented, and further no representation or warranty is made that any such system or measure 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 Townhome Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers, and further that each Person using the Properties explicitly assumes all risks of personal injury and loss or damage to property, including Townhome Units and the contents of Townhome Units, resulting from acts of third parties.

ARTICLE 5. MAINTENANCE

5.1 Association's Responsibility.

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

- (i) all Common Area;
- (ii) all landscaping and other flora, structures, and improvements, including any entry features, sidewalks, and bike and pedestrian pathways/trails, if any, situated upon or within the Common Area;
- (iii) all furnishings, equipment and other personal property of the Association;
- (iv) 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 to maintain the Community-Wide Standard.

(b) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner, or (ii) 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 to maintain the Community-Wide Standard.

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.

(c) 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 Townhome 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. Notwithstanding the foregoing, the Board may, within its sole discretion, allocate the expense of

maintenance, repair, and replacement which benefits one (1) or more, but less than all Townhome Units, as a Specific Assessment in accordance with the benefit so received by such Townhome Units, pursuant to Section 8.5.

(d) The Board shall manage, deal and handle the Area of Common Responsibility in the event of damage or destruction as a result of casualty loss, condemnation, eminent domain as provided herein.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Townhome Unit, and all structures, landscaping other improvements comprising the Townhome Unit in a manner consistent with the Community-Wide Standard and all Governing Documents (including, but not limited Article 9, as provided herein).

Each Owner is responsible for the maintenance and repair of the interior and exterior of his Townhome Unit, including the roof. Each Owner shall comply with the terms of Article 9 stated herein prior to taking any action to maintain, repair or alter the exterior of his Townhome Unit.

In particular, and in furtherance of the preceding paragraph, each Owner shall be solely responsible for the following:

(i) Exterior maintenance of his/her Townhome Unit, but not limited to, painting, repairing, replacing and caring for the following:

(1) roofs (including the roof joists and trusses, crossbeams, roof decking and underplying, and shingles or other covering and surface materials);

(2) gutters and downspouts;

(3) exterior walls and surfaces, including the brick, siding, or other building material forming the exterior walls of the Townhome Unit and/or the garage;

(4) exterior stoops, porches, landings, railings and steps; and

(5) projecting cornices and copings.

(ii) All grass, landscaping and other flora located within the portion of the Property comprising the Townhome Unit; and

(iii) All walkways, parking pads, driveways, and other paved areas located within the portion of the Property comprising the Townhome Unit.

Further, each Owner is responsible for the maintenance, repair and replacement of the windows, window casings, exterior doors and door frames (including any and all front doors, back doors, sliding glass doors, and garage doors); and all hardware which is part of any window

or door; and screens and exterior lights, if any, serving the Owner's Townhome Unit. Further, the maintenance and repair of those portions of the heating and air conditioning systems serving a Townhome Unit, including the air conditioning compressor and condenser located outside a Townhome Unit, shall be the responsibility of the Owner of such Townhome Unit.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association in performing such maintenance, plus a ten percent (10%) administrative fee against the Townhome Unit and the Owner as a Specific Assessment in accordance with Section 8.5. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem (however, such cure period shall not exceed 30 days except if the Board determines that a longer cure period is necessary and appropriate) prior to entry by the Association into the Townhome Unit or the Association performing such maintenance activity as to the Townhome Unit, except when entry into the Townhome Unit is required due to an emergency situation.

Further, the Association may at its option coordinate certain maintenance activities such as landscaping, exterior painting, and roofing for the Townhome Units (or portion of the Townhome Units) in order to obtain competitive pricing using the Townhome Units' collective purchasing power, and to maintain uniformity of exterior appearances, quality and condition. A Townhome Unit Owner shall be required to pay its portion of such maintenance expense as required by the Association prior to or at the time the maintenance work is performed as to his Townhome Unit. Such maintenance cost shall be deemed a Specific Assessment pursuant to Section 8.5.

5.3 Party Walls and Similar Structures.

(a) *General Rules of Law to Apply.* Each wall or fence built as a part of the original construction of any dwelling or on any Townhome Unit which shall serve and separate any two (2) adjoining Townhome Units or dwellings shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto.

(b) *Sharing and Repair Maintenance.* The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the party wall or fence in equal proportions.

(c) *Damage and Destruction.* If a party wall or fence 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, then the Owner or Owners who are benefited by the party wall or fence shall contribute to the cost of restoration thereof in equal proportions. However, such contribution will not in any way prejudice the right of any such Owners to call for a larger contribution from the other Owner or Owners using or benefiting by such party wall or fence under any rule of law regarding liability for negligent or willful acts or omissions. In the event that the Association repairs or restores a party wall or fence, the Owner or Owners using or benefiting from such wall shall thereafter be jointly and severally responsible for any and all

costs of repair or restoration of the wall or fence plus a ten percent (10%) administrative fee. Such costs shall be due and payable ten (10) Days after the wall or fence has been constructed and shall constitute a Specific Assessment.

(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.

5.4 Standard of Performance. Responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standards and 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 such Person has been negligent in the performance of its maintenance responsibilities.

5.5 Office of Ocean and Coastal Resource Management. Each Owner acknowledges that any portion of any Townhome Unit which may contain submerged land, coastal waters or other critical areas, is subject to the jurisdiction of the Office of Ocean and Coastal Resource Management. Each Owner shall be liable, to the extent of such Owners' ownership, for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning any such submerged land, marshland, coastal waters or other critical areas.

ARTICLE 6. INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

(a) *Required Coverages.* Except as otherwise provided herein, the Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, (the cost of which will be a Common Expense), if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance and commercial general liability insurance for the Common Area for the benefit of the Association and its Members;

(ii) Workers compensation insurance and employers liability insurance, if and to the extent, required by law;

(iii) Directors and officers liability coverage;

(iv) Fidelity insurance covering all Persons responsible for handling Association funds and serving on the Board of the Association; and

(v) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance.

In the event of an insured loss, any required deductible as provided in the above policies shall be considered a Common Expense to be paid by the Association.

6.2 Policy Requirements. The Association may arrange for periodic reviews (on an annual or more frequent basis) of the sufficiency of insurance coverage by one (1) or more qualified Persons, at least one (1) of whom must be familiar with insurable replacement costs in Charleston, Berkeley, and Dorchester Counties, South Carolina.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and to each Member upon request. The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 6.1(a).

(a) All insurance coverage obtained by the Board shall:

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

(ii) authority to adjust losses under policies obtained by the Board shall be vested in the Association; provided, however, no Mortgagee having an shall be prohibited from participating in any settlement negotiations;

(iii) be written in the name of the Association as trustee for the benefited parties;

(iv) policies on the Common Areas shall be for the benefit of the Association and its Members;

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

(vi) contain an inflation guard endorsement;

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

(viii) the public liability policy shall have a single combined limit of at least \$1,000,000.

(b) In addition, the Board shall use reasonable efforts to secure insurance policies which list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests;

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

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

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

(v) a cross liability provision; and

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

6.3 Damage and Destruction. In the event of any loss covered by insurance or bond maintained by the Association, 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 or destruction to the Area of Common Responsibility 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 ninety (90) Days after the loss not to repair or reconstruct. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Area of Common Responsibility shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Area of Common Responsibility shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared and maintained by the Association consistent with the Community-Wide Standard.

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 Townhome Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall.

6.4 Owners' Insurance. By virtue of taking title to a Townhome Unit, each Owner affirmatively covenants and agrees with all other Owners and with the Association that such Owner will obtain and continuously carry property insurance for the full replacement cost of his or her Townhome Unit, less a reasonable deductible, and also flood insurance for coverage as to his or her Townhome Unit. The insurance policies purchased by the Owner must comply with the terms and conditions required by the Association, including as provided in Section 6.2 above as applicable. Upon the request of the Association, an Owner will deliver evidence of such insurance coverage in compliance with the terms hereof as to his or her Townhome Unit.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures on or comprising his or her Townhome 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 Townhome Unit of all debris and ruins and maintain the Townhome Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall be responsible for any costs and expenses 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, including both Townhome Units and Common Areas as applicable. Such Supplemental Declaration shall not require the consent of Members, but shall require the consent of the Owner of such property, if other than 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 a Majority 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.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the president and the secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development Period, for the purpose of removing any portion of the Properties from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal.

7.4 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 through Specific Assessments. 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 such property, 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.

7.5 Amendment. This Article 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. There shall be three (3) types of assessments: (a) General Assessments as described in Section 8.3; (b) Special Assessments as described in Section 8.4; and (c) Specific Assessments as described in Section 8.5. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, other charges and fees, together with interest, late charges, costs of collection, and reasonable attorneys fees, shall be a charge and continuing lien upon each Townhome Unit against which the assessment or charge is made until paid, as more particularly provided in Section 8.6. Each such assessment, charge or fee, together with interest, late charges, costs, and reasonable attorney's fees, also shall be the personal obligation of the Person who was the Owner of such Townhome Unit at the time the assessment arose. Upon a transfer of title to a Townhome Unit, the grantee shall be jointly and severally liable for any assessments and other charges and fees due at the time of conveyance. However, no first Mortgagee who obtains title to a Townhome Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Association shall, upon written request and receipt of a reasonable processing fee, furnish to any Owner liable for any type of assessment a written statement signed by an Association officer or designee setting forth whether such assessment has been paid. Such statement shall be conclusive evidence of payment.

Assessments shall be paid in such manner and on such dates as the Board may establish, which may include discounts for early payment or similar time/price differentials. It follows that assessments may be paid on an annual, quarterly, or monthly basis. The Board may require advance payment of assessments at closing of the transfer of title to a Townhome Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the General Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Townhome Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15th) Day following the due date unless otherwise specified by Board resolution.

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

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

8.2 Declarant's Obligation for Assessments. During the Development Period, the Declarant shall not be obligated to pay assessments for any unoccupied Townhome Units owned by the Declarant. After termination of the Development Period, the Declarant shall pay assessments on any Townhome Units owned by the Declarant in the same manner as any other Owner.

8.3 Computation of General Assessments. At least thirty (30) Days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses for the subsequent year, which may include a contribution to establish a reserve fund.

General Assessments shall be levied equally against all Townhome Units subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including any reserves. In determining the level of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Association, including any surplus from prior years, and any assessment income expected to be generated from any additional Townhome Units reasonably anticipated to become subject to assessment during the fiscal year. It follows that subject to the terms of Section 8.2 above, each Townhome Unit will be allocated equal responsibility for General Assessments.

During the Development Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy and/or contributions of

services and materials which may be treated as either a contribution or an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years and the treatment of such payment shall be made known to the membership, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least thirty (30) Days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within twenty (20) Days after delivery of the notice of assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year plus an additional five percent (5%) shall continue for the current year. In such event or if the budget proves inadequate for any reason, the Board may prepare a revised budget for the remainder of the fiscal year. The Board shall send a copy of the revised budget to each Owner at least thirty (30) Days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.4 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Special Assessments shall be allocated equally among all Townhome Units. Any Special Assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within twenty (20) Days after delivery of the notice of such Special Assessment. Special Assessments shall be due and payable within thirty (30) Days of written notice of such Special Assessment, unless the Board determines that installment payments shall be permitted and provides each Owner with an approved payment schedule, in which case payments must be made no later than is specified in such payment schedule. In the event that the Board authorizes the payment of any Special Assessment in installments, no notice of the due date of each individual installment payment shall be required to be given, except the notice of the payment schedule as described above. Special Assessments may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.5 Specific Assessments. The Association shall have the power to levy Specific Assessments against a particular Townhome Unit or Townhome Units as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the particular Townhome Units or the occupants thereof upon request of the Owner pursuant to an offering of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, yard landscape maintenance, exterior painting, roofing, janitorial service, pest control, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Townhome Units into compliance with the terms of the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Townhome Unit, their agents, contractors, employees, licensees, invitees, or guests.

In addition, fines levied by the Association pursuant to Section 4.3 shall constitute Specific Assessments.

8.6 Lien for Assessments. The Association shall have a lien against each Townhome Unit to secure payment of assessments including, without limitation, General, Special, and Specific 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 whether suit is brought and including any appeals. 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 record (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 or nonjudicial foreclosure.

The Declarant or the Association may bid for the Townhome Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Townhome Unit. While a Townhome Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Townhome Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment allocated to the Townhome Unit owned by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Townhome Unit shall not affect the assessment lien or relieve such Townhome Unit from the lien for any subsequent assessments. However, the sale or transfer of any Townhome 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 Townhome Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Townhome Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses

collectible from Owners of all Townhome Units subject to assessment under Section 8.7, including such acquirer, its successors and assigns.

All other Persons acquiring liens or encumbrances on any Townhome Unit after this Declaration has been recorded shall be deemed to consent to the fact 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.

8.7 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Townhome Unit on the date which the Townhome Unit is conveyed to a Person other than the Declarant or upon the occupancy of the Townhome Unit for residential purposes. The first annual General Assessment, if any, levied on each Townhome Unit shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Townhome Unit.

8.8 Failure to Assess. Failure of the Board to establish assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which an assessment was made, plus an additional five percent (5%), until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.9 Exempt Property. The following property shall be exempt from payment of assessments:

(a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1; and

(b) Any property dedicated or otherwise conveyed to and accepted by any governmental authority or public utility.

8.10 Transfer Fee. Upon acquisition of record title to a Townhome Unit by any Owner thereof other than the Declarant or upon occupancy of a Townhome Unit by a Person other than the Declarant, a payment shall be made by or on behalf of the purchaser or occupant to the Association in an amount equal to **one half of one percent (0.5%) of the purchase price for the Townhome Unit** ("Transfer Fee"). The Transfer Fee shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. The Transfer Fee shall be collected and disbursed to the Association at closing of the purchase and sale of the Townhome Unit, or if the obligation to pay the Transfer Fee arises by virtue of occupancy of a Townhome Unit by a Person other than the Declarant, the Transfer Fee shall be paid immediately upon demand by the Association. The payment of the Transfer Fee shall be a continuing obligation due upon each transfer of ownership of a Townhome Unit. However, the Transfer Fee will not be due upon the transfer of title by an Owner in the event that the transfer is an exempt transfer pursuant to South Carolina Code Section 12-24-40, as it may be amended and revised. The Transfer Fee shall be used by the Association in covering operating expenses, placement in reserve accounts, and for other purposes as determined by the Board pursuant to the Governing Documents. Notwithstanding the preceding, the Declarant may

waive the requirement for the payment of the Transfer Fee upon the initial conveyance by the Declarant of a Townhome Unit to the first Owner of such Townhome Unit (other than the Declarant).

8.11 Default Interest Rate; NSF Checks; Late Fees. Except as otherwise provided in the Governing Documents, any assessment levied upon an Owner which is not paid within fifteen (15) Days after the date upon which it is due shall bear interest at the lesser of (a) the rate of 18% per annum; or (b) the maximum rate of interest permissible under the laws of South Carolina. In addition, if any Owner pays any assessment (General, Special or Specific) with a check on an account that has insufficient funds ("NSF"), the Board may, in its sole discretion, demand that all future payments be made by certified check or money order along with imposing a reasonable processing charge. Finally, the Association may charge a delinquent Owner an administrative/late fee not to exceed fifty dollars (\$50.00) for each installment due to the Association which is delinquent. Any payment received by the Association shall be applied first to any attorneys fees and other costs of collection, then to any interest accrued on the late installment, then to any administrative late fee and then to the delinquent assessment.

8.12 Assessments due to Etiwan Pointe Condominium Council of Owners, Inc. In addition to the Assessments provided for in this Article 8, Owners shall be responsible for the payment of assessments to the Etiwan Pointe Condominium Council of Owners, Inc. as provided in the Master Deed for Etiwan Pointe Horizontal Property Regime recorded in the Public Records in Book B 555, Page 339 on September 23, 2005, as amended and supplemented.

ARTICLE 9. ARCHITECTURAL STANDARDS

9.1 General. No exterior structure or improvement, as described in Section 9.3, shall be placed, erected, installed or made upon any Townhome Unit or adjacent to any Townhome Unit where the purpose of the structure is to service such Townhome Unit except in compliance with this Article, and with the prior written approval of the ARB under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.3.

This Article shall not apply to the activities of the Declarant and shall also not apply to improvements to the Common Area by or on behalf of the Association. This Article may not be amended during the Development Period without the Declarant's written consent.

9.2 Architectural Review. Responsibility for administration of the Design Guidelines and review of all applications for construction and modifications under this Article shall be handled by the ARB, the members of which need not be Members of the Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the ARB. The ARB may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application.

The ARB shall consist of one (1) to three (3) persons and shall have exclusive jurisdiction over all construction and modifications on any portion of the Properties. Until one hundred percent (100%) of the Properties have been developed and conveyed to Owners other than the Declarant and initial construction on each Townhome Unit has been completed in

accordance with the Design Guidelines, the Declarant retains the right to appoint all members 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 in recordable form 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.

(a) *Guidelines and Procedures; Design Guidelines.* The Declarant shall prepare the initial Design Guidelines if any, for the Properties. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary according to land use and from one (1) portion of the Properties to another depending upon the location and unique characteristics. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the ARB in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the ARB and compliance with the Design Guidelines does not guarantee approval of any application.

The ARB shall adopt the Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only. There shall be no limitation on the scope of amendments to the Design Guidelines except that no amendment shall require the modification or removal of any structure previously approved once the approved construction or modification has commenced. The ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive. The ARB shall make the Design Guidelines available to all Owners.

(b) *Procedures.* Three (3) copies of all plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the ARB for review and approval (or disapproval). In addition, information concerning irrigation systems, drainage, lighting, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Design Guidelines. In reviewing each submission, the ARB may consider the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finish grade elevation, among other considerations. Decisions may be based solely on aesthetic considerations. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time.

In the event that the ARB fails to approve or to disapprove any application within sixty (60) Days after submission of all information and materials reasonably requested and upon receipt of the applicable fee which may be set by the ARB, the application shall be deemed approved. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARB pursuant to Section 9.6.

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.

Any Owner may remodel, paint or redecorate the interior of structures on his or her Townhome Unit without approval. However, adding a screened porch, patio or similar structure to a Townhome Unit or any modifications to the interior of screened porches, patios, and similar portions of a Townhome Unit visible from outside the structures on the Townhome Unit shall be subject to approval.

9.3 Specific Guidelines and Restrictions.

(a) *Exterior Structures and Improvements.* Exterior structures and improvements shall include, but shall not be limited to, staking, clearing, excavation, grading and other site work; construction of any dwelling or accessory building; exterior alteration, maintenance, or repair of existing improvements (including, but not limited, to any exterior painting or repainting, any modification of any windows, any modification of the exterior of the garage, and any modification of the roof); installation or replacement of mailboxes; basketball hoops; swing sets and similar sports and play equipment; garbage cans; wood piles; swimming pools; gazebos or playhouses; window air-conditioning units or fans; hot tubs; solar panels; antennas; satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation or sculpture; and planting or removal of landscaping materials. Notwithstanding the foregoing, the Declarant and the Association shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind only in strict compliance with all federal laws and regulations.

(b) In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the ARB shall have the right, in its sole discretion, to prohibit or restrict these items within the Properties. Each Owner must strictly comply with the terms of this Section unless approval or waiver in writing is obtained from the ARB. The ARB may, but is not required to, adopt additional specific guidelines as part of the Design Guidelines.

(i) *Signs.* No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the ARB, except (1) such signs as may be required by legal proceedings; and (2) not more than one (1) professional security sign of such size deemed reasonable by the ARB in its sole discretion. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or occupant within any portion of the Properties, including the Common Area, any Townhome Unit, any structure or dwelling located on the Common Area or any Townhome Unit (if such sign would be visible from the exterior of such structure or dwelling as determined in the ARB's sole discretion).

Except as provided in Section 13.2 or unless a written variance is granted pursuant to Section 9.5, no "for sale" or "for lease" signs shall be permitted within the Properties, including the interior of a structure or dwelling, if such sign would be visible from the exterior of such structure or dwelling as determined in the ARB's sole discretion. The Declarant and the ARB reserve the right to prohibit other signs and to restrict the size, content, color, lettering, design and placement of any approved signs. All signs must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant or its duly

authorized agent as may be necessary or convenient for the marketing and development of the Properties.

(ii) Tree Removal. No trees shall be removed without the prior written consent of the ARB.

(iii) Lighting. Exterior lighting visible from the street or another Townhome Unit shall not be permitted except for: (1) approved lighting as originally installed on a Townhome Unit; (2) pathway lighting; (3) seasonal decorative lights during the usual and common season; or (4) any additional lighting as may be approved by the ARB.

(iv) Temporary or Detached Structures. Except as may be permitted by the ARB, no temporary house, dwelling, garage or outbuilding shall be placed or erected on any Townhome Unit. No mobile home, trailer home, travel trailer, camper or recreational vehicle shall be stored, parked or otherwise allowed to be placed on a Townhome Unit as a temporary or permanent dwelling.

(v) Accessory Structures. With the approval of the ARB, detached accessory structures may be placed on a Townhome Unit to be used for a playhouse, tool shed, dog house, or other approved use. Such accessory structures shall conform in exterior design and quality to the dwelling on the Townhome Unit. Except as may be provided otherwise by the ARB, an accessory structure placed on a Townhome Unit shall be located only behind the dwelling as such dwelling fronts on the street abutting such Townhome Unit or in a location approved by the ARB. All accessory structures shall be located within side and rear setback lines as may be required by the ARB or by applicable zoning law.

(vi) Window Treatments. Unless otherwise approved in writing by the ARB, all windows on any Townhome Unit shall have window treatments, and any portion thereof visible from outside Townhome Unit shall be white or off-white in color.

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, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective 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 shall not be considered a hardship warranting a variance.

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. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the Declarant, the Association, the Board, and the ARB shall not bear any responsibility: (a) for ensuring the structural integrity or soundness of approved construction or modifications, the adequacy of soils or drainage, (b) for ensuring compliance with any licensing or use agreements or copyrights associated with any drawings, specifications, plats, plans, or models, including those in electronic form, (c) for ensuring compliance with building codes and other governmental requirements, or (d) for ensuring that all dwellings are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners. The Declarant, the Association, the Board, the ARB or any committee, or member of any of the foregoing shall not be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Townhome Unit. In all matters, the committees and their members shall be defended and indemnified by the Association as provided in Section 4.5.

9.7 Enforcement. The Declarant, any member of the ARB, or the Board, or the representatives of each shall have the right, during reasonable hours and after reasonable notice, to enter upon any Townhome Unit to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article. Any structure, improvement, modification, change, repair, or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the ARB, Owners shall, at 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 this Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant and the ARB by any means of enforcement described in Section 4.3. All costs, including a ten percent (10%) administrative fee, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Townhome Unit and collected as a Specific Assessment.

Unless otherwise specified in writing by the ARB, 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 Townhome Unit, unless approval to modify any application has been obtained. If, after commencement, any Person fails to diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Townhome Unit and an opportunity to be heard in accordance with the By-Laws, to enter upon the Townhome Unit and remove or complete any incomplete work and to assess all costs incurred plus a ten percent (10%) administrative fee against the Townhome Unit and the Owner thereof as a Specific Assessment.

The ARB (including its members), the Association, and the Declarant (including its members, officers and directors) shall not be held liable to any Person for exercising the rights granted by this Article.

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. USE RESTRICTIONS

10.1 General. This Article sets out certain use restrictions which must be complied with by all Owners and occupants of any Townhome Unit. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on **Exhibits "A" or "B"**, offices for any property manager retained by the Association, business offices for the Declarant or the Association or related parking facilities) consistent with this Declaration.

10.2 Occupants Bound. All provisions of the Declaration, By-Laws, the rules and regulations and Design Guidelines governing the conduct of Owners and establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned.

10.3 Leasing. Townhome Units may be leased for residential purposes only. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and rules and regulations of the Association. The lease shall also obligate the tenant to comply with the foregoing documents. The Board may require notice of any lease by the Owner, together with such additional information deemed necessary by the Board including, a copy of the lease, and any credit reports or references provided by the tenant or obtained by the Owner as to the tenant.

10.4 Residential Use. Townhome Units may be used only for residential purposes of a single family and for ancillary business, home occupation or home office uses. A business, home occupation or home office use shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Townhome Unit; (b) the activity conforms to all zoning requirements for the Properties; (c) the activity does not involve regular visitation of the Townhome Unit by clients, customers, employees, suppliers, or other invitees or door-to-door solicitation of residents of the Properties; (d) the activity does not increase traffic or include frequent deliveries within the Properties; and (e) the activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

No other business, trade, or similar activity shall be conducted upon a Townhome Unit without the prior written consent of the Board. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of

whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Townhome Unit shall not be considered a business or trade within the meaning of this Section unless the lease term is less than twelve (12) months. This Section shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Properties or its use of any Townhome Units which it owns within the Properties.

10.5 Occupancy of Unfinished Townhome Units. No dwelling erected upon any Townhome Unit shall be occupied in any manner while in the course of construction or at any time prior to the issuance of such dwelling's certificate of occupancy.

10.6 Parking. Vehicles shall be parked only in the driveways, and garages serving the Townhome Units or in appropriate spaces or areas designated by the Board. In no event shall a vehicle be parked in a manner which limits or prevents access to a Townhome Unit or another vehicle, creates a hazardous condition, or obstructs the flow of traffic. Vehicles shall be subject to such reasonable rules and regulations as the Board may adopt. The Declarant and/or the Association may designate certain parking areas for visitors or guests. Service and delivery vehicles may be parked in the Properties during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery to a Townhome Unit or the Common Area. Overnight parking on the Common Area, Etiwan Pointe Drive, and any other streets located within the Properties is prohibited. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Governing Documents.

Boats, boat trailers, trucks with a load capacity of one (1) ton or more, full-sized vans (excluding mini-vans used as passenger vehicles), recreational vehicles (including motor homes, trailer homes, travel trailers, RVs, and campers), vehicles used primarily for commercial purposes, and vehicles with commercial writing on their exterior are shall be allowed within the Properties during normal business hours for the purpose of serving a Townhome Unit or the Common Area, provided that without the written consent of the Board, no such vehicle shall be permitted to remain with the Properties (except if located within a garage) for longer than a 12 hour period in any 7 day period.

10.7 Driveways and Prohibited Uses. Owners of Townhome Units shall be obligated to refrain from any actions which would deter from or interfere with the use and enjoyment of the driveway by other users of the driveway. Prohibited activities shall include without limitation obstruction of any of the driveways. For purposes of this Section, the term "driveways" shall refer to a road providing access to the Townhome Units which may be more particularly described on a recorded subdivision plat for such Townhome Units. In particular, garage sales, yard sales, flea markets, or similar activities are prohibited.

10.8 Use of Common Area. There shall be no obstruction of the Common Area, and nothing shall be kept, parked or stored on any part of the Common Area without the prior written consent of the Association, except as specifically provided herein.

10.9 Impairment of Dwellings and Easements. Owners shall not perform any act or work that will impair the structural soundness or integrity of another dwelling or impair any easement or hereditament, and in addition, no Owner shall allow any condition to exist which will adversely affect the other Townhome Units or their Owners or occupants.

No Owner shall make any alterations to his or her Townhome Unit or bring or keep anything therein which will increase the risk of fire, conflict with fire laws or the regulations of the local fire department, or increase the premiums of any insurance policy on the Area of Common Responsibility maintained by the Association.

10.10 Animals and Pets. No animals, livestock, or poultry of any kind may be raised, bred, kept, or permitted on any Townhome Unit. No Owner of a Townhome Unit may keep more than a total of two (2) (in any combination) dogs or cats. An Owner may keep in his or her Townhome Unit a number of smaller, generally recognized household pets, such as fish or hamsters, subject to such rules and regulations as may be adopted by the Board of Directors. No Owner or Occupant may keep, breed or maintain any pet for any commercial purpose. Pets may not be left unattended outdoors or kept unattended outdoors, including on any deck, piazza, patio, porch or balcony, together with any enclosure therefore. Dogs must be kept on a leash and be under the physical control of a responsible person at all times while on the Common Areas or within the Properties. The owner of the pet or the person responsible for the pet must remove any feces left upon the Common Areas by pets. Noises created by any pet which can be heard by persons in another Townhome Unit are prohibited, and such pet may be removed from the Properties if deemed appropriate by the Board in its absolute discretion. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights and the imposition of fines and penalties for non compliance as provided in Section 4.3.

10.11 Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Properties shall be used, in whole or in part, for the storage of any property or thing that will cause such Townhome Unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; and further, no substance, thing, or material shall be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious or offensive activity shall be conducted within the Properties, and neither shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Properties. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved in writing by the ARB, shall be located, installed or maintained upon the exterior of any Townhome Unit unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to shut off automatically.

The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or occupant.

In furtherance of the preceding, the pursuit of hobbies or other activities, including but not limited to the assembly and disassembly of vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions shall not be pursued or undertaken on any part of the Properties; provided however, vehicles may be washed and emergency repairs may be made on vehicles. Clothing, bedding, rugs, mops, appliances, indoor furniture, and other household items shall not be placed or stored outside the Townhome Unit for longer than 12 hours during any 7 day period. Appropriate outdoor items, such as neatly stacked firewood, patio furniture, sports and play equipment, and bicycles must be stored on the patio or deck serving the Townhome Unit only. Clothes lines are prohibited.

10.12 Storage of Materials, Garbage Dumping, Etc. All garbage cans shall be located or screened so as to be concealed from view of the other Townhome Units. All rubbish, trash, and garbage shall be regularly removed and shall not be allowed to accumulate. There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, or stream within the Properties. Accordingly, the dumping of any material or substance within the Common Area or a Townhome Unit is strictly prohibited.

10.13 Combustible Liquid. There shall be no storage of gasoline, propane, heating or other fuels, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Townhome Unit for emergency purposes and operation of lawn mowers and similar tools or equipment and except as may be approved in writing by the ARB. The Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

10.14 Firearms and Fireworks. The term "firearm" includes "B-B" guns, pellet guns, and other firearms of all types regardless of size, and also including, firearms as the term may be defined by the Town of Mount Pleasant. The term "fireworks" includes those items as may be listed in accordance with South Carolina law. The display or discharge of firearms or fireworks on the Common Area is prohibited; provided however, that firearms may be displayed during their transport from a Townhome Unit to and from a vehicle. The Board may in its discretion authorize a written waiver to allow the discharge of fireworks on the Common Area as part of a nationally recognized holiday. The Board may impose fines and exercise other enforcement remedies as set forth in this Declaration, but shall have no obligation to exercise self-help to prevent or stop any such discharge of firearms or fireworks.

10.15 Subdivision of Townhome Unit. No Townhome Unit shall be subdivided or its boundary lines changed after a subdivision plat including such Townhome Unit has been approved and filed in the Public Records without the Declarant's prior written consent during the Development Period and the prior written consent of the ARB thereafter. In addition, no home shall be subdivided or partitioned to create housing for more than a single family. Declarant, however, hereby expressly reserves the right to replat any Townhome Unit or Townhome Units

which it owns. Any such division, boundary line change, or replatting by Declarant shall not be in violation of the applicable subdivision and zoning regulations, if any.

10.16 Drainage and Grading. Catch basins and drainage areas are for the purpose of natural flow of water only. No improvements, obstructions or debris shall be placed in these areas. No Owner may obstruct or rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

(a) Each Owner shall be responsible for maintaining all drainage areas located on its Townhome Unit. Required maintenance shall include, but not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas.

(b) Each Owner shall be responsible for controlling the natural and man-made water flow from its Townhome Unit. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Properties with excessive water flow from its Townhome Unit. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Townhome Units. Neither the Association nor the Declarant bears any responsibility for remedial actions to any Townhome Unit.

(c) No Person shall alter the grading of any Townhome Unit without prior approval pursuant to Article 9 of this Declaration. The Declarant hereby reserves for itself and the Association a perpetual easement across, under and through the Properties for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Townhome Unit without the Owner's consent.

10.17 Irrigation. Owners shall not install Irrigation systems which draw upon ground or surface waters within the Properties. However, the Declarant and the Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility.

10.18 Streams and Other Water Bodies. No streams which may run across any Townhome Unit may be dammed, or the water therefrom impounded, diverted, or used for any purpose without the prior written consent of the Board, except that the Declarant shall have such rights as provided in this Declaration. Any streams and other water bodies within the Properties shall be used only in accordance with any rules and regulations as may be adopted, amended, and/or published by the Board from time to time. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of streams or other water bodies, if any, within the Properties.

10.19 Time Share. No Townhome Unit shall be used for or subject to any type of Vacation Time Sharing Ownership Plan, Vacation Time Sharing Lease Plan, or Vacation Time Sharing Plan, as defined by the South Carolina Code of Laws, Section 27-32-10, et seq., as amended, or any subsequent laws of the State of South Carolina dealing with a vacation time share ownership or leasing plan.

10.20 Abandoned Property. Abandoned or discarded personal property, other than an automobile as provided for in this Section, is prohibited from being stored, kept, or allowed to remain for a period of more than twenty-four (24) hours upon any portion of the Common Areas without the prior written permission of the Board. If the Board or its designee, in its sole discretion, determines that property is kept, stored, or allowed to remain on the Common Areas in violation of this Section, then the Board may remove and either discard or store the personal property in a location which the Board may determine.

Prior to taking any such action, the Board shall place a notice on the personal property and/or on the front door of the Townhome Unit of the owner of such property, if known, specifying the nature of the violation and stating that after two (2) days the property may be removed and either discarded or stored. The notice shall include the name and telephone number of the person or entity which will remove the property and the name and telephone number of a person to contact regarding the alleged violation. If two (2) days after such notice is placed on the personal property and/or the front door of the Townhome Unit, the violation continues or thereafter occurs again within six (6) months of such notice, the personal property may be removed in accordance with the original notice, without further notice to the owner or user of the personal property.

Notwithstanding anything to the contrary, the Board, in its discretion, may determine that an emergency situation exists, and the personal property abandoned or stored in violation of this subsection may, without prior notice to the owner or user of the personal property, be removed and either discarded or stored by the Board in a location which the Board may determine; provided, however, the Board shall give to the owner, if known, notice of the removal of the property and the location of the personal property within three (3) days after the personal property is removed.

10.21 Heating of Townhome Units. In order to prevent breakage of water pipes during the colder months of the year resulting in damage to any portion of the Properties, and increased insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within the Townhome Units shall be maintained with the heat in an "on" position and at a minimum temperature setting of fifty-five degrees (55°) Fahrenheit (except during power failures or periods when heating equipment is broken) whenever the temperature is forecasted to or does reach thirty-two degrees (32°) Fahrenheit or below. The Owner or occupant of a Townhome Unit shall take all steps possible on a timely basis to keep heating equipment, including, but not limited to, the thermostat, in good working order and repair. If at any time during the time periods specified above when the heating equipment is not working properly, the Owner or occupant shall immediately inform the Association of this failure of the equipment and of the anticipated time for the Owner to repair the equipment. The Board of Directors may fine any Owner for violation of this subsection, in addition to any other remedies of the Association. Any fine imposed pursuant to this subsection shall be deemed a Specific Assessment against the Townhome Unit and may be collected in the same manner as provided herein for collection of assessments.

10.22 Disabled and Stored Vehicles Disabled and stored vehicles are prohibited from being parked within the Properties. A vehicle will be considered disabled if it does not have a current license tag or it is obviously inoperable. A vehicle will be stored if it remains on the

Property with no movement for fourteen (14) consecutive days or longer without the prior written permission of the Board.

10.23 Barbeque Grills and Other Cooking Appliances. The use of barbeque grills and any other cooking appliances on decks, piazzas, patios, porches, and balconies, and in sunrooms and garages may be subject to rules and regulations by the Association as deemed necessary by the Association for the protection, security, insurance, and maintenance of the Properties and their Owners.

ARTICLE 11. EASEMENTS

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Association, the Members, and the Owners, and their successors-in-title.

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

11.2 Easements for Utilities. Etc. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself during the Development Period, for the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties (but not through a structure, existing or proposed) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable, digital or similar television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; lakes, ponds, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, sewer, telephone, gas, and electricity, and utility meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Properties, as necessary, to exercise the easements described above.

Declarant may assign to the local water supplier, sewer service provider, electric company, telephone company, and natural gas supplier the easements set forth herein across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(a) Declarant reserves, creates, establishes, promulgates and declares for itself during the Development Period and its designees non-exclusive, perpetual, reciprocal, appurtenant

easements, and the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on **Exhibits "A" or "B"**,

(b) Any damage to a Townhome Unit resulting from the exercise of the easements described in this Article 11 shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Townhome Unit or unreasonably interfere with the use of any Townhome Unit, Except in an emergency, entry onto any Townhome Unit shall be made only after reasonable notice to the Owner or occupant.

(c) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Properties, or at any other time, (i) to release all or any portion of the Properties from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.3 Easements to Serve Additional Property. The Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for itself and its duly authorized successors and assigns, including without limitation, successors-in-title, agents, representatives, and employees, successors, assigns, licensees, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Additional Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for the posting of signs and for connecting and installing utilities serving the Additional Property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of the Additional Property.

11.4 Easement for Entry. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for the Association to enter upon any Townhome Unit for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Association's officers, committee members, agents, employees and managers of the Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Townhome Unit shall be only during reasonable hours and after notice to the Owner. This easement includes the right to enter any Townhome Unit to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

11.5 Easements for Maintenance and Enforcement. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant rights and easements for the Association to enter all portions of the Properties, including each Townhome Unit, to (a) perform its maintenance responsibilities under Article 5, and (b) make inspections to ensure

compliance with the Governing Documents. Except in emergencies, entry onto a Townhome Unit shall be only during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense. Entry under this Section shall not constitute a trespass.

The Association also may enter a Townhome Unit to abate or remove any structure, thing or condition which violates the Governing Documents using such measures as may be reasonably necessary. All costs incurred plus a ten percent (10%) administrative fee, including reasonable attorney's fees, maybe assessed against the violator as a Specific Assessment.

11.6 Lateral Support. Declarant reserves, creates, establishes, promulgates and declares nonexclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Area, every Townhome Unit, and any improvement which contributes to the lateral support of another portion of the Common Area or of another Townhome Unit shall be burdened with an easement for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

11.7 Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant, its successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Properties, except in cases of willful or wanton misconduct.

11.8 No View Easements. No view easements, express or implied, will be granted to any Owner in connection with the conveyance of a Townhome Unit to such Owner.

11.9 Pest Control. The Association may, but shall not be obligated to dispense chemicals for the extermination of insects and pests within the Townhome Units and Common Areas. In the event that the Association chooses to provide such pest control to the Townhome Units, then the Association and its duly authorized contractors, representatives, and agents shall have an easement to enter Townhome Units for the purpose of dispensing chemicals for the exterminating of insects and pests within the Townhome Units and the Common Areas. Each Townhome Unit Owner shall either provide a key to the Townhome Unit for purpose of such entry or have someone available at such times as are designated by the Board of Directors to allow entry into the Townhome Unit for this purpose. The Association shall not be liable for any illness, damage, or injury caused by the dispensing of these chemicals for this purpose.

ARTICLE 12. MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Townhome Units in the Properties. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Townhome Unit to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Townhome Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Townhome Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) Days, or any other violation of the Declaration or By-Laws relating to such Townhome Unit or the Owner which is not cured within sixty (60) Days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

12.2 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 Townhome Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

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

12.4 HUD/VA Approval. As long as there is a Class "B" membership, the following actions shall require the prior approval of the U.S. Department of Housing and Urban Development, so long as it is insuring the Mortgage on any Townhome Unit, or the U.S. Department of Veterans Affairs, so long as it is guaranteeing the Mortgage on any Townhome Unit: merger, consolidation or dissolution of the Association; annexation of additional property other than the Additional Property, dedication, conveyance or mortgaging of Common Area except in accordance with Section 4.2; or material amendment of this Declaration, the By-Laws or the Articles.

12.5 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond 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.

12.6 Construction of Article 12. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or South Carolina law for any of the acts set out in this Article.

ARTICLE 13. DECLARANT'S RIGHTS

13.1 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 neither 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.

13.2 Development and Sales. The 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 Townhome Units, such as sales activities and promotional events, and restrict Owners 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 the Owners' use and enjoyment of the Common Area. The Declarant shall have easements over the Properties for access, ingress, egress and conducting such activities.

In addition, the 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 Townhome Units, including, but not limited to, business offices, signs, model Townhome 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 shall have easements over the Properties for access, ingress, and egress and use of such facilities.

Further, Declarant and any builder or developer approved by Declarant shall have the right of access, ingress or egress for vehicular and pedestrian traffic over, under, on or in the Properties; the right to tie into any portion of the Properties with streets, driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), install, lay, replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, internet, cable television, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Properties; the right to carry on sales and promotional activities over the Properties; and the right to construct and operate business offices, signs, construction trailers, model Townhome Units, and sales offices. Declarant and any such builder or developer may use Townhome Units or offices owned or leased by Declarant or such builder or developer as model Townhome Units and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

13.3 Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all 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.

13.4 Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, 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.

13.5 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, construction on, or marketing of any portion of the Properties, or diminish the level of services being provided by the Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Association, the Board or any committee as may be granted to the Class "B" Member or the Declarant in the Governing Documents.

(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.

(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 of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. 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.

(c) 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 and the time period set forth in subsection (d) below has expired.

(d) 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.

13.6 Amendments. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and rules or Design Guidelines made after termination of the Development Period shall be effective without prior notice to and the written consent of the Declarant, during the Development Period. This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE 14. GENERAL PROVISIONS

14.1 Duration.

(a) Unless terminated as provided herein, this Declaration shall have perpetual duration. If South Carolina law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of ten (10) years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of George H. W. Bush, former president of the United States of America.

(b) Unless otherwise provided by South Carolina law, in which case such law shall control, this Declaration may not be terminated within thirty (30) years of the date of recording without the consent of all Owners. Thereafter, it may be terminated only by an instrument signed by Owners of at least seventy-five percent (75%) of the total Townhome Units within the Properties and by the Declarant, if the Declarant owns any portion of the Properties, which instrument is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

14.2 Amendment.

(a) *By Declarant*. Until conveyance of the first Townhome Unit to a Person, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, the Declarant may unilaterally amend this Declaration at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Townhome Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Townhome Units; (iv) to satisfy the requirements of any local, state or federal governmental agency; (v) to correct any typographical or scrivener's error; or (vi) to revise or supplement the plat attached hereto as Exhibit A with a plat depicting additional Townhome Units and/or Common Areas located within the Properties. However, any such amendment shall not adversely affect the title to any Townhome Unit unless such adversely impacted Owner shall consent in writing to such amendment. In addition, during

the Development Period, subject to Sections 2.4 and 12.4, Declarant may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner.

(b) *By Members.* Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding sixty-seven percent (67%) of the total Class "A" votes in the Association, including sixty-seven percent (67%) of the Class "A" votes held by Members other than the Declarant, and, during the Development Period, the written consent of the Declarant.

In addition to complying in all respects with South Carolina law, as amended from time to time, each amendment adopted by the Members shall be evidenced by an instrument in writing, signed and acknowledged by any two (2) officers of the Association, setting forth in full the text of such amendment and certifying that such amendment has been approved as required herein. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

14.3 Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

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

14.5 Dispute Resolution. It is the intent of the Association and the Declarant to encourage the amicable resolution of disputes involving the Properties and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Properties, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures.

Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

14.6 Litigation. Notwithstanding any contrary provision contained in this Declaration, in no event may the Association commence any action or proceeding against any person seeking equitable relief, or seeking either an unspecified amount of damages or damages in excess of \$25,000.00; or any action or proceeding where the estimated cost of legal fees exceeds \$5,000.00, unless the following conditions are satisfied: (a) the decision to commence such action or proceeding shall be taken at an annual or special meeting of the Association; (b) a budget for such litigation, including all fees and costs assuming trial and all potential appeals, shall have been prepared by the attorneys who will be engaged by the Association for such purpose, and shall have been mailed or delivered to all Owners and posted at the principal office of the Association at least 30 days prior to such meeting; and (c) at such meeting Owners representing an aggregate ownership interest of seventy-five (75%) percent or more of the Membership shall approve the decision to commence, and the proposed budget for, such action or proceeding, and shall concurrently approve the imposition of a Special Assessment to fund the costs of such action or proceeding in accordance with the approved budget. The Association shall be authorized to expend funds for such proceeding in excess of the amount contemplated by the approved budget only after an amended budget has been approved in accordance with the procedures specified in the foregoing subparts (a), (b) and (c). The procedural requirements set forth herein, however, shall not apply to the following; (i) any action to collect or otherwise enforce Assessments and any related fines, late charges, penalties, interest, or costs and expenses, including reasonable attorneys' fees, in an amount of \$25,000.00 or less, or any such action where the estimated cost of legal fees is less than \$5,000.00; (ii) proceedings involving challenges to ad valorem taxation; (iii) counterclaims brought by the Association in proceedings instituted against it; and (iv) actions brought by the Association to enforce written contracts with its suppliers and service providers entered into after the filing of this Declaration. All of the costs and expenses of any action or proceeding requiring the approval of the Owners in accordance with this section shall be funded by means of a Special Assessment pursuant to this section, and in no event may the Association use reserve funds or contingency funds, reallocate previously budgeted operating funds, or incur any indebtedness in order to pay any costs and expenses incurred for such purpose. Further, if the Association commences any action or proceeding against a particular Owner or particular Owners requiring the approval of the Owners in accordance with the foregoing, the Owner(s) against whom suit is being considered shall be exempted from the obligation to pay the Special Assessment(s) levied in order to pay the costs and expenses of such action or proceeding. The monetary thresholds stated herein shall increase annually by multiplying the threshold stated herein by 1.03 for each of the anniversary dates following the filing of this Declaration. Adjustments are to be cumulative. The provisions of this Section can be amended unilaterally by the Declarant during the Development Period and; thereafter, it can not be amended without both the approval of at least 75% of the total eligible voting power of the Association and also the consent of the Declarant so long as the Declarant owns any of the Townhome Units included in the Properties.

14.7 Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Properties, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Properties and Owners shall not merge into the fee simple

estate of individual lots conveyed by Declarant or its successor, but that the estates of the Declarant and individual lot owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Properties shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

14.8 Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee simple estate of the Properties. The grants and reservations of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted or reserved in this Declaration.

14.9 Cumulative Effect: Conflict. In the event of a conflict between or among this Declaration and any additional covenants or restrictions, and/or the provisions of any articles of incorporation, By-Laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and rules and regulations of the Association shall prevail. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

14.10 Compliance. Every Owner and occupant of any Townhome Unit shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Association or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3.

14.11 Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to a Townhome Unit shall give the Board at least seven (7) Days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Townhome Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title. Further, within thirty (30) days after receiving title to a Townhome Unit, the new Owner of the Townhome Unit must give written notice to the Board of his ownership of the Townhome Unit and provide a copy of the executed deed.

14.12 Exhibits. Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by the provisions contained herein. Exhibit "C" is attached for informational purposes and may be amended as provided therein.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration, this 14th day of FEBRUARY, 2013 on behalf of itself and as the Owner of the Property.

WITNESSES:

DECLARANT:

Southeastern Recapitalization Group II, LLC, a
South Carolina limited liability company,
By: MPR Consultants, Inc., its Managing Member

signature of 1st witness

Mariam Bayter
signature of 2nd witness

By:

Victor J. Mills

Its: President

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, Sandra M. Sheppard (Notary Public), hereby certify that
Southeastern Recapitalization Group II, LLC, a South Carolina limited liability company, by
MPR Consultants, Inc., its Managing Member, by Victor J. Mills, its President, personally
appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this 14th day of February, 2013.

Sandra M. Sheppard
Notary Public for South Carolina

My Commission Expires: _____



Exhibit A Legal Description

Townhome Units initially consist of the following units which are constructed or to be constructed:

Building 118 – Units 1, 2, 3, & 4
 Building 119 – Units 5, 6, 7, 8, & 9
 Building 120 – Units 10, 11, & 12
 Building 121 – Units 13, 14, 15, 16, 17, & 18
 Building 129 – Units 53, 54, 55, & 56
 HOA – Open Space Area No. 1 – 0.122 Ac., 5,305 S.F.
 HOA Area No. 3 – 0.058 Ac., 2,539 S.F.

Total of 22 Townhome Units

The above Townhome Units being described on the plat entitled “Final Subdivision Plat Etiwan Pointe, Phase 3A, Prepared For: Southeastern Recapitalization Group II, LLC, Town of Mount Pleasant, Charleston County, South Carolina”, dated January 2, 2013 prepared by Rafal Pawlowski, SC RLS No. 26607 of HGBD Surveyors, LLC, recorded in Charleston County RMC Office in Plat Cabinet L13, Pages 0074 through 0079 on February 19, 2013, and which plat may be supplemented or amended to more fully describe the above Townhome Units and Common Areas.

Description of potential future Townhome Units on the following page

Description of potential future Townhome Units

Future Townhome Units which may be constructed and submitted as additional Townhome Units subject to the terms of this Declaration:

Building 122 – Units 19, 20, 21, 22, 23, & 24
 Building 123 – Units 27, 27 & 28
 Building 124 – Units 29, 30, 31, 32, 33, & 34
 Building 125 – Units 35, 36, 37, & 38
 Building 126 – Units 39, 40, & 41
 Building 127 – Units 42, 43, 44 & 45
 Building 128 – Units 46, 47, 48, 49, 50, 51, & 52
 Building 130 – Units 57, 58, 59, 60, 61, & 62
 Building 131 – Units 63, 64, 65, 66, & 67
 Building 132 – Units 68 & 69

Total of 47 potential additional Townhome Units

The above potential future Townhome Units being generally referenced on the plat entitled “Final Subdivision Plat Etiwan Pointe, Phase 3A, Prepared For: Southeastern Recapitalization Group II, LLC, Town of Mount Pleasant, Charleston County, South Carolina”, dated January 2, 2013 prepared by Rafal Pawlowski, SC RLS No. 26607 of HGBD Surveyors, LLC, recorded in Charleston County RMC Office in Plat Cabinet L13, Pages 0074 through 0079 on February 19, 2013, and which plat may be supplemented or amended to more fully describe the above potential additional Townhome Units and common areas.

EXHIBIT"B"
Additional Property

Any real property located within five (5) miles of the perimeter boundary of the real property described on Exhibit "A" attached hereto.

EXHIBIT "C"
BY-LAWS OF
ETIWAN POINTE PHASE 3 TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

BY-LAWS OF

ETIWAN POINTE PHASE 3 TOWNHOME HOMEOWNERS ASSOCIATION, INC.

ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS

Section 1. Name. The name of the corporation is Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc. (the "Association").

Section 2. Principal Office. The principal office of the Association shall be located in Charleston County, South Carolina. The Association may have such other offices, either within or outside the State of South Carolina, as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions and Restrictions for Etiwan Pointe Phase 3 Townhomes filed in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

ARTICLE 2: ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

Section 1. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Etiwan Pointe Phase 3 Townhome development or as convenient as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

Section 3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year following the date of recordation of the Declaration. Subsequent regular meetings shall be held annually on a date and at a time set by the Board.

Section 4. Special Meetings. The president may call special meetings. In addition, it shall be the duty of the president to call a special meeting within thirty (30) Days if so directed by resolution of the Board or upon a petition signed by Members representing at least twenty percent (20%) of the total Class "A" votes in the Association or upon written request of the Declarant.

Section 5. Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Member entitled to vote at such meeting, not less than ten (10) nor more than fifty (50) Days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

Section 6. Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting shall be deemed a waiver of any objection as to notice of the time, date, and place thereof, unless specific objection as to the lack of proper notice is given at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

Section 7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members or their proxies holding a Majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) nor more than twenty (20) Days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed in Section 2.5.

Section 8. Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access.

Section 9. List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members entitled to notice of such meeting. The list shall show the address of the Member and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with South Carolina law.

Section 10. Proxies. At all meetings of Members, each Member may vote in person (if a corporation, partnership, limited liability company, or trust, through any officer, director, partner, member, manager or fiduciary duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of South Carolina law. Every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

Section 11. Quorum. The presence, in person or by proxy, of Members representing twenty-five percent (25%) of the total Class "A" votes in the Association shall constitute a

quorum at all meetings of the Association following the conclusion of the Development Period (as defined in Section 1.14 of the Declaration). If a quorum is present, business may be continued until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

Section 12. Conduct of Meetings. The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

Section 13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Association may be taken without a meeting, without prior notice and without a vote, if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten• (10) Days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative of the Declarant, the directors shall be eligible Members or residents; provided however, no Owner and resident representing the same Unit may serve on the Board at the same time. No Owner or resident shall be eligible to serve as a director if any assessment for such Owner's or resident's Unit is delinquent. A "resident" for the purposes of these Bylaws shall mean any natural person eighteen (18) years of age or older whose principal place of residence is a Unit within the Properties. In the case of a Member which is not a normal person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as representatives of the Class "B" Member or the Declarant.

Section 2. Number, Nomination and Election of Directors. Except as provided in Section 3.3, the Board shall consist of three (3) directors elected by the Class "A" Members of the Association. The number of directors may be increased or decreased by resolution of the Board.

Elected directors shall be nominated from the floor at a meeting of the Members and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Each Owner may cast all votes assigned to such Owner's Units for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of

positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

Section 3. Directors During the Development Period. All directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member during the Development Period.

Section 4. Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by Members holding two-thirds (2/3) of the votes entitled to be cast for the election of such director, but shall not be subject to removal solely by the Class "B" Member. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Class "A" Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) Days delinquent (or is the resident of a Unit that is delinquent or is the representative of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members may elect a successor for the remainder of the term .

In the event of the death, disability, or resignation of an elected director or the adoption of a Board resolution increasing the number of directors, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members shall elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

B. Meetings.

Section 1. Organizational Meetings. Within thirty (30) Days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

Section 2. Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine, but at least one (1) such meeting shall be held during each calendar year.

Section 3. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or by any two (2) directors.

Section 4. Notice. Notice of a regular meeting shall be communicated to directors not less than four (4) Days prior to the meeting. Notice of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding

of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) electronic mail or e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an electronic mail or e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, telegraph, electronic mail, or e-mail shall be deemed communicated when delivered, telephoned, teletyped, electronically mailed, e-mailed or given to the telegraph company.

Section 5. Waiver of Notice. The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 6. Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference, or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

Section 7. Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the directors present at such meeting may adjourn the meeting to a time not less than four (4) nor more than twenty (20) Days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 8. Compensation. Directors shall not receive any compensation from the Association for acting as such unless approved by Members representing a Majority of the total Class "A" votes in the Association at a regular or special meeting of the Association. Any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a Majority of the other directors. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director's interest was made known to the

Board prior to entering into such contract and such contract was approved by a Majority of the Board, excluding the interested director.

Section 9. Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings. In the case of a tie vote on a motion or resolution before the Board, the motion or resolution shall be considered lost.

Section 10. Open Meetings. Subject to the provisions of Sections 3.10 and 3.15, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on a Member's behalf by a director. In such case, the president may limit the time any Member may speak. Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Members to discuss matters of a sensitive nature, including, without limitation, pending or threatened litigation or personnel matters.

Section 11. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

Section 12. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or South Carolina law does not direct to be done and exercised exclusively by the membership generally.

C. Powers and Duties.

Section 1. Duties. The duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;
- (b) levying and collecting such assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

- (f) making and amending rules in accordance with the Declaration;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) contracting for repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;
- (i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) paying the costs of all services rendered to the Association;
- (l) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (m) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties; and
- (o) indemnifying a director, officer or ARB or committee member, or former director, officer or ARB or committee member of the Association to the extent such indemnity is required or permitted under South Carolina law or the Governing Documents.

Section 2. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

Section 3. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) cash or accrual accounting, as defined by generally accepted accounting principles, shall be employed;

(b) accounting and controls should conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board; and

(f) an annual financial report shall be made available to all Members within one hundred twenty (120) Days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines; provided however, upon written request of any holder, guarantor or insurer of any first Mortgage on a Unit, the Association shall provide an audited financial statement.

Section 4. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, the Board shall obtain the approval of Members holding at least sixty-seven percent (67%) of the total votes allocated to Units prior to borrowing such money.

Section 5. Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations, within and outside the Properties.

Section 6. Enforcement.

(a) Notice. Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Declaration, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board or the covenants committee, if one has been appointed pursuant to Article 5, within fifteen (15) Days of the notice; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within fifteen (15) Days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board or covenants committee, as the case may be, may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fifteen (15) Day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the fifteen (15) Day

period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee, as the case may be, may impose a sanction without further notice to the violator.

(b) *Hearing.* If a hearing is requested within the allotted fifteen (15) Day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any. The Board may adopt a schedule of sanctions for violations of the Governing Documents.

(c) *Appeal.* If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee's decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president, or secretary of the Association within fifteen (15) Days after the hearing date.

ARTICLE 4: OFFICERS

Section 1. Officers. The officers of the Association shall be a president, secretary and treasurer. The president and secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including one (1) or more vice presidents, one (1) or more assistant secretaries and one (1) or more assistant treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of president and secretary.

Section 2. Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each election of new directors. Such officers shall serve until their successors are elected.

Section 3. Removal and Vacancies. The Board may remove any officer whenever in its judgment the best interests of the Association will be served and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise for the unexpired portion of the term.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The president shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The secretary shall be responsible for preparing minutes of meetings of the Association and the Board and for authenticating records of the Association.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Execution of Instruments. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

Section 7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12.

ARTICLE 5: COMMITTEES

Section 1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. Unless otherwise provided by the Board, committee members shall be eligible Members or residents; provided however, no Class "A" Member may have more than one (1) representative on a committee at any time. No committee appointed by the Board shall be empowered to take any affirmative action or to bind the Board or the Association without the consent of the Board.

Section 2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to the Declaration, these By-Laws and, specifically, Section 5.1, the Board may appoint a covenants committee consisting of at least three (3) and no more than five (5) members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the covenants committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.22 of these By-Laws.

ARTICLE 6: MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order Newly Revised (current edition) shall govern the conduct of Association proceedings when not in conflict with South Carolina law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts between the provisions of South Carolina law, the Articles of Incorporation, the Declaration, and these By-Laws, then the provisions of South Carolina law, the Declaration, the Articles of Incorporation, and the Bylaws shall prevail in that order.

Section 4. Books and Records.

(a) *Inspection by Members and Mortgagees*. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the

Declaration, By-Laws, and Articles of Incorporation, any amendments and supplements to the foregoing, the rules of the Association, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place as the Board shall designate during normal business hours.

(b) *Rules for Inspection.* The Board may establish rules with respect to:

- (1) notice to be given to the custodian of the records;
- (2) hours and days of the week when such an inspection may be made; and
- (3) payment of the cost of reproducing copies of documents requested.

(c) *Inspection by Directors.* Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make a copy of relevant documents at the expense of the Association.

Section 5. Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, and other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) to a Member, at the address which the Member has designated in writing and filed with the secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request in writing additional methods of receiving notice, including but not limited to, facsimile, electronic mail or e-mail.

Section 6. Amendment.

(a) *By Declarant.* Until conveyance of the first Unit to a Person, the Declarant may unilaterally amend these By-Laws for any purpose. Thereafter, the Declarant may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of Mortgage loans, including without limitation, the U. S. Department of Veterans Affairs ("VA"), the U. S. Department of Housing and Urban Development ("HUD"), the Federal National

Mortgage Association, or the Federal Home Loan Mortgage Corporation to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency or (v) to correct any typographical or scrivener's errors. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. In addition, during the Development Period, the Declarant may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) *By Members.* Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, 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. In addition, the approval requirements set forth in Article 12 of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) *Validity and Effective Date.* Any amendment to these By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

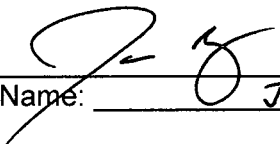
No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee of such right or privilege.

If a Member consents to any amendment to the Declaration or these By-Laws, it will be conclusively presumed that such Member has the authority to consent and no contrary provision in any Mortgage or contract between the Member and a third party will affect the validity of such amendment.

(d) *HUD/VA Approval.* As long as there is a Class "B" membership, the U.S. Department of Veterans Affairs, so long as it is guaranteeing the Mortgage on any Unit, or the U.S. Department of Housing and Urban Development, so long as it is insuring the Mortgage on any Unit, shall have the right to disapprove any amendment to the By-Laws.

IN WITNESS WHEREOF, the Association, acting through its secretary, has hereunto subscribed its name and affixed the seal of Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc., as of the 14th day of FEBRUARY, 2013 to these By Laws of Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc.

By: The Secretary of Etiwan Pointe Phase 3 Townhome Homeowners Association, Inc.,
a South Carolina non-profit corporation

By: 
Print Name: JASON LONG

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