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AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
DANIEL ISLAND TOWN ZONE

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

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**AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR DANIEL ISLAND TOWN ZONE**

THIS AMENDED AND RESTATED DECLARATION is made this 1st day of April, 2018, by The Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, prior to the execution of this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Zone (the "Amended and Restated Declaration"), that certain Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone was filed of record on March 24, 1999, in Deed Book 1587, Page 220, *et seq.*, in the Register of Deeds, Berkeley County, South Carolina (the "Original Declaration") (The definitions provided in Article I of this Amended and Restated Declaration are incorporated in this preamble by reference);

WHEREAS, Article XVI, Section 16.2(a)(v) of the Original Declaration provides that the Declarant may unilaterally amend the Original Declaration by an instrument in writing filed and recorded in aforesaid records without the approval of any Owner or Mortgagee and for any purpose;

WHEREAS, the Declarant deems it appropriate for ease of operation and administration to amend and restate the Original Declaration as stated in this Amended and Restated Declaration; and

NOW, THEREFORE, pursuant to the powers retained by the Declarant under the Original Declaration, Declarant hereby amends and restates the Original Declaration as of the date of this Amended and Restated Declaration. This Declaration supersedes and replaces the Original Declaration.

AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
DANIEL ISLAND TOWN ZONE

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (this "Declaration") is made this 1st day of April, 2018, by The Daniel Island Company, Inc., a South Carolina corporation ("Declarant").

Declarant is the owner of the real property described in Exhibit "A," which is attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article I below) 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, and for the maintenance of sidewalks, streets, street lights, stormwater drainage and retention areas and improvements, open spaces, landscaping, and other common areas and improvements located on the Properties, and, to this end, desires to subject the Properties to the covenants, conditions, restrictions, easements, and liens hereinafter set forth. In furtherance of such plan, this Declaration provides for the creation of the Daniel Island Town Center Owners Association, Inc. to own, operate and maintain Common Areas, as defined below, and to administer and enforce the provisions of this Declaration, the By-Laws, and the Use Restrictions and Rules promulgated pursuant to this Declaration.

It is contemplated that the Properties, will be developed as a mixed use commercial and residential area comprised of various office, retail, institutional, service, multi-family residential and other permitted uses allowed under the Zoning Ordinance (as defined in Article I below) with public and/or private streets, sidewalks, street lights, open spaces, stormwater drainage and retention areas, and other common areas and improvements for the benefit of the owners of lands made subject to the terms of this Declaration.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I 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.

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

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

**ARTICLE I
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 “Architectural Review Board” or “ARB”: The review board and applicable committees appointed pursuant to Section 9.2 hereof with the rights and obligations conferred upon such review board pursuant to this Declaration.

1.2 “Area of Common Responsibility”: The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, Cost Sharing Agreement, or other applicable covenants, contracts, or agreements.

1.3 “Articles of Incorporation” or “Articles”: The Articles of Incorporation of Daniel Island Town Center Owners Association, Inc., as amended by the Articles of Amendment to Articles of Incorporation of Daniel Island Town Center Association, Inc., filed with the Secretary of State of South Carolina, which amendment changed the name of the Association to the Daniel Island Town Association, Inc., as such Articles may be amended from time to time.

1.4 “Association”: Daniel Island Town Association, Inc., a South Carolina nonprofit corporation, its successors or assigns, which was formerly known as the Daniel Island Town Center Owners Association, Inc.

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

1.6 “By-Laws”: The By-Laws of Daniel Island Town Association, Inc., as they may be amended, supplemented and restated.

1.7 “Class “B” Control Period”: The period of time during which the Class “B” Member is entitled to appoint all of the members of the Board of Directors as provided in Section 3.2.

1.8 “Common Area”: All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including any property to be maintained by the Association pursuant to any Cost Sharing Agreement.

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

reserves, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.

1.10 “Community Association”: Daniel Island Community Association, Inc., a South Carolina nonprofit corporation, formed to serve as the mandatory membership owners association under the Residential Declaration.

1.11 “Community-Wide Standard”: The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Board.

1.12 “Cost Sharing Agreement”: Any agreement, contract, or covenant, between the Association and an owner or operator of property adjacent to, in the vicinity of, and within the Properties (including any Private Amenity) for the allocation of expenses for benefits and/or services that benefit both the Association and the owner or operator of such property and also such agreements and Share Costs Declaration discussed in Section 4.14 hereto.

1.13 “Declarant”: The Daniel Island Company, Inc., a South Carolina corporation, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits “A” or “B” for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.14 “Deed”: Any deed, lease, assignment or other instrument other than a Mortgage conveying any interest in any Unit.

1.15 “Design Guidelines”: The design, use and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to Article IX which may also be referred to as the “Town Center Architectural Standards”.

1.16 “District Association”: Any condominium association or other owners association having concurrent jurisdiction with the Association over any District.

1.17 “District Assessments”: Assessments levied against the Units in a particular District or Districts to fund District Expenses, as described in Sections 8.1 and 8.4.

1.18 “District Expenses”: The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners of Units within a particular District or Districts, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time and as may be authorized herein or in Supplemental Declarations applicable to such District(s).

1.19 “District”: One or more Units which share common interests, other than those common to all Units in the Properties, as more particularly described in Section 3.3. For example, and by way of illustration and not limitation, an office complex comprised of several Units surrounding a common plaza; office, mixed use and condominium buildings comprised of several Units surrounding a common detention facility and using common driveways; a medical park comprised of several Units sharing an entry feature or other common public areas, or a

retail/commercial center comprised of various Units sharing common public areas, or the Units within a horizontal property regime, each might be designated as separate Districts. Notwithstanding Section 3.3 of the Declaration, unless the Declarant or the Board shall indicate otherwise in a Supplemental Declaration, each horizontal property regime shall constitute a separate District. Where the context so permits or requires, the term "District" also refers to a District Association or a District Committee established to act for the Units within the District. District boundaries may be established and modified as provided in Section 3.3.

1.20 "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Districts or Units, as more particularly described in Article II.

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

1.22 "Governing Documents": This Declaration, the By-Laws, the Articles of Incorporation, any Amendments to the Declaration, any Supplemental Declaration, the Design Guidelines, the Use Restrictions and Rules, Zoning Ordinances, and any Cost Sharing Agreements, or any of the above, as each may be amended from time to time.

1.23 "Improvement": Shall mean and include, but not be limited to, buildings of a permanent or temporary nature (with temporary buildings being permitted only during the construction of other improvements, subject to approval by the ARB), outbuildings, underground installations, slope alterations, surface water drainage facilities, sediment control devices, roads, berms, driveways, alley ways, parking areas or facilities, loading docks and areas, fences, screening walls, retaining walls, enclosures, stairs, decks, windbreaks, planting or removal of trees, shrubs and other landscaping materials, poles, signs, antennas and satellite dishes, utilities, water lines, sewer, electrical and gas distribution facilities, heating, cooling and air circulation equipment and facilities, roofed structures, railroad trackage, hedges, exterior illumination, changes in exterior color or shape, staking, clearing, excavation, grading, exterior alteration of existing improvements, and all other structures or landscaping improvements of every type and kind initially or at any time thereafter placed or constructed on any Unit.

1.24 "Leasehold Owner": The lessee under any lease of a Unit with an initial term of not less than twenty (20) years, and which lessee has been assigned all of the owner's rights and obligations under this Declaration with respect to the leased premises.

1.25 "Master Plan": The Daniel Island Master Plan submitted by the Harry Frank Guggenheim Foundation, Inc., dated March 11, 1993, and adopted by the City Council of the City of Charleston, South Carolina, as it may be amended from time to time, which plan includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B" that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article VII.

1.26 “Member”: A Person subject to membership in the Association pursuant to Section 3.1.

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

1.28 “Mortgagee”: A beneficiary or holder of a Mortgage.

1.29 “Mortgagor”: Any Person who gives a Mortgage.

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

1.31 “Office Park Declaration”: The Declaration of Covenants, Conditions, and Restrictions for Daniel Island Office Park dated May 19, 1994, and recorded in the Public Records on May 23, 1994 in Book 509, Page 228, which was deleted by an Amendment to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Office Park dated January 1, 2005, and recorded in the Public Records on November 17, 2004 in Book 4355, Page 276.

1.32 “Owner”: One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded land sales contract, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. An Owner (including the Declarant) who has transferred or otherwise conveyed a leasehold interest in and to any Unit to a Leasehold Owner may, in its sole discretion, assign in such lease, all of such Owner’s rights and obligations as an owner herein; provided, however, that any such assignment shall not relieve such Owner from its duties and obligations hereunder except as expressly provided herein. From and after receipt of such assignment, Declarant and the Architectural Review Board shall recognize the Leasehold Owner as the Owner of such Unit.

1.33 “Park Association”: Daniel Island Park Association, Inc., a South Carolina nonprofit corporation, formed to serve as the mandatory membership owners association under the Park Declaration.

1.34 “Park Declaration”: The Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daniel Island Park dated March 1, 2018 and recorded in the Public Records on March 27, 2018 in Book 2705, Page 1, et seq., as it may be amended, supplemented, modified and consolidated, which is applicable to certain residential properties within Daniel Island and providing for the Daniel Island Park Association, Inc.

1.35 “Person”: A natural person, a corporation, a partnership, a trustee, a limited liability company, or any other legal entity.

1.36 “Private Amenity”: Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise, and may include, without limitation, any golf course(s), swimming pool, or other recreational facility so located and all related and supporting facilities and improvements.

1.37 “Properties”: The real property described on Exhibit “A,” together with such additional property as is subjected to this Declaration in accordance with Article VII.

1.38 “Public Records”: The Register of Deeds Office for Berkeley County, South Carolina.

1.39 “Residential Declaration”: The Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Daniel Island Residential Zone dated March 1, 2018 and recorded on March 27, 2018 in the Public Records in Book 2704, Page 703 et. seq., as it may be amended, supplemented, modified and consolidated, which is applicable to certain residential properties within Daniel Island and providing for the providing for the Daniel Island Community Association, Inc.

1.40 “Special Assessment”: Assessments levied in accordance with Section 8.5.

1.41 “Specific Assessment”: Assessments levied in accordance with Section 8.6.

1.42 “Supplemental Declaration”: An instrument filed in the Public Records which subjects additional property to this Declaration, designates Districts, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.43 “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 within the Daniel Island Town Center Zone as set forth in the Master Plan, subject to compliance with the Governing Documents. For example, each individual condominium unit created by a horizontal property regime shall constitute a separate Unit. The term shall refer to the land, if any, which is part of the Unit as well as any Improvements thereon. Each separately platted lot shall be deemed to be a separate Unit, regardless of the number of uses or businesses operated on such lot, unless otherwise specified by Supplemental Declaration.

In the case of a portion of the Properties intended and suitable for subdivision but as to which no final lot subdivision map has been filed, such property shall be deemed to be a single Unit until such time as a final lot subdivision map is filed of record with respect to all or a portion of the property. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

In the Association’s sole discretion, any portion of the Properties subject to the jurisdiction of a District Association, such as a horizontal property regime, may be treated as a single Unit solely for purposes of voting and assessments under this Declaration. In such event, the District Association shall be responsible for casting all votes and for collecting all

assessments and other sums from the members of the District Association. All votes shall be cast and all amounts shall be remitted to the Association pursuant to such procedures as may be adopted by the Association.

The term "Unit" shall not include Common Area, common property of any District Association, or property dedicated to the public.

1.44 "Use Restrictions and Rules": Those use restrictions and rules affecting the Properties, which may be adopted, modified and repealed as set forth in Article X. The Use Restrictions and Rules are set forth on Exhibit "C."

1.45 "Utilities": Any utilities serving any portion of the Properties or any Common Areas, including, without limitation, water, public or private sewage and sewer service, storm drains, steam, gas, electricity, telephone, cable television, internet and other communication source, solar or passive energy sources or any other utilities of any nature whatsoever.

1.46 "Zoning Ordinance": The Master Plan and The City of Charleston Zoning Ordinance, as the same may be amended from time to time, and also including any applicable rules and regulations of Berkeley County, South Carolina and the State of South Carolina.

ARTICLE II

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 shall be appurtenant to and shall pass with the title to each 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;
- (d) the right of the Board to allow persons other than Owners, Leasehold Owners, Occupants and their respective employees, lessees, invitees, clients, customers and guests to use any facilities situated upon the Common Area upon such conditions as may be established by the Board;
- (e) the right of the Board to suspend the right of an Owner to use facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to Section 3.25 of the By-Laws;
- (f) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area as set forth in this Declaration;

(g) 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; and

(h) The rights of certain Owners to the exclusive use, access and enjoyment in and to those portions of the Common Area designated "Exclusive Common Areas", as more particularly described in Section 2.4.

Any Owner may extend its right of use and enjoyment to such Owner's employees, lessees, invitees, clients, customers and guests, as applicable, subject to reasonable regulation by the Board and further subject to all such parties' obligation to abide and be bound by the Governing Documents and any such rules and regulations promulgated thereunder.

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

2.3 Condemnation. 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, each Owner shall be entitled to written notice prior to disbursement of the condemnation award or proceeds of conveyance. The award made for such taking or proceeds of such conveyance shall be payable to the Association.

2.4 Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and Occupants of specified Units or Districts. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, landscaped medians and cul de sacs, parking areas, lakes and other portions of the Common Area within a particular District or Districts. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Owners of Units to which the Exclusive Common Areas are assigned either as a District Assessment or as a Specific Assessment, as applicable.

Initially, any Exclusive Common Area shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Declarant conveys the Common Area to the Association or on the subdivision plat relating to such Common Area, or in a Supplemental Declaration; provided, however, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Units and/or Districts, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 7.1. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of particular Units or a particular District or Districts and Exclusive Common Area may be reassigned upon approval of the Board and the vote of a majority of the Class "A" votes within the District(s) to which the Exclusive Common Area is assigned, if previously assigned, and within the District(s) to which the Exclusive Common Area is to be assigned or reassigned. As long as the Declarant owns any property described on Exhibits "A" or "B" for development

and/or sale, or has the right to annex property pursuant to Section 7.1, any such assignment or reassignment shall also require the Declarant's written consent.

The Association may, upon approval of a majority of the Owners to which the Exclusive Common Area is assigned, the majority of the members of the District Committee or the board of directors of the District Association for the District(s) to which any Exclusive Common Area is assigned, permit Owners of Units in other Districts to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the District Expenses or specific assessments attributable to such Exclusive Common Area.

2.5 Private Amenities. Access to and use of any Private Amenity is strictly subject to the rules and procedures of the owner of such Private Amenity, and no Person gains any right to enter or to use any Private Amenity by virtue of membership in the Association or ownership or occupancy of a Unit.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one 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 and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.2 Voting. The Association shall have two 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 a weighted vote for each Unit in which they hold the interest required for membership under Section 3.1; provided, there shall be only one weighted vote per Unit. The vote for each Unit shall be weighted in accordance with the formula set forth in Exhibit "D." In any situation where there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one 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 all members of the Board of Directors during the Class "B" Control Period which shall continue until the first to occur of the following:

- (i) December 31, 2025; or
- (ii) when, in its discretion, the Class "B" Member so determines.

After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws. The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period; or
- (ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

(c) Additional Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any additional property made subject to this Declaration pursuant to Article VII, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

3.3 Voting Mechanics. Voting may be conducted by written ballots or by an electronic voting process. In the event that an electronic voting process voting is used for specific issues or on all issues, then the Board in its discretion may adopt specific rules and procedures as necessary in furtherance of conducting the electronic voting process by which a Member in good standing representing a Unit may cast his/her vote electronically. In the event that the Board elects to implement an electronic voting process, the president of the Association shall be responsible for recommending, reviewing and implementing the process subject to Board approval. The voting process shall be conducted in a manner consistent with the Governing Documents and South Carolina law.

3.4 Districts.

(a) General. Every Unit shall be located within a District; provided, however, unless and until additional Districts are established, the Properties shall consist of one District. The Units within a particular District may be made subject to additional covenants and the Owners of Units within a particular District may also be mandatory members of a District Association; however, there shall be no requirement that a District Association be created for any District except in the case of a District which is developed as a condominium or as may be otherwise provided by law. Any District which does not have a District Association may establish an advisory committee (a "District Committee") to serve as a liaison between that District and the Board, but any such District Committee shall have no binding authority or any voting rights hereunder. The Board may in its discretion establish criteria for appointment to and/or creation of District Committees to represent the interests of Owners of Units in any District or Districts.

(b) Establishment. Districts shall be established not later than, and may be modified until, the date of the termination of the Class "B" membership. Declarant shall establish and may modify Districts by filing an addendum to this Declaration designating by map or other description all of the Units within each District. No District Association or District Committee shall be formed or otherwise established without the prior submission to and written approval of Declarant of all documents creating or establishing such District Association or District Committee, including without limitation, the submission of any declaration of condominium, articles of incorporation, by-laws and other organizational and governing documents. After the termination of the Class "B" membership, Declarant may unilaterally amend such addendum as additional property is subjected to this Declaration to change the composition of existing Districts or to establish new Districts to account for the additional property.

After expiration of Declarant's right to submit additional property under Article VII, the Board shall have the right to file or amend such addendum. Neither recordation nor amendment of such addendum shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required. Until such time as an addendum is filed, all of the Properties shall constitute a single District. After an addendum is filed, any and all portions of the Properties which are not assigned to a specific District shall constitute a single District.

ARTICLE IV **RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

4.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, landscaping, furnishings, equipment, and other personal property of the Association), and shall keep it in attractive condition and good repair, consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration, the cost of which shall be a Common Expense.

4.2 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. 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 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 3.25 of the By-Laws. Such sanctions may include, without limitation:

- (a) imposing monetary fines which shall constitute a lien upon the Unit of the violator (in the event that any employee, lessee, occupant, invitee, client, customer or guest of a Unit violates the Governing Documents, and a fine is imposed, the fine shall first be assessed against the Occupant; provided however, if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);
- (b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (c) suspending an Owner's right to vote;
- (d) suspending any Person's right to use any facilities within the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;
- (e) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 Days delinquent in paying any assessment or other charge owed to the Association; and
- (f) levying Specific Assessments to cover costs incurred in bringing a Unit into compliance in accordance with Section 8.5.

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 liens in the Public Records for nonpayment of any assessments or fees, the towing of vehicles that are in violation of parking rules or the correction of any maintenance, construction or other violation of the Governing Documents) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the 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, to the maximum extent permissible, all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

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

The Association may, but is not required to, by contract or other agreement, enforce county, city, state and federal ordinances, rules, regulations and laws, if applicable, and permit local and other governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

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

4.5 Governmental Interests. For so long as the Declarant owns any portion of the property described on Exhibits "A" or "B," the Declarant may designate sites within the Properties for public or quasi public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents. No membership approval shall be required for such designation.

4.6 Dedication of Common Area. The Association, or the Declarant for so long as the Declarant owns any portion of the properties described on Exhibits "A" or "B", may dedicate portions of the Common Area to the to the City of Charleston, Berkeley County, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity, or to any private utility company without obtaining any membership approval.

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

The officers, directors, 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 and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director 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, or committee member may be entitled.

The Association shall also indemnify and forever hold harmless the Declarant to the extent that any officer, director or employee of the Declarant serves as an officer, director or committee member of the Association and the Declarant incurs any damages or expenses, including attorneys' fees, in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding) by reason of having its officers, directors or employees serve as officers, directors, or committee members of the Association, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles and South Carolina law. This right to indemnification shall not be exclusive of any other rights to the Declarant 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.

4.8 Rezoning. No Owner or any other Person may apply or join in an application to amend, vary or modify the Zoning Ordinance or rezone or apply for any zoning variance or waiver as to all or any portion of the Properties without the prior written consent of Declarant where such amendment, variance or modification will materially affect the development or uses of a Unit or Units within the Properties. Declarant may apply for such rezoning as to any portion of the Properties owned by it at anytime.

4.9 Security. The Association, the Declarant, or any successor Declarant may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measure, cannot be compromised or circumvented, or that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all Occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties. Any costs incurred by the Association to provide such services shall be paid by the Association and shall be charged to all Units, as a General Assessment or a Special Assessment, or only to those certain Districts or Units benefitted thereby, as a Specific Assessment or as a District Assessment, as determined by the Board in its sole discretion.

4.10 Provision of Services. The Association may provide services for the Members of the Association and their employees, lessees, invitees, clients, customers and guests. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services. The costs of services provided by the Association shall be charged to the benefitted Unit(s) as a Specific Assessment. By way of example only, some services which may be provided include landscape maintenance, pest control service, special and promotional events coordination, and security. The Association shall be permitted to add, modify or cancel any services being provided by the Association. Nothing contained herein may be relied upon as a representation as to the services, if any, will be provided by the Association.

4.11 Future Development. Each Owner acknowledges, understands and covenants to inform its lessees and all Occupants of its Unit that the Properties and areas adjacent to the Properties are subject to further development and expansion, and therefore, there may be certain inconveniences during any period of construction, and Owner waives all claims with respect thereto. Owner agrees that if Owner or Owner's employees, lessees, invitees, clients, customers, guests, contractors or agents enter onto any area of construction, they do so at their own risk, and

neither the Declarant, the Association, nor their respective contractors, agents or employees shall be liable for any damage, loss or injury to such persons.

4.12 Powers of the Association Relating to Districts. Since any District Committee established under this Declaration is a committee of the Association, the Board shall have all of the power and control over any District Committee that it has under applicable law over other committees of the Association.

The Association may veto any action taken or contemplated by any District Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standards. The Association also may require specific action to be taken by any District Association to fulfill its obligations and responsibilities under this Declaration or any other applicable covenants. For example, the Association may require specific maintenance or repairs or aesthetic changes to be done by the District Association, and that a proposed budget include the cost of such work. If the District Association fails to comply with such requirements within a reasonable time as specified in writing by the Association, the Association may effect such action on behalf of the District Association and assess the Units in such District for their pro rata share of any expenses incurred by the Association in taking such action. Such assessments may be collected as a Specific Assessment under Article IX.

4.13 Municipal Services. The Association may, but is not obligated to, contribute funds to the City of Charleston or other applicable governmental authorities, for the purpose of increasing the city's capacity to provide municipal services, including, without limitation, enhanced infrastructure improvements (i.e., curbing, alternative paving surfaces, street improvements, traffic control devices, street and directional signage, etc.), and police and fire protection services, within Daniel Island Town Center Zone.

4.14 Cost Sharing Agreements. So long as the Class "B" membership exists, the Declarant may, but shall not be obligated to, execute and record various declarations, covenants, and deed restrictions which may constitute covenants running with the title to certain parcels of land outside the Properties, assigning to the owners and occupants of such parcels and their members, guests, employees, agents and invitees, as applicable, certain rights to use all or portions of the Common Areas and obligating the owners of such parcels to share in the certain costs incurred by the Association which benefit such parcels. The Association is currently subject to the terms of the Second Amended and Restated Declaration of Easements and Covenant to Share Costs for Daniel Island dated January 1, 2005 and recorded in Book 4472, Page 17 on January 21, 2005 in the Public Records, as it may be amended, modified, and restated ("Share Costs Declaration"). The Association entered into the Share Cost Declaration for the purpose of ensuring the unified maintenance of the Daniel Island community in accordance with the Community-Wide Standard. The Association shall comply with the terms of any and all Cost Sharing Agreements, including the Share Costs Declaration, and any similar agreements entered into by the Association with respect to the maintenance of the Daniel Island community. The Share Costs Declaration is intended to remain in effect for perpetuity. Within Daniel Island, there may be certain residential, nonresidential or recreational areas, including without limitation single family residential developments, retail, commercial, or business areas and Private Amenities, which are not subject to this Declaration and which are neither Units nor Common

Area as defined in this Declaration (hereinafter "adjacent properties"). The owners of such adjacent properties shall not be Members of the Association, shall not be entitled to vote, and shall not be subject to assessment under Article 8 of this Declaration.

In addition, the Association may enter into one (1) or more Cost Sharing Agreements with the owners or operators of portions of the adjacent properties:

(a) to permit use of any recreational and other facilities located on the Common Areas by the owners or operators of such adjacent properties and their designees;

(b) to obligate the owners or operators of such adjacent properties to perform, and/or to share in certain costs associated with, the maintenance, repair, replacement and insuring of portions of the Area of Common Responsibility, if any, which are used by or benefit jointly the owners or operators of such adjacent properties and the owners within the Properties;

(c) to permit use of any recreational and other facilities located on such adjacent properties by the Owners of all Units or by the Owners of certain specified Units;

(d) to obligate the Association to share in certain costs associated with the maintenance, repair, replacement and insuring of portions of such adjacent properties, if any, which are used by or benefit jointly the owners or operators of such adjacent properties and the owners within the Properties; and/or

(e) to establish rules and regulations regarding the use of areas that benefit jointly the owners or operators of such adjacent properties and the owners within the Properties.

The owners or operators of such adjacent properties shall be subject to assessment by the Association only in accordance with the provisions of such Cost Sharing Agreement(s). If the Association is obligated to share costs incurred by the owners of such adjacent properties, such payments by the Association shall be deemed to constitute Common Expenses of the Association unless the Cost Sharing Agreement(s) provide otherwise. The owners or operators of the adjacent properties shall not be subject to the restrictions contained in this Declaration except as otherwise specifically provided herein.

4.15 Opportunities for Community Interaction. The Association may make use of computers, the internet, and expanding technology to facilitate interaction and encourage participation in Association activities. For example, the Association may sponsor a Daniel Island cable television channel, create and maintain a community intranet or internet home page, maintain an "online" newsletter or bulletin board, and offer other technology-related services and opportunities for Owners and Occupants to interact and participate in Association-sponsored activities. To the extent South Carolina law permits, and unless otherwise specifically prohibited in the Governing Documents, the Association may send notices electronically, hold interactive web conferencing Board or Association meetings permitting attendance and voting by electronic means, and electronically send and collect assessments and other invoices.

4.16 Community Education and Training. In recognition of the fact that Owners and other residents who are well-informed regarding their community's structure and governance and their rights and responsibilities in the community, have greater capacity to participate in civic life

and in the affairs of the community, the Board may establish education, training, and orientation programs relating to community governance, including "continuing" education programs, for everyone in the Properties. The Board may utilize any appropriate method to achieve these education goals, including a community intranet, learning centers, computer centers, business centers, and coordinated activities with Association committees and Board members.

Community education may include orientation classes regarding community structure and governance; the nature, extent, and purpose of the covenants, rules, and regulations; and community-building activities.

The Board may at its option offer community governance educational opportunities to Owners regarding ownership rights, voting privileges, property use restrictions, assessment responsibility, community development, developer turn over or transition, and community activities. Governance education opportunities may be offered in the form of seminars, simple question and answer pamphlets, audio/video recordings, through a community cable channel, or through an interactive website. The Board may also coordinate with nationally recognized organizations such as the Urban Land Institute or the Community Associations Institute to offer programs regarding community governance or coordinate with nationally recognized speakers in the field to provide community governance instruction and workshops.

4.17 Trails. The Declarant reserves for itself, its successors and assigns, and the Association, the right to designate certain areas within the Properties, including the Common Area, to be used as recreational bike and pedestrian pathways and trails ("trail system"). Use of the trail system shall be subject to the reasonable rules and regulations of the Association. Each Owner acknowledges, understands and covenants to inform the Occupants of such Owner's Unit, that the Properties may contain a trail system and that there may be certain inconveniences and loss of privacy associated with the ownership of Units adjacent to such trail system resulting from the use of the trail system by the Declarant, the Association, its Members, their tenants, Occupants, guests and invitees and the public.

4.18 Presence and Management of Wildlife. Each Owner and Occupant, and each tenant, guest and invitee of any Owner or Occupant acknowledges that the Properties are located adjacent to and in the vicinity of wetlands, bodies of water and other natural areas. Such areas may contain wildlife, including without limitation, deer, opossums, alligators, reptiles, and snakes. Neither the Association, the Board, the original Declarant, nor any successor Declarant shall have any duty to take action to control, remove or eradicate any wildlife in the Properties nor shall they be liable or responsible of any personal injury, illness or any other loss or damage caused by the presence of such wildlife on the Properties, each Owner and Occupant of a Unit and each tenant, guest, and invitee of any Owner or Occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife and further acknowledges that the Association, the Board, the Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or Occupant, or any tenant, guest, or invitee of any Owner or Occupant relied upon any representations or warranties, expressed or implied, relative to the presence of such wildlife.

The Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, to engage in wildlife and fishery management plans and practices on the Properties to

the extent that such practices are permitted by applicable state and federal law. For the purpose of illustration and not limitation, this includes the right to manage and control any populations of white-tailed deer, feral hogs, raccoons, alligators and other wildlife through a variety of techniques, including organized hunting, shooting, trapping, relocating, sterilization, and habitat manipulation. Declarant may, in its sole discretion, commission environmental studies and reports relating to the Properties and the wildlife habitats located thereon, and may elect to follow or disregard any recommendations resulting from such studies. The Declarant may assign these management rights to the Association in which event the expenses of such activities shall be funded by General Assessments.

4.19. Bodies of Water. The Association, the Declarant, and any successor Declarant shall not be held liable for any loss or damage by reason of use of any lake, river or other body of water for any purpose by Owners, Occupants, their invitees, licensees, and tenants. Each Owner acknowledges, understands and covenants to inform its tenants and all Occupants of its Unit that the Association, its Board of Directors, ARB and committees, Declarant, and any successor Declarant are not insurers and that each Person using any lakes, rivers or other bodies of water shall do so only as permitted under the Governing Documents and any applicable governmental laws, ordinances, rules and regulations. Each Person assumes all risks of personal injury, and loss or damage to property, including Units, resulting from or associated with use of any body of water.

ARTICLE V MAINTENANCE

5.1 Association's Responsibility.

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

(i) all landscaping and other flora, parks, lakes, structures, and improvements, including any private streets, bike and pedestrian pathways/trails, situated upon the Common Area;

(ii) landscaping and other flora, parks, pedestrian pathways/trails, structures and improvements within public rights of way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board;

(iii) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Cost Sharing Agreements, or any contract or agreement for maintenance thereof entered into by the Association;

(iv) all ponds, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith, including ensuring compliance of the drainage system and the performance

of all necessary inspections for the Properties with the South Carolina Department of Health and Environmental Control NPDES General Permit for Stormwater Discharges from Construction Activities, as supplemented, amended, revised, and modified;

(v) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association;

(vi) all storm water management facilities and retention basins serving the Properties (if not maintained by a governmental agency or located on or within a Unit);

(vii) all planter strips and landscaping within any rights-of-way or medians of the roadways within or adjacent to the Properties to the extent that the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard;

(viii) all entry signs and features serving the Properties, constructed by or on behalf of the Declarant; and

(ix) all signage within or adjacent to public rights of way within or adjacent to the Properties which the Board, in its sole discretion, deems appropriate.

The Association may, as a Common Expense, maintain other property 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 determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(b) There are hereby reserved to the Association easements over the Properties as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 67% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant as long as the Declarant owns any property described on Exhibits "A" or "B" of this Declaration, or has the right to annex property pursuant to Section 7.1.

(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 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 this Declaration, any Cost Sharing Agreements, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a District Expense assessed as a District Assessment solely against the Units within the District(s) to which the Exclusive Common Areas are assigned, or a Specific Assessment against the particular Units to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

5.2 Owner's Responsibility. Each Owner shall maintain its Unit and all Improvements located thereon, including without limitation, all structures, parking areas, irrigation systems, drainage facilities, detention and retention ponds, landscaping, setback areas, and other improvements located in rights-of-way adjacent to the Owner's Unit in a manner consistent with the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a governmental agency pursuant to this Declaration, any Supplemental Declaration or other covenants applicable to such Unit, including, but not limited to, the Design Guidelines and the Zoning Ordinance. Such maintenance includes, but is not limited to the following, unless otherwise provided in the Design Guidelines:

- (a) Removal of all litter, trash, refuse and waste at least once a week and keeping the trash pick-up and service loading areas in a neat condition;
 - (b) Lawn mowing on a regular basis such that the grass level on undeveloped land is not higher than 12" and the grass level on developed land is not higher than 4".
 - (c) Tree and shrub pruning;
 - (d) Keeping exterior lighting, signage, fixtures, and mechanical facilities in working order;
 - (e) Keeping plant materials within lawn and garden areas alive, and any adjoining rights-of-way or drainage ditches attractive and free of trash and debris;
 - (f) Promptly removing and replacing any dead plant material;
 - (g) Keeping parking areas, driveways, alley ways and roads in good repair;
 - (h) Striping of parking areas and repainting of Improvements, as applicable;
- and
- (i) Repair of exterior damage to Improvements and keeping exterior Improvements in good repair.

Every Owner shall also be responsible for the security and safety of its Unit notwithstanding any security systems or measures which may be provided by the Association.

In addition to any other enforcement rights, if an Owner fails to properly perform its maintenance responsibility, the Association may perform such maintenance responsibilities and

assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 8.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3 District Responsibility. Upon resolution of the Board, the Owners of Units within each District shall be responsible for paying, through District Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such District. This may include, without limitation, the costs of maintaining any signage, entry features, rights of way and greenspace between the District and adjacent public roads, private streets within the District, and lakes or ponds within the District, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association.

Any District Association having responsibility for maintenance within a particular District pursuant to additional covenants applicable to such District shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs as a Specific Assessment against all Units within such District as provided in Section 8.7.

5.4 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, 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 Standard, the Zoning Ordinance and all applicable covenants. The Association and/or an Owner and/or a District Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own.

5.5 Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. 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 negligence or willful acts or omissions shall apply thereto.

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

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

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

5.6 Office of Ocean and Coastal Resource Management. Each Owner acknowledges that any portion of any 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, coastal waters or other critical areas.

ARTICLE VI INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

(a) Coverage. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect, if reasonably available and to the extent the Board deems reasonably necessary, blanket property insurance on any portions of the Area of Common Responsibility for which the Association has maintenance, repair and/or replacement responsibilities; commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members; directors and officers liability coverage; fidelity insurance covering Persons handling Association funds; and such additional insurance as the Board, in its best business judgment, determines advisable or is required by law. The Board shall annually review the types and amounts of insurance coverage and shall establish the requirements for such coverages. Association insurance premiums shall be a Common Expense. In addition, the Association may, on request of a District Association, and shall, if so specified in a Supplemental Declaration applicable to the District, obtain blanket property insurance, if reasonably available, for all insurable improvements maintained by such District Association. The face amount of the policy shall be sufficient to cover the full replacement cost of all insured structures. The costs thereof shall be charged to the Owners of Units within the District as a District Assessment.

In the event of an insured loss, the deductible, in such amount as established by the Board, shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.25 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their employees, lessees, invitees, clients, customers or guests, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Section 8.7.

(b) Policy Requirements. Association insurance shall not be brought into contribution with insurance purchased by Owners, Occupants, Leasehold Owners or their Mortgagees individually. The Association's policies shall contain an agreed amount endorsement.

(c) The Association shall arrange for periodic reviews 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 the coastal region of the southeastern United States of America. The Association shall have no insurance responsibility for any portion of the Private Amenities.

All Association policies shall provide for a certificate of insurance to be furnished to the Association and to each Member upon written 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).

In addition, the Board shall use reasonable efforts to secure insurance policies that are written:

(i) 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) in the name of the Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Association and its Members. Policies secured on behalf of a District may be for the benefit of the Owners of Units within the District and their Mortgagees, as their interests may appear;

(iii) to not be brought into contribution with insurance purchased by Owners, Occupants, or their Mortgagees;

(iv) to contain an inflation guard endorsement;

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

(vi) to include an endorsement requiring at least thirty (30) Days prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

In addition, the Board shall use reasonable efforts to secure insurance policies which provide:

(vii) a waiver of subrogation as to any claims against the Board, its agents, officers, employees, Members, guests and manager(s);

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

(ix) an endorsement precluding cancellation, invalidation, suspension, or non renewal by the insurer 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;

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

(xi) a cross liability provision; and

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.

(d) Damage and Destruction. In the event of a loss covered by Association insurance, only the Board or its duly authorized agent shall be authorized to file any insurance claim, which the Board may or may not file in its sole discretion. Any damage to or destruction of the Common Area shall be repaired or reconstructed unless (i) the Members representing at least 67% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 Days after the loss, or such additional time deemed necessary by the Board, not to repair or reconstruct; and (ii) the failure to repair or reconstruct any damage to or destruction of the Common Area would not violate or breach the terms of the Zoning Ordinance, or any other agreement entered into by the Declarant or the Association with respect to the Properties or any applicable laws.

If the damage or destruction to the Common Area is not repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared and shall be 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 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.

6.2 Owners' Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry liability with limits of not less than \$1,000,000.00 and property insurance for the full replacement cost of all insurable improvements on its Unit, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on its Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds. Additional covenants for any District may establish more stringent standards for repairing or reconstructing structures and for clearing and maintaining the Units if the structures are not rebuilt or reconstructed within the District.

ARTICLE VII
ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation Without Approval of Membership. Until all property described on Exhibit "B" has been subjected to this Declaration or until the end of the Class "B" Control Period, whichever is earlier, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of any Members or Owners, 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. Any Supplemental Declaration may contain additional covenants, conditions and restrictions, including restrictions as to use, or modify those contained in this Declaration as appropriate to reflect the different character or use of any such annexed property.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

7.2 Annexation With Approval of 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 representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 7.1.

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 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. Removal or withdrawal of all or any portion of the Properties shall be accomplished by recording a Supplemental Declaration in the Public Records. Any such removal or withdrawal shall be effective upon the recording of the Supplemental Declaration unless otherwise provided therein.

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 District Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent 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 without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibit "A" or "B" or has the right to annex property pursuant to Section 7.1.

7.6 Conversion to Residential Use. Declarant reserves the right to amend this Declaration unilaterally at any time so long as it has a right to annex or withdraw property under this Article, without prior notice or consent of any Person other than the Owner of the affected property, and to withdraw property from the provisions of this Declaration and simultaneously to cause or assist in the submission of such property to the provisions of either of the Residential Declaration or the Park Declaration. Such withdrawal shall be accomplished by and effective upon filing, in the Public Records, a Supplemental Declaration to both this Declaration and the Residential Declaration or the Park Declaration, as applicable, describing the property being converted to residential use.

7.7 Annexation of Office Park. Until all property described on Exhibit "B" has been subjected to this Declaration or 20 years after the recording of the Declaration in the Public Records, whichever is earlier, Declarant may from time to time unilaterally withdraw property from the Office Park Declaration and simultaneously subject to the provisions of this Declaration all or any portion of the property subjected to the Office Park Declaration. Any annexation pursuant to this Section 7.7 shall not require the consent of any Members, Owners or the owner of such property being subjected to this Declaration provided such annexation is accomplished via amendment procedure set forth in the Office Park Declaration and by filing a Supplemental Declaration in the Public Records describing the property being annexed.

By an Amendment and Supplement to this Declaration dated January 1, 2005 and recorded in Public Records on November 17, 2004, in Book 04355, Page 279, the Declarant subjected the properties that were previously subject to the Office Park Declaration to the terms and conditions of this Declaration.

ARTICLE VIII **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 four types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Units; (b) District Assessments for District Expenses benefitting only Units within a particular

District or Districts; (c) Special Assessments as described in Section 8.6; and (d) Specific Assessments as described in Section 8.7. Each Owner, by accepting a deed or entering into a contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with 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 by resolution, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Unit against which the assessment is made until paid, as more particularly provided in Section 8.8. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a 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 request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

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. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the General Assessment and any District 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 Unit, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

No Owner may exempt itself from liability for assessments by non use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment of its 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 fully or partially exempt certain Units from liability for and payment of assessments based on the Owner of and/or use of such Units or portions thereof as the Board may from time to time determine in its discretion.

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 Computation of General Assessment. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget for the estimated Common Expenses of the Association during the coming year, including capital contributions in accordance with reserve fund budgets prepared under Section 8.5.

The General Assessments against each Unit shall be calculated in accordance with Exhibit "D," in aggregate amounts reasonably expected to produce income equaling the total budgeted Common Expenses, including any reserves. In determining assessments, the Board may consider other sources of funds, including any surplus from prior years and any assessment income expected to be generated from additional Units anticipated to become subject to assessment in the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Section 7.1, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy which may be treated as either a contribution or as a loan to the Association subject to repayment, in the Declarant's discretion. Any such subsidy shall be disclosed as a line item in the Common Expense budget and the treatment of such subsidy shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, 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 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 Owners representing at least 67% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Owners as provided for special meetings in the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

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 shall continue for the current year. The Board shall send a copy of the revised budget to each Owner at least 30 days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.3 Computation of District Assessments. At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated District Expenses for each District on whose behalf District Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain costs as a District Assessment. Any District may request that additional services or a higher level of services be provided by the Association and, upon approval of the Board, any additional costs shall be added to such budget, provided that the Board shall not be obligated to approve or cause the Association to provide the requested level of additional or increased

services. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a District Expense, if any, within the District.

The Board shall cause a copy of such budget and notice of the amount of the District Assessment for the coming year to be delivered to each Owner of a Unit in the District at least 30 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by Owners of a majority of the Units in the District to which the District Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners of at least 10% of the Units in such District. This right to disapprove shall only apply to those line items in the District budget which are attributable to services requested by the District.

If the proposed budget for any District is disapproved or if 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 shall continue for the current year.

8.4 Reserve Budget and Capital Contribution. The Board shall annually prepare reserve budgets for both general and District purposes which take into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual General Assessments or District Assessments, as appropriate, over the budget period.

8.5 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. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any District if such Special Assessment is for District Expenses.

Special Assessments shall become effective unless disapproved at a meeting by Owners representing at least a majority of the total Class "A" votes allocated to the applicable Units which will be subject to the Special Assessment, and the written consent of the Class "B" Member, if any. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Owners as provided for special meetings in the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.6 Specific Assessments. The Board may specifically assess against particular Units expenses incurred by the Association to provide special benefits, items or services (a) on request of the Owner of a Unit; (b) made necessary by the conduct of the Owner or its licensees, invitees, or guests; or (c) necessary to bring the Unit, or the District in which it is located, into compliance with this Declaration, the Articles, the By-Laws, any applicable Supplemental Declaration and

the Use Restrictions and Rules. Such Specific Assessments may be levied by the Board after notice to the Owner and an opportunity for a hearing.

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

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a 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 Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired 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 Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.9, including such acquirer, its successors and assigns.

8.8 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day after a Unit is conveyed to a Person who is not the Declarant. The first annual General Assessment and District Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit, and shall be payable on the date of conveyance to such Person.

8.9 Failure to Assess. Failure of the Board to fix 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 and District Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.10 Exempt Property. The following property shall be exempt from payment of General Assessments, District Assessments, and Special Assessments:

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

(b) Any property dedicated or otherwise conveyed to and accepted by any governmental authority or public utility, unless otherwise specified by Declarant in a Supplemental Declaration; and

(c) Property owned by any District Association for the common use and enjoyment of its members, or owned by the members of a District Association as tenants in common.

8.11 Capitalization of Association. The Association may, but shall not be obligated to, levy against each Unit, upon acquisition of record title by the first Owner thereof other than the Declarant, a one-time contribution to the working capital of the Association in an amount equal to 25% of the annual General Assessment per Unit for that year. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Unit for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

8.12 Variation of Level of Assessments. Notwithstanding anything to the contrary contained in this Article VIII or elsewhere in this Declaration, in setting the levels or amounts of the various assessments provided for herein, and the formula for determining same as provided in Exhibit "D", the Board may, but shall not be obligated to, consider the size of the Unit, the level of maintenance provided by the Association and the particular usage of any Unit, such as commercial, retail, service, institutional or residential (such designations being used as examples only). Such factors shall be considered a reasonable basis upon which to discriminate between assessments levied on various Units, or Districts within the Properties.

8.13 Payment of Assessments by Leasehold Owners and Improved Properties of Declarant. Notwithstanding anything provided in this Declaration to the contrary, the Declarant (as a Member of the Association or as the Owner of any Unit) shall not be responsible for the payment of any assessments with respect to any Units owned by Declarant unless the same have been leased to a Leasehold Owner or improved by the creation of Improvements thereon in which event Declarant or the Leasehold Owner of such Unit shall pay assessments in the manner set forth in this Article VIII.

8.14 Community Enhancement Fee. Except for the "Excluded Transactions" (as defined below), upon the sale or transfer of title to any Unit, or any portion thereof, a community enhancement fee shall be due and payable at the time of closing for such sale or transfer (the "Community Enhancement Fee"). The Community Enhancement Fee payable on the sale of a Residential Unit (defined below) shall be equal to one-half of one percent (0.50%) of the total purchase price for a Residential Unit, or portion thereof. The Community Enhancement Fee payable on the sale of any non-Residential Unit shall be determined as follows: (i) one-fourth of one percent (0.25%) shall be paid on the amount of the purchase price below five million dollars (\$5,000,000), or portion thereof; (ii) one-fifth of one percent (0.20%) shall be paid on the amount

of the purchase price equal to or above five million dollars (\$5,000,000) and less than ten million dollars (\$10,000,000), or portion thereof; and (iii) fifteen - one hundredth of one percent (0.15%) shall be paid on the amount of the purchase price equal to and above ten million dollars (\$10,000,000), or portion thereof. By way of example only, if a non-Residential Unit, or any portion thereof, is sold for a purchase price of \$12,000,000, the Community Enhancement Fee due and payable would be \$25,500.00 ($\$12,500 + 10,000 + 3,000 = \$25,500$). The Community Enhancement Fee shall be paid to Daniel Island Community Fund, Inc., a South Carolina tax-exempt community service organization ("DICF"), and such funds may be used by DICF in its sole discretion in accordance with its articles of incorporation and by-laws. DICF may require the purchasing and/or selling Owner to provide reasonable proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds or other such evidence. For the purposes of this Section 8.14 only, the term "Residential Unit" shall mean any Unit which is intended for or is being used for residential purposes by one single family. A Unit that contains a building comprised of multiple separate dwelling spaces which are used for single family residential purposes is not included in this definition. For example, an individual condominium Unit, an individual townhome Unit or a detached single family home on a separately platted lot would each constitute a Residential Unit. Neither an apartment building nor a hotel would be a Residential Unit.

The purchaser or transferee of a Unit, or any portion thereof, shall be responsible for the payment of the Community Enhancement Fee at closing and the closing attorney for the purchaser or transferee shall be responsible for delivery of the Community Enhancement Fee to DICF. In the event that the Community Enhancement Fee is not paid at closing, the amount due shall be collectible as an assessment as set forth in this Article VIII, shall bear interest, and shall constitute a lien against the Unit. Declarant and the Association hereby grant DICF a power-of-attorney, coupled with an interest, so as to provide DICF with the right, at no expense to the Declarant or the Association, to collect the Community Enhancement Fee and enforce the provisions of this Section 8.14 against the Owner of the Unit, including, but not limited to, the right to seek collection of the Community Enhancement Fee and other sums payable pursuant to this Section 8.14 as well as the right to assess a Specific Assessment (as provided in Article VIII) against the Owner's Unit or portion thereof. In addition, DICF may collect its reasonable attorneys' fees and court costs in enforcing the provisions of this Section 8.14.

Notwithstanding the foregoing, the Community Enhancement Fee shall not be due and payable for the following transactions (collectively, the "Excluded Transactions"):

- (a) The sale of any Unit, or portion thereof, by Declarant;
- (b) The lease of a Unit, or portion thereof, to a Leasehold Owner;
- (c) The transfer of a Unit, or portion thereof, to the spouse of an Owner or to a direct linear descendant of the Owner;
- (d) The transfer of a Unit, or portion thereof, to a trust whose beneficiaries are solely the spouse and direct linear descendants of the Owner;

- (e) The transfer of a Unit, or portion thereof, to an entity in which the Owner owns, directly or indirectly, not less than 51% of the ownership interests in such entity;
- (f) The transfer of a Unit, or portion thereof, to an entity that owns, directly or indirectly, not less than 51% of the ownership interests in Owner;
- (g) a Mortgagee acquiring title to a Unit, or portion thereof, pursuant to a foreclosure action;
- (h) a Mortgagee acquiring title to a Unit or portion thereof, pursuant to a conveyance in lieu of foreclosure;
- (i) Any transfer which the Declarant, in its sole discretion, waives in writing the Community Enhancement Fee; or
- (j) Any transfer which DICF, in its sole discretion, waives in writing the Community Enhancement Fee.

Except for the Excluded Transactions permitted under subparagraph (a) above (for which no notice shall be required), the transferring Owner shall give the Association at least thirty (30) Days' prior written notice of any transfer which is an Excluded Transaction with sufficient documentation to establish that the transfer is an Excluded Transaction.

It is hereby acknowledged that, in the event a transfer of a Unit, or portion thereof, is deemed in that particular instance to be an "Excluded Transaction", the subsequent transfer of that Unit, or portion thereof, shall again be subject to the Community Enhancement Fee unless such subsequent transfer independently qualifies as a separate Excluded Transaction in accordance with the terms hereof.

The Community Enhancement Fee shall be paid to DICF, and such funds may be used in accordance with DICF's organization and governing documents, which may include the funding (in whole or in part) of the following activities:

- (i) programs and activities that enhance the welfare and lifestyles of Owners and Occupants of Units;
- (ii) an ongoing resource management plan for Daniel Island, including the preservation, maintenance, and enhancement of natural areas, wildlife habitats, or similar conservation areas;
- (iii) sponsorship of educational programs and activities that contribute to the overall understanding, appreciation, and preservation of the natural environment within and surrounding Daniel Island;
- (iv) programs, services, and activities that serve to promote a "sense of community" within the Cainhoy Peninsula, Wando and Huger areas and as a part of the larger, surrounding area, such as recreational leagues, cultural programs, educational programs, festivals

and holiday celebrations and activities, a community computer network, and recycling programs; and

(v) social services, programs, community outreach other charitable causes.

Each Owner hereby acknowledges and agrees that, pursuant to the terms of South Carolina Code Section 27-1-70, the obligation to pay Community Enhancement Fees is not a "Transfer Fee Covenant" because the Community Enhancement Fee is payable to DICF which is an organization described in Section 501(c)(4) of the Internal Revenue Code, to be used exclusively to support, cultural, educational, charitable, recreational, environmental, conservation, social, or other similar activities benefiting the real property subject to the Declaration or the community of which the property is a part.

This Section 8.14 shall inure to the benefit of DICF and its successors and assigns and shall not be amended by the Association without the prior written consent of DICF, which may be given or withheld in DICF's sole discretion. In addition, for a period of fifty (50) years following the conclusion of the Class "B" Control Period, this Section shall not be deleted, amended or modified without the prior written consent of the Declarant (including its successors, successors-in-title, and assigns), which may be given or withheld in the Declarant's sole discretion.

ARTICLE IX

ARCHITECTURAL STANDARDS

9.1 **General.** No Improvements shall be placed, erected, installed, constructed, or altered upon any Unit except in compliance with this Article, and approval of the Architectural Review Board under Section 9.3.

All Improvements constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a person licensed in the State of South Carolina to practice architecture, engineering, or landscape architecture, or other work consistent with the intended construction in accordance with applicable laws, rules and regulations, unless otherwise acceptable to the Architectural Review Board, in its sole discretion. All plans and specifications shall be subject to review as provided herein. This Article shall not apply to the activities of the Declarant or to any improvements to the Common Area by or on behalf of the Association. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

9.2 **Architectural Review.** Responsibility for administration of the Design Guidelines and review of all applications for use, construction and modifications under this Article shall be handled by the Architectural Review Board ("ARB"). The members of the ARB 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. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers, or other professionals. In addition, the ARB or the MC may require the posting of deposits or bonds while construction is pending on any Unit, to ensure completion of all work in compliance with plans approved by the ARB or the MC, in conformance with all Design Guidelines, and without damage to the Properties.

(a) Architectural Review Board. The ARB shall consist of at least three, but not more than five, persons and shall have exclusive jurisdiction over all original construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to Owners other than the Declarant, the Declarant retains the right to appoint all members of the ARB who shall serve at the Declarant's discretion. Declarant may, but shall not be obligated to combine the members and functions of the ARB under this Declaration with similar committees now or hereafter in existence under the Park Declaration and/or the Residential Declaration. 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 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.

(b) Modifications Committee. The Board of Directors may, but shall not be obligated to, establish a Modifications Committee ("MC") to consist of at least three and no more than five persons, all of whom shall be appointed by and shall serve at the discretion of the Board. If established, the MC shall have jurisdiction over modifications, additions, or alterations made on or to existing Improvements on Units or containing Units and the adjacent open space. The MC may delegate its authority as to a particular District to the District Association, if any, so long as the MC has determined that such District Association has in force review and enforcement practices, procedures, and appropriate standards at least equal to those of the MC. Such delegation may be revoked and jurisdiction reassumed at any time by written notice. The ARB shall have the right to veto any action taken by the MC or a District Association which the ARB determines, in its sole discretion, to be inconsistent with the guidelines promulgated by the ARB. Upon expiration of the Declarant's right to appoint the members of the ARB, the MC may be eliminated and its duties assumed by the ARB.

9.3 Guidelines and Procedures.

(a) Design Guidelines. The Declarant shall prepare the initial Design Guidelines 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 portion of the Properties to another depending upon the location, unique characteristics, and intended uses. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern to the committees in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the committees and compliance with the Design Guidelines does not guarantee approval of any application.

The ARB shall adopt such 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 and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced.

There shall be no limitation on the scope of amendments to the Design Guidelines; the 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 Owners who seek to engage in development or construction within the Properties.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the ARB. Any architectural guidelines and standards adopted by the MC may be more restrictive than the Design Guidelines, but under no circumstances shall they be inconsistent with the Design Guidelines.

(b) Procedures. No activities within the scope of Section 9.1 shall commence on any portion of the Properties until an application for approval of the proposed work has been submitted to and approved by the ARB or the MC, as appropriate, and the specific use for such portion of the Properties has been approved by Declarant in accordance with Article X. Either committee may require the submission of application forms and information as it deems necessary to consider any application and may require multiple stages of application and review for any use, construction or modification.

In the event that the ARB fails to approve or to disapprove in writing any stage of application within 30 days after submission of all information and materials reasonably requested, the application shall be deemed approved unless an extension of such time period is agreed to by the ARB and the applicant. 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 9.5.

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

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

All work shall be commenced and completed within such period as provided in the Design Guidelines or as the ARB may specify in the notice of approval, unless commencement or completion within such time is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the ARB. In the event construction of the work called for by the approved plans has not substantially commenced within such period then approval shall be deemed expired and no construction shall thereafter commence unless a written renewal is granted by the ARB.

(d) Easements and Common Area Dedications. As a prerequisite of approval of plans, the ARB shall have the power to require an Owner who has submitted plans to grant any reasonable utility and drainage easements as may be required for the enjoyment and benefit of the Owners or the Association. Where possible, the ARB shall attempt to locate any such required easements along the perimeter of the Unit, within existing or proposed rights-of-way, within other existing or proposed easements, or in such a manner as to not materially impair the proposed use of the Unit.

(e) Certificate of Compliance. Upon completion of the construction or alteration of any Improvement in accordance with plans and specifications approved by the ARB, the ARB shall, upon written request of the Owner or any Mortgagee thereof, issue a recordable certificate of compliance (a) identifying such Improvement and the Unit on which such Improvement is placed, and (b) stating that the plans and specifications for such Improvement and the use or uses to be constructed thereon have been approved, subject to a disclaimer of obligation as set forth in Section 9.6. Preparation of such certificate shall be at the expense of such Owner or Mortgagee. Any certificate of compliance issued in accordance with provisions of this subsection shall be prima facie evidence of the facts therein stated and may be relied upon by any bona fide purchaser of such Unit, Mortgagee or any title insurer.

(f) Construction Parking Facilities. Unless otherwise approved by the ARB, all applications shall include plans for the construction of parking facilities. The initial phase of the parking facility shall be of sufficient size to accommodate its use by the individuals working on construction of the Improvements on the Unit. Prior to an Owner commencing the construction of any other Improvements on its Unit, such Owner shall substantially complete the construction of the parking facility upon its Unit in accordance with the approved plans. Substantial completion of the initial phase of the parking facility shall mean that the parking facility shall be useable during the course of construction activities on the Unit; however, an Owner shall not be required to complete the final surface course or striping of the parking facility. In the event that the Owner fails to substantially complete construction of the initial phase of the parking facility on the Unit prior to constructing other Improvements on the Unit, then, in addition to other remedies set forth in the Governing Documents, the Association shall have the right, but not the obligation, to fine the Owner One Hundred Dollars (\$100.00) per day as a Specific Assessment for each day of such non-compliance until the initial phase of the parking facility is completed. Notwithstanding the foregoing, all parking facilities, including the initial phase, shall be completed in accordance with the approved plans, including the final surface course and striping, within the time period specified in the Design Guidelines or as the ARB may specify in the notice of approval.

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) estop 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. The Declarant, the Association, the Board, and the ARB shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications or the adequacy of soils or drainage, or for ensuring compliance with building codes and other governmental requirements. The Declarant, the Association, the Board, and the ARB, and also any 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 Unit. In all matters, the Declarant, the ARB and its members shall be defended and indemnified by the Association as provided in Section 4.7.

9.7 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, 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 as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a Specific Assessment.

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

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, the Association, its officers, and directors shall not be held liable to any Person for exercising the rights granted by this paragraph.

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, and the MC.

ARTICLE X

USE RESTRICTIONS AND RULES

10.1 Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Properties as a master planned mixed use development in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within the master planned mixed use development and to regulate and control the Area of Common Responsibility. The Properties are subject to the Master Plan, the Design Guidelines, the land development, architectural, and design provisions described in Article IX, the other provisions of this Declaration governing individual conduct and uses of and actions upon the Properties, any applicable Supplemental Declaration, and the Use Restrictions and Rules promulgated pursuant to this Declaration, all of which establish affirmative and negative covenants, easements, and restrictions on the Properties, and which are enforceable by the Association as set forth in this Declaration.

The Properties shall be used only for such purposes permitted within the Daniel Island Town Center Zone, as described in the Master Plan, and specifically approved by the Declarant or its designee, consistent with this Declaration and any Supplemental Declaration. As set forth in Article XIII, Declarant retains the right, in its discretion, as long as it owns any property described in Exhibit "A" or "B," or has the right to annex property pursuant to Section 7.1, to specifically determine, limit and otherwise review and designate the uses permitted for any Unit or group of Units to one or more of the uses permitted within the Daniel Island Town Center Zone, as described in the Master Plan. Such specific permitted use designations may be amended only as provided in Article XIII. The Declarant's rights with respect to approval, limitation, and designation of specific uses for any of the Properties shall be fully assignable or delegable by Declarant at any time and from time to time. As long as it owns any property described in Exhibit "A" or "B", or has the right to annex property pursuant to Section 7.1, Declarant may further, in its discretion, establish such rules, regulations and procedures for initial and continuing review and approval of the use or uses for all Units on a case by case basis.

All provisions of this Declaration and any Use Restrictions and Rules shall apply to all Owners, Occupants, tenants, guests and invitees of any Unit. Any lease on any Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of this Declaration, the By-Laws, and the Use Restrictions and Rules of the Association.

10.2 Authority to Promulgate Use Restrictions and Rules. The Use Restrictions and Rules applicable to all of the Properties are attached as Exhibit "C" to this Declaration. Subject to the terms of this Article, the Use Restrictions and Rules may be modified in whole or in part, repealed or expanded by the Declarant or its designee, in its discretion, so long as Declarant owns any property described in Exhibit "A" or "B" or has the right to annex property pursuant to Section 7.1. Thereafter, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules as they are constituted at that time. At least 30 days prior to the effective date of any such modification, amendment, expansion or repeal of the Use Restrictions and Rules pursuant to this Section, the Board shall send a copy of such modification or amendment, etc., to each Owner. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

Nothing in this Article shall authorize the Board or the Owners to modify, repeal or expand the Design Guidelines. In the event of a conflict between the Design Guidelines and the Use Restrictions and Rules, the Design Guidelines shall control.

10.3 Procedures for Review and Enforcement of Unit Specific Uses. In order to carry out the general plan of development, create enhancements to the Properties and maintain the values thereof, Declarant has been given and retains in its discretion, as provided above in Section 10.1 and in Article XIII and throughout this Declaration, the specific right and authority to limit the specific use or uses of any portion of the Properties, including any one Unit or portions thereof or group of Units, or negatively restrict any Unit or portions thereof or group of Units from being used for a certain use or uses. Accordingly, no activities within the scope of Section 9.1 shall commence on any portion of the Properties until an application for approval of the proposed use or uses for the specific Unit or Units or other portion of the Properties in question, has been submitted to and approved in writing by Declarant or its designee. Thereafter, the use for all or any portion of a specific Unit or group of Units shall not be changed from that last approved by Declarant in accordance with this Article X unless and until an application for such change in use has been submitted to and approved in writing by Declarant or its designee. Declarant or its designee may require the submission of application forms and such information as it deems necessary to consider any application for approval of an initial use and/or for the approval of a change in use from one previously approved. Notwithstanding the foregoing, in the event the Declarant fails to approve or to disapprove in writing an application for initial use or for a change of use within thirty (30) days after submission of all requested information and materials, the application and the specific use for which approval is being sought shall be deemed approved unless an extension of such time period is agreed to by Declarant and the applicant. All such review and approval of the use or uses for any portion of the Properties shall be done and made in Declarant's sole and absolute discretion and an approval of a specific use for a Unit or portion thereof, or a group of Units shall not be deemed an approval for any other Units nor shall it constitute a waiver of the right to withhold approval as to any similar proposals for use of a specific Unit or of other Units within the general area. The failure of an Owner to submit and obtain approval for the specific use to be carried out on or within its Unit (whether initial uses or change in use), or to comply with such use after approval thereof, shall be deemed a violation of this Declaration and shall be subject to enforcement by Declarant and/or the Association as provided in this Declaration and in the By-Laws. Declarant may, without limitation, designate all or certain of its rights and authority under this Section 10.3 to the ARB.

10.4 Owners' Acknowledgment and Notice to Purchasers. All Owners and Occupants of Units and purchasers are given notice that the specific operational use or uses of each Unit is limited by the use review and approval rights of Declarant and the general Use Restrictions and Rules as either of them may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract for the purchase of a Unit, acknowledges the rights of Declarant with respect to review and approval of the specific uses of the Properties, agrees to abide thereby, and further acknowledges and agrees that the specific use and enjoyment and marketability of its Unit can be affected and that the Use Restrictions and Rules, including those attached as Exhibit "C", may change from time to time.

ARTICLE XI **EASEMENTS**

11.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three 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.

(a) There are hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, or has the right to annex property pursuant to Section 7.1, 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) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining and operating cable 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, alley ways, pathways and trails; lakes, ponds, wetlands, and drainage systems; street lights and signage; and all Utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and for the purpose of installing any of the foregoing on property which the Declarant or the Association owns or within easements designated for such purposes on recorded plats of the Properties.

Declarant specifically grants to the local water supplier, electric company, telephone company, and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) There is hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, or has the right to annex

property pursuant to Section 7.1, 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."

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section 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 Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.3 Easement for Slope Control, Drainage and Waterway Maintenance. The Declarant, for itself and the Association, and their respective representatives, successors and assigns, contractors and agents, hereby establishes and reserves a permanent and perpetual non exclusive easement appurtenant over, across, under, through and upon each Unit for the purposes of:

(a) controlling soil erosion, including grading and planting with vegetation any areas of any Unit which are or may be subject to soil erosion;

(b) drainage of natural or man-made water flow and water areas from any portion of the Properties;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Unit;

(d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Properties; and

(e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties.

11.4 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," 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 connecting and installing utilities and improvements on such property. In addition, Declarant reserves the non exclusive right and power to grant such specific easements and licenses 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."

11.5 Use of and Limitations on Easements and Licenses. The Owners of Units benefitted by the easements and licenses specified in Sections 11.1 and 11.3 (if any and to the extent additional easements or licenses under Section 11.3 are for the benefit of Unit Owners) of this Declaration and those other persons granted rights herein shall be entitled to use and enjoy said easements and licenses in common with others entitled to use same and shall take no action

in or with respect to any of said easements and licenses which would interfere with the rights of other persons to use said easements and licenses or to enjoy the benefits therefrom.

11.6 Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, By-Laws, and the Use Restrictions and Rules. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, the members of the Architectural Review Board and the Modifications Committee pursuant to Article IX, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board. The Owner shall hold the Association harmless for the exercise of the Association's rights under this provision.

11.7 Maintenance, Construction, Utility and Drainage Easements. The Owners of all Units recognize and agree that temporary construction and permanent and perpetual maintenance easements and all rights of access reasonably necessary to permit construction and maintenance of the Common Area, including reasonable permanent easements to permit installation and maintenance of utilities, roads, walkways and storm water drainage on the Properties are hereby granted to and retained by Declarant for the benefit of Declarant and of the Association and their respective Mortgagees, employees, independent contractors, agents and assigns. Such easements must be granted and conveyed hereafter by each Owner to Declarant and the Association for the benefit of Declarant and of the Association and their respective Mortgagees, employees, independent contractors, agents and assigns. Each Owner, by taking title to its respective Unit, hereby grants and conveys and shall be deemed to have consented and agreed to hereafter designate, grant and convey such easements when requested to do so by Declarant or the Association. Each Owner, by taking title to its respective Unit, shall also be deemed to have agreed to obtain from all appropriate parties, including its Mortgagees and trustees under deeds to secure debt, the written subordination of any and all Mortgages, deeds to secure debt, security interests and all other liens that encumber or in any way affect its respective Unit to such easements and to all other easements, rights-of-way and rights of ingress, egress, access and passage now set forth in or otherwise provided for in or contemplated by this Article and such written subordination instruments shall be provided promptly and without delay to Declarant and the Association when requested by Declarant or the Association. Each Mortgagee, noteholder under a deed to secure debt, trustee under a deed to secure debt and other holders of any security interest in any Unit by accepting a security interest in or legal or equitable title to a Unit, shall be deemed to have consented to and agreed that its security interest or legal or equitable title is subject to said easements and agrees to execute any instrument reasonably required to subordinate its debt and security instruments to such easements, rights-of-way and rights of ingress, egress, access and passage subject to the same not materially adversely affecting the Unit serving as the security for the obligations owed to such Mortgagee or noteholder. Such easements will contain terms and conditions reasonably requested by Declarant or the Association, as the case may be, but such easements will not unreasonably interfere with the

development, use and occupancy of any Unit or unreasonably affect access to, or operation of, any such Unit. All temporary construction easements, and temporary access rights in connection therewith, of Declarant shall terminate automatically when construction of the Common Area for which such easement is granted or retained is completed, but the permanent and perpetual maintenance easements, and access rights in connection therewith, of Declarant and the Association shall continue in full force and effect except as hereinafter provided. Prior to the Declarant's or the Association's exercise of any easement rights created by this Section, a written instrument defining the location of the respective easement shall be approved by the appropriate governmental entity.

11.8 Roadside Access Easements. There is hereby reserved to Declarant, the Association and the general public an easement for access, adjacent and parallel to all public road rights of way and Common Area roads within the Properties, extending from the curb to the far side of any sidewalk or jogging or bicycle path running more or less parallel to the curb, for the purpose of using such sidewalk or path. There is also hereby reserved to Declarant, the Association, and the designees of each, a right to go upon, over and across all property adjacent to public road rights of way and Common Area roads within the Properties to maintain, repair, and replace street trees, street furniture (e.g., park benches), sidewalks and paths, and traffic and directional signs.

11.9 Easements for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, nonexclusive reciprocal, appurtenant easement over the Common Area for the purpose of conducting or allowing its designees to conduct educational, cultural, entertainment, promotional or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a Deed or other instrument conveying any interest in a Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the Occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

ARTICLE XII **MORTGAGEE PROVISIONS**

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

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

12.3 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within 30 days

of the date of the Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

ARTICLE XIII **DECLARANT'S RIGHTS**

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. 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.

The Declarant and others authorized by Declarant may maintain and carry on upon portions of the Properties such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, and sales offices. The Declarant and its designees shall have easements for access to and use of such facilities.

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

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's 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.

Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any Design Guidelines made after termination of the Class "B" Control Period shall be effective without prior notice to and the written approval of Declarant so long as the Declarant owns any portion of the Properties primarily for development and sale.

The Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, as long as it owns any property described in Exhibit "A" or "B," or has the right to annex property pursuant to Section 7.1, to limit the use of any portion of the Properties, including any one Unit or group of Units, to one or more, but less than all, of the permitted uses within the Daniel Island Town Center Zone. By way of example only, the Declarant may limit the use of certain Units or Districts to multi-family residential use. In the alternative, the use of a Unit or District may be limited to a nonresidential use permitted under the Master Plan such as a specific non food service retail use, or the use of certain Units in a District may be restricted against a use already being carried out by an Owner of a Unit within that District.

The limitations on use imposed by the Declarant may not be changed without the written consent of the Declarant as long as the Declarant owns any property described on Exhibit "A" or "B" or has the right to annex property pursuant to Section 7.1. Thereafter, or at such time as the Declarant assigns it rights in this regard to the Association, any change in the limitations on use

shall require the consent of the Board and the Owner(s) of the affected Unit or Units set forth in a written instrument recorded in the Public Records. Declarant shall have the further right to establish such rules, regulations and procedures for initial and continuing review, approval and enforcement of the use or uses of and for all Units as provided in Article 10.

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) December 31, 2029, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

ARTICLE XIV

DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

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

14.2 Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 14.3.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 14.3:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article VIII (Assessments);
- (b) any suit by the Association to obtain a temporary restraining order, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of Article IX (Architectural Standards) or Article X (Use Restrictions and Rules);
- (c) any suit between Owners (other than Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under the laws of the State of South Carolina in the absence of a claim based on the Declaration, By-Laws, Articles or Use Restrictions and Rules of the Association;
- (d) any suit by the Association in which similar or identical claims are asserted against more than one Bound Party;
- (e) any suit by a Bound Party for declaratory or injunctive relief which seeks a determination as to applicability, clarification or interpretation of any provision of this Declaration;

- (f) any suit in which any indispensable party is not a Bound Party; and
- (g) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 14.3.

14.3 Mandatory Procedures.

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

- (i) the nature of the Claim, including the Persons involved and Respondent’s role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) Claimant’s proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

(ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of any Berkeley County, South Carolina dispute resolution center or such other independent agency providing similar services upon which the Parties mutually agree.

(iii) If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings.

("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five days after the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

(i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "E" or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of South Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

14.4 Allocation of Costs of Resolving Claims.

(a) Subject to Section 14.4(b), each Party shall bear its own costs, including any attorneys fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

14.5 Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 14.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non complying Party (or if more than one non complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

ARTICLE XV
RIGHT OF FIRST REFUSAL AND OPTION TO REPURCHASE

15.1 Right of First Refusal.

(a) In the event that an Owner desires to elect to sell, transfer or assign a Unit, the Declarant shall have a right of first refusal to acquire the Unit upon the same terms and conditions as set forth in a bona fide written offer to purchase which is acceptable to the Owner (the "Contract").

(b) Declarant shall have thirty (30) days from the date of the receipt of the Contract within which to give written notice of the Declarant's exercise of its right of first refusal; provided, however, if such Owner is then delinquent on any amounts owed to the Association, such time period shall be extended automatically such that Declarant shall have thirty (30) days from the date upon which all amounts owed to the Association by the Owner are paid, within which to give written notice of the Declarant's exercise of its right of first refusal. After such period of time, the Owner shall be free to transfer the Unit in accordance with the Contract.

(c) In the event that Declarant shall exercise its right of first refusal, the sale shall be consummated within thirty (30) days after delivery of the Declarant's written notice in accordance with Section 15.1(b). The terms of the sale shall be as set forth in the Contract, except as modified by the provisions of this Section.

(d) In the event that Declarant does not exercise its right of first refusal and the Owner elects not to sell the Unit pursuant to the Contract, the Declarant's right of first refusal shall continue.

(e) Notwithstanding the above, Declarant shall have no right of first refusal if the transfer of the Unit is to (i) a Leasehold Owner; (ii) the spouse of the Owner; (iii) a person who is a direct linear descendant of the Owner; (iv) a trust whose beneficiaries are solely the spouse and direct linear descendants of the Owner; (v) an entity in which the Owner owns, directly or indirectly, not less than 51% of such entity; (vi) an entity which owns, directly or indirectly, not less than 51% of the Owner; (vii) a person acquiring title pursuant to a foreclosure sale; or (viii) a person acquiring title by means of sale in lieu of foreclosure (each such transaction an "Exempt Transaction"). The Owner shall give Declarant at least thirty (30) days prior written notice of any transfer which is an Exempt Transaction with sufficient documentation to establish that the transfer is an Exempt Transaction.

15.2 Option to Repurchase. The Declarant shall have the right to repurchase ("Repurchase"), unless specifically waived or modified in writing by Declarant, any Unit upon the occurrence of any of the following events:

(a) the failure of the Owner to commence construction of a building on the Unit in accordance with plans approved by the Architectural Review Board within two (2) years of the transfer of the Unit by the Declarant. (The Declarant shall have no right of Repurchase under this Section 15.2(a) after construction has commenced pursuant to plans approved by the Architectural Review Board); or

(b) the failure of the Owner to obtain the final certificate of occupancy within eighteen (18) months of commencement of construction in accordance with plans approved by the Architectural Review Board.

15.3 Repurchase Price.

(a) In the event that the Declarant shall exercise its right to Repurchase a Unit in accordance with Section 15.2, the repurchase price ("Repurchase Price") shall be the sum of:

- (i) the purchase price received by the Declarant, plus
- (ii) simple interest at the Prime Rate of The National Bank of South Carolina, or any successor thereto, as adjusted from time to time, from the time of transfer by the Declarant to the time of Repurchase, plus
- (iii) the increase, if any, in the fair market value of the Unit as a result of any Improvements constructed thereon (the "Value of the Improvements").

(b) The Value of the Improvements shall be determined by mutual agreement of the Owner and Declarant within fifteen days of Exercise, as defined in Section 15.4.

(c) In the event that the Owner and the Declarant are unable to mutually agree on the Value of the Improvements, the Value of the Improvements shall be determined by an M.A.I. appraiser mutually approved by Declarant and the Owner. The decision of such appraiser shall be final and conclusive.

(d) If Declarant and the Owner cannot agree upon an M.A.I. appraiser within thirty (30) days after Exercise, then each of the Declarant and the Owner shall appoint within forty (40) days after Exercise one M.A.I. appraiser who in turn will select a third M.A.I. appraiser. The Value of the Improvements shall be determined by deriving the average of the two closest appraisals.

(e) The cost of determining the Value of the Improvements shall be split between Declarant and the Owner. The determination of such panel of appraisers shall be final and conclusive.

15.4 Declarant's Exercise of Repurchase Right. In order to exercise its Repurchase rights under Section 15.2 (the "Exercise"), Declarant shall deliver its written notice of Exercise to Owner, together with the Declarant's calculation of the Repurchase Price.

15.5 Repurchase Closing.

(a) The closing on the Repurchase pursuant to Section 15.2 shall take place within thirty (30) days of the final calculation of the Repurchase Price.

(b) The Owner shall transfer the Unit by a Deed in the same form (including warranties) and containing only those title exceptions as were contained in the original Deed executed by Declarant in favor of such Owner.

(c) The Owner shall be obligated to pay any and all outstanding assessments or other charges due and owing under this Declaration and shall cure or cause to be cured all title defects or exceptions not existing at the time the Owner acquired the Unit from the Declarant.

(d) Real Estate ad valorem taxes and prepaid assessments shall be prorated as of the date of closing.

(e) In the event that there are insufficient closing proceeds to cover all of the Owner's obligations pursuant to this Declaration (the unpaid amounts hereinafter, the "Deficiency"), Declarant shall have the right to take the Unit subject to such liens which are not paid from the closing proceeds and to obtain a recorded judgment against the Owner in the amount of the Deficiency which amount shall bear interest at the rate payable on judgments in South Carolina from the date of closing until paid.

15.6 Subdivision of Unit. In the event that a Unit is subdivided in accordance with the provisions of this Declaration and subsequently transferred to a new Owner, the time period set forth in Section 15.2(a) shall run from the date of such transfer for any resulting Unit which is not an Improved Unit. For purposes of calculating the Repurchase Price under Section 15.3, the price paid to Declarant for the original Unit shall be allocated prorata on an acreage basis among the Units resulting from the subdivision.

15.7 Subordination to Mortgages. The Declarant's Repurchase rights under Section 15.2 are subordinate and junior to all rights of Mortgages under Mortgages recorded in the Public Records. Declarant shall have no right of Repurchase in the event of a foreclosure or proceedings in lieu of foreclosure; however, upon the transfer of title to the Unit, the Unit will be subject to all of the provisions of this Declaration, including the provisions of this Article 15.

ARTICLE XVI

GENERAL PROVISIONS

16.1 Duration.

(a) Unless terminated as provided in Section 16.1(b), 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 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 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise provided by South Carolina law, in which case such law shall control, this Declaration may not be terminated within 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 75% of the total 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.

16.2 Amendment.

(a) By Declarant. So long as Declarant owns property described on Exhibit "A" or "B", or has the right to annex property pursuant to Section 7.1 and for a period of twenty (20) years thereafter, Declarant hereby reserves and shall have the sole right to:

(i) amend this Declaration or any Supplemental Declaration for the purpose of curing any ambiguity or any inconsistency among the provisions contained herein;

(ii) include in any contract or Deed or other instrument hereafter made any additional covenants and restrictions, including restrictions on use, applicable to any Unit which do not lower the standards of the covenants and restrictions herein contained;

(iii) release any Unit from any part of the covenants and restrictions contained herein which have been violated if the Declarant, in its sole judgment, determines such violation to be a minor or insubstantial violation;

(iv) amend this Declaration or any Supplemental Declaration in any manner if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, to make, purchase, insure or guarantee mortgage loans on the Units; (d) to enable any reputable private insurance company to insure mortgage loans on the Units; or (e) to satisfy the requirements of any local, state or federal governmental agency; and

(v) amend this Declaration or any Supplemental Declaration without vote or consent of the Owners for any other purpose.

The foregoing amendments may be made without the joinder or approval of any Owner, mortgagee, or the Association.

(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 representing at least 67% of the total Class "A" votes in the Association, including 67% of the Class "A" votes held by Members other than the Declarant, and the consent of the Declarant, so long as the Declarant has an option to subject additional property to this Declaration pursuant to Section 7.1. In addition, the approval requirements set forth in Article XII shall be met, if applicable.

Unless a higher percentage is required by Supplemental Declaration, any Supplemental Declaration may be amended by the vote of Members representing 67% of the total Class "A" votes subject to such Supplemental Declaration with the consent of the Board, and so long as the Declarant has an option to subject additional property to this Declaration pursuant to Section 7.1, the consent of the Declarant. Any amendment of the Use Restrictions and Rules shall comply

with the procedure set forth in Section 10.2 and shall not be subject to the requirements set forth in this Section.

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. 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 or the Class "B" Member, respectively (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.

Any amendment shall become effective upon recording 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 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.

16.3 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.

16.4 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Owners holding at least 75% of the total Class "A" votes. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article VIII; (c) proceedings involving challenges to ad valorem taxation; (d) counter claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods and services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This Section shall apply in addition to the provisions of Article XIV, if applicable.

16.5 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations applicable to any District, and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions applicable to any District; provided, however, in the event of a conflict between or among this Declaration and such 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 Use Restrictions and Rules of

the Association shall prevail over those of any District. 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.

16.6 Use of the Words "Daniel Island". No Person shall use the words "Daniel Island" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the terms "Daniel Island" in printed or promotional matter where such term is used solely to specify that particular property is located within Daniel Island and/or Daniel Island Town Center and the Association and any other community associations located on Daniel Island shall be entitled to use the words "Daniel Island" in its name.

16.7 Use of the "Daniel Island" Marks. Use of any trademarks, symbols, signs, logos, or other marks (collectively, "Trademarks") associated with "Daniel Island" is strictly prohibited. No Person shall use any such Trademarks without the prior written consent of the Declarant or the owner of such Trademark.

16.8 Compliance. Every Owner and Occupant of any Unit shall comply with the Governing Documents. Subject to the terms of Article XIV, failure to comply shall be grounds for an action by the Association, the Declarant or, in a proper case, by any aggrieved Unit 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. In any legal or equitable proceeding for the enforcement of or to remedy the violation of these covenants or any provision hereof, the losing party or parties shall pay the reasonable attorney's fees and costs of the prevailing party or parties, in such amount as may be fixed by the court in such proceeding. Such fees upon appropriate docketing of a judgment to such effect shall become a lien against the Unit (if any) of the losing party. All remedies provided herein and/or otherwise available, at law or in equity, shall be cumulative and not exclusive.

16.9 Notice of Sale or Transfer of Title. Subject and in addition to the requirements and provisions of Article XV, any Owner desiring to sell or otherwise transfer title to its Unit shall give the Board at least seven 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 Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

16.10 Exhibits. Exhibits "A," "B," "C," "D" and "E" attached to this Declaration are incorporated herein by reference.

16.11 Conflict or Ambiguity. In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction relating to construction against

the Declarant or the Architectural Review Board or any committee thereof are hereby waived by each Owner.

16.12 Further Assurances. Each Owner covenants and agrees to sign, execute and deliver, or cause to be signed, executed and delivered and to do or make, or cause to be done or made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably requested by the Declarant, the Association or the Architectural Review Board for the purpose of or in connection with clarifying, amending or otherwise consummating the transactions and matters set forth herein.

16.13 Standards for Review. Whenever in this Declaration the Declarant, the Association or the Architectural Review Board has the right to approve, consent or require any action to be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein, be in the sole and absolute discretion of the Declarant, the Association or the Architectural Review Board, respectively, and such approval, consent or required action shall be final and conclusive.

SIGNATURE PAGE ATTACHED

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC., a South Carolina corporation

Jan Malloway
Signature of 1st Witness

By: [Signature]
Matthew R. Sloan, its President

Cara Stankley
Signature of 2nd Witness

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BERKELEY)

I, Maggie R. Dusbiber the undersigned Notary Public for the State of South Carolina, do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 28th day of March, 2018.

[Signature]
Notary Public for the State of South Carolina
My Commission Expires: 10/16/24

[Notary Seal]



EXHIBIT "A"**Land Submitted to Declaration**

See attached lists

To the extent that any portion of Land Submitted to Declaration is unintentionally modified by or omitted from this Amended and Restated Declaration, such modification or omission shall not affect the Land Submitted to Declaration or the applicability of the Declaration to the such property previously submitted to the terms of the Declaration and the Declaration shall remain in full force and effect as to such property.

03/28/2018 2:35 PM

 Property Unit Listing
 Daniel Island Town
 03/28/2018

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 DI-TA Daniel Island Town A
 130 River Landing Drive

Unit Lot/Bk	Resident/ Owner Co-Resident/Billing Address	Unit Address % Ownership
1B-1 1B-1	DIEC II LLC	2058 Fairchild Street 22.0 Acres
BQ03 BQ03	Daniel Island Ventures, LLC	160B3 Fairchild Street empty lot 2.45 Acres
BQ12 BQ12	Daniel Island Ventures, LLC	106B Fairchild Street 1.5 acres
BQ13 BQ13	Daniel Island Ventures, LLC	160 Fairchild Street 4.3 Acres -Hampton
HO00 HO00	DI Associates, LLC D.Island Riverside	Fairbanks Oaks 30.93 Acres
HO01 HO01	The Oaks at Rivers Edge POA Sentry Management	Fairbanks Oak Allee - DIPA 6.67 acres
HO02	Oaks At Riverside South LLC	108 Fairbanks Oaks Alee 9 Units Bldg 108
HO03	Oaks at Riverside N	134 Fairbanks Oaks Alee 9 Units at 134 Fairb
J-2C	Daniel Pointe Retirement Community	514 Robert Daniel Drive Retirement Community
J-2D J-2D	Wellmore of Daniel Island, LLC	Parcel J-2D Robert Daniel Isla Wellmore of DI, LLC
J2A	IPD Apartments, LLC	Island Park Dr.-Wharf 7 TMS: 2750000258
J3A J3A	First Citizens Bank	126 Seven Farms Drive 3.10 Acres
K K	Duck Pond Creek SPE Blackbaud, Inc.	2000 Daniel Island Drive 26.5 Acres
K1 K1	Duck Pond Creek	2000 Daniel Island Drive 7.7
KK KK	Holland Park LLL	1990 Daniel Island Drive 10.5 Acres
KK03	Home Telecom	2146 Daniel Island Drive
KK1 KK1	Daniel Island Co	1931 Daniel Island Drive 1.61 acres - TKC Aer
L02 L02	D.I. Self Storage Stockade Storage	460 Seven Farms Drive 11.42 Acres

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Property Unit Listing
Daniel Island Town
03/28/2018

Page: 2

DI-TA Daniel Island Town A
130 River Landing Drive

Unit Lot/Bk	Resident/ Owner Co-Resident/Billing Address	Unit Address % Ownership
I03 L03	TS Talison Row, LLC C/O RAIT Residen	480 Seven Farms Drive Talison Row 10.2830000000
L05 RL05	Counterbalance Properties, LLC	133 River Landing Drive .4 Acres
NN07 NN07	SNH SE Daniel Island LLC Senior Housing Properites Trust	320 Seven Farms Drive 3.81 Acres
NO08 NO08	Daniel Island Academy Lori Williams	300 Seven Farms Drive 2.12 Acres
P P	146 Fairchild Street LLC	146 Fairchild Street 12 Acres
P02 P02	Daniel Island Executive Center,LLC	125 Fairchild Street 12.52 Acres -Benefit
P2 P2	Danie Island Executive Center,LLC	100 Benefitfocus Way 10 acres
PQ01 PQ01	Daniel Island Sun	185 Fairchild Street 14.6 Acres
Q5-4 Q-5-4	225 SFD United , LLC Starbuck's Mike White	20 Fairchild Street 1.36 ACRES
Q501	HPBB1,LLC	Project Green- Fairchild Stree 12.97ACRES-Blackbaud
R09 R09	DIBS Sales Center, LLC	101 River Landing Drive .4 acres
R9A	DanielCorner,LLC Jeff Birnbaum	145 River Landing Drive .82 ACRES-
RA01 RA01	Daniel Island Health Andrew Deitz LLC	900 Island Park Drive 3.8 Acres
RAB1 RAB1	HPDI, LLC	115 Central Island Street 4 A near Island Park
RAB2 RAB2	Blue Horseshoe 4, LLC REFUEL	860 Island Park Drive TMS:2750000262
RAB3	Island Park Ventures LLC	Island Park Drive Faison Apartments
RAB4	NEMO.LLC	880 Island Park Drive 275-00-00-157
RAB5	NEMO II.LLC	890 Island Park Drive

DI-TA Daniel Island Town A
130 River Landing Drive

Unit Lot/Bk	Resident/ Owner Co-Resident/Billing Address	Unit Address % Ownership
		275-00-00-274
RC01 RC01	Real Sub, LLC	162 Seven Farms Drive 5.07 acres
RC21 RC02.1	Daniel Island SC L	Seven Farms/Island Park Multi 3.95 ACRES
RC22 RC02.2	Publix Super Markets aka RealSub,LLC	190 Seven Farms Dr 1.23 ACRES
RD01 RD01	Island Market, LLC Shawn Smith	901 Island Park Drive 1.4 acre
RD02 RD02	DIBS Office Center, DIBS Office Center LLC	230 Seven Farms Drive 1.25 Acres
RD03 RD03	GPF- 899 Island Park LLC	899 Island Park Drive .588 Acres
RD04 RD04	Berenyi Engineering Inc.	224 Seven Farms Drive .7 acres
RD05 RD05	AJG & TAS, LLC Randy Cooper	895 Island Park Drive .4 Acres
RD06 RD06	GPF-216 Seven Farms LLC Donna Patterson	216 Seven Farms Drive .8 Acres
RD07 RD07	LEKE Properties LLC Karen Elsey	891 Island Park Drive .6 ACRES
RD08 RD08	Evergreen America Co	210 Seven Farms Drive 1.25 Acres
rd09 RD09	GPF-Portside, LLC GPF-885 IPD, LLC	885 Island Park Drive 1.4 Acre
RE02 RE02	Providence Baptist Don Flowers	294 Seven Farms Drive 3.2 acre
RE03 RE03	Seven Farms Drive Owners Association	254 Seven Farms Drive 10.28 Acres
RE04 RE04	Four Corners POA, Inc	234 Seven Farms Drive 3.85 Acres
RE05 RE05	Seven Farms HPR	234 Seven Farms Drive Office
re06 RE06	Daniel Island Apartments, LLC	River Landing Dr Undeveloped
RF01 RF01	Church of The Holy Cross	299 Seven Farms Drive 2.88 Acres

DI-TA Daniel Island Town A

130 River Landing Drive

Unit Lot/Bk	Resident/ Owner Co-Resident/Billing Address	Unit Address % Ownership
RF02 RF02	Seven Farms Rd, LLC Paula Carson	295 Seven Farms Drive 1.9 Acre
RF03 RF03	Nat. Golf Course Owners Association	291 Seven Farms Drive 1 Acres
RF1B RF1B	297 Seven Farms LLC	297 Seven Farms Drive Lot 1B B F Parcel R
RG02 RG02	245 Seven Farms HPR	245 Seven Farms Drive .8 Acres
RG03 RG03	259 SFD POA	259 Seven Farms Drive .588 Acres
RG04 RG04	Pier View HRP Chris Wilson	125 Pier View Street 44.94 Acres
rg09 RG09	Wicker Park Capital Mgmt LLC	211 River Landing Dr Simmons Park
RG4A RG4A	Angela Roberts	Pier View St CrossFit/Hip Hop 0.5700000000
rh02 RH02	Seven Farms Square POA	225 Seven Farms Drive 3.54 Acres
RH03 RH03	200 River Landing Dr Phase II, HRP	200 River Landing Drive 1.72 Acres
RH04 RH04	200 River Landing Phase 1 Beverly Harne	200 River Landing Drive 5.45 Acres
RH07 RH07	MDTH Baltusrol, LLC	211 Seven Farms Drive .34 Acres
RH22 RH22	Daniel Island Apartments, LLC	River Landing Drive Undeveloped
RL02 RL02	109 River Landing LLC Colonial Commerical Property	109 River Landing Drive .4 Acres
RL03 RL03	River Landing Prop Tara King	115 River Landing Drive 0.4 Acres
rl04 RL04	Riverlanding 125, LL	125 River Landing Drive .54 acre 2750000229
RO01	Daniel's Landing HOA	130 River Landing Drive

Property owned by Daniel Island Town Association, Inc.

Parcel #	Address	Acres
2750000061	327 RIVER LANDING DRIVE	28.83
2750000118	NO SITE ADDRESS AVAILABLE	8.76
2750000131	200 SEVEN FARMS DRIVE	1.89
2750000141	NO SITE ADDRESS AVAILABLE	2.26
2750000142	233 SEVEN FARMS DRIVE	0
2750000143	182 RIVER LANDING DRIVE	1.09
2750000144	128 RIVER LANDING DRIVE	0
2750000145	NO SITE ADDRESS AVAILABLE	0
2750000168	NO SITE ADDRESS AVAILABLE	0
2750000170	NO SITE ADDRESS AVAILABLE	0
2750000197	NO SITE ADDRESS AVAILABLE	0
2750000214	NO SITE ADDRESS AVAILABLE	4.67
2750000216	NO SITE ADDRESS AVAILABLE	1.76
2750000240	NO SITE ADDRESS AVAILABLE	1.08
2750000243	NO SITE ADDRESS AVAILABLE	0
2750000244	NO SITE ADDRESS AVAILABLE	2.82
2750000255	NO SITE ADDRESS AVAILABLE	0
2750000259	NO SITE ADDRESS AVAILABLE	9.13
2750000264	NO SITE ADDRESS AVAILABLE	0
2750000265	NO SITE ADDRESS AVAILABLE	0
2750000268	NO SITE ADDRESS AVAILABLE	6.16
2760901002	130 RIVER LANDING DRIVE 1B	0
2760901003	130 RIVER LANDING DRIVE 1C	0

EXHIBIT "B"

Land Subject to Annexation

All property now or hereafter subject to the Master Plan as defined in Section 1.26 of this Declaration.

EXHIBIT "C"

Use Restrictions and Rules

The following activities and uses are prohibited and restricted within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors or ARB. The prohibitions and restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed or limited by rules of the Association adopted pursuant to Article X of the Declaration.

1. Obnoxious or Offensive Activity. No obnoxious or offensive activity shall be allowed on the Properties, nor shall any use or practice be allowed which is a source of annoyance, embarrassment or discomfort to Owners or their tenants or invitees, or which interferes with the peaceful possession and proper use and enjoyment of the Properties, nor shall any improper, unsightly, offensive or unlawful use be made of any Unit or of the Common Area, and all laws, zoning ordinances, and regulation of all governmental bodies having jurisdiction shall be observed. Restricted and prohibited activities include without limitation the following:

- a. The use, enjoyment and occupancy of the Properties shall be in such a manner so as not to cause or produce any of the following effects discernible outside the building located thereon, or affect the adjoining property or any portion by its volume, duration, pounding beat, frequency or shrillness; smoke, dust, or dirt; unusual fire or explosive hazards; or vibration or light. The use, enjoyment and occupancy of a Unit shall not result in unreasonable levels of sound or noise pollution outside of the Unit.
- b. Loading, service and refuse areas shall be constructed in accordance with the Design Guidelines and approved by the ARB. No accumulation of rubbish, trash, or garbage shall be made except between regular garbage pick ups, and then only in approved containers and screened from view from streets and other Units.
- c. No use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device shall be audible to occupants of other Units, except alarm devices used exclusively for security purposes.
- d. Discharge of firearms, firecrackers and other fireworks is prohibited except under a license or permit issued for that purpose. The term "firearms" includes without limitation "B B" guns, pellet guns, and firearms of all types. The Board shall have no obligation to take action to prevent or stop such discharge.
- e. Plants, animals, devices or other things 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 are prohibited, including the pursuit of any activities by action or inaction

which tend to cause an unclean, unhealthy or untidy condition to exist outside of enclosed structures on the Unit, including excess clutter or an unsightly condition.

- f. Structures, equipment or other items on a Unit which have become rusty, dilapidated or otherwise fallen into disrepair are prohibited and shall be removed or repaired by the Owner of the Unit at the request of the Board. If an Owner fails to honor such request, the Board may remove the offending structure, and charge the costs of removal thereof to the Owner as a Specific Assessment.
- g. Bars, nightclubs, taverns, and book, video and gift stores engaged in the sale of obscene or pornographic materials or in the provision of entertainment featuring topless or nude performers are prohibited.
- h. No Unit may be used, in whole or in part, to operate or offer for use to the public or through private membership, any electronic gaming device, coin operated gaming device or other activity for the purpose of gambling or gaming for cash, credit or other reward to be gained by participation in such activities. This prohibition shall be observed irrespective of any referendum permitting such activities which may be adopted by Berkeley County, or any other governmental entity or agency; provided, however, this prohibition shall not include any lottery which may be established pursuant to the laws of and operated by the State of South Carolina, or other activities of a similar nature which are expressly authorized by the Board of Directors or ARB as provided above.
- i. Any activity which emits foul or obnoxious odors outside the Unit or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Units or the Common Areas within the Properties, which materially disturbs or destroys the vegetation, wildlife, wetlands, or air quality within the Properties or the adjoining buffer zones, or which uses excessive amounts of water.
- j. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units.
- k. Obstruction, rechanneling or any other interference with drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that the Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.

- l. Door to door solicitations for any purpose are strictly prohibited, including but not limited to, for the sale of goods or services, collection of funds, completion of questionnaires, and providing religious, political or other information.
- m. Capturing, trapping or killing of wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons using the Properties.
- n. Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties, except that Declarant and the Association shall have the right to draw water from such sources
- o. Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, except that Declarant and its assigns may operate such a program with respect to Units which it owns.

2. Fuel Storage and Dispensing. On site storage and dispensing of gasoline, heating, or other fuels is prohibited, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to fuels stored and dispensed incident to the retail operation of a gasoline service station or convenience store dispensing fuel for primarily passenger vehicles and household uses, nor to any underground fuel tank approved by the ARB, nor to any underground or above-ground fuel tank actively used for storage of fuels used incident to cooking operations in connection with the operation of a restaurant or other food service facility approved by the ARB, and provided in either case that operation and installation of such facilities shall be according to applicable laws, ordinances, and regulations, including without limitation zoning ordinances.

3. Animals and Pets.

- a. Raising, breeding or keeping of animals, livestock, or poultry of any kind is restricted within the Properties to the keeping of a reasonable number of dogs, cats, or other usual and common household pets. The Board, in its sole discretion, may make further restrictions regarding pets, including without limitation restrictions on the number, size, and types of pets permitted within Units.
- b. Pets shall be kept on a leash or otherwise confined in a manner acceptable to the Board, and shall not be permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the Owners of Units and their tenants and invitees. Pets shall be registered, licensed and

inoculated as required by law. The owners of the pet shall be responsible for all of the pet's actions. Pet waste shall be promptly removed and disposed of in proper receptacles. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Properties or to nearby property or destructive of wildlife, they shall be removed from the Properties. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3 of the Declaration.

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

4. Common Area, Plazas, Sidewalks, Pedestrian Ways and Bike Ways.

- a. Owners of Units, as well as their tenants, guests, invitees, and pets shall refrain from any actions which deter from the enjoyment by other Owners of areas within the Properties designated as Common Area, pedestrian plazas, sidewalks, pedestrian ways, bike ways, etc. Prohibited activities shall include without limitation, maintenance of dogs or other pets under conditions which interfere with the use of the specified areas by other Owners, their tenants and invitees, playing of loud radios or musical instruments, holding of large gatherings without advance approval of the Board, loitering, or use of facilities, tents or other temporary structures, stages, vending machines or facilities, except for events approved in advance by the Board and otherwise permitted under this Declaration. The Board may promulgate other rules and restrictions for the use of these areas.
- b. Special events held within the Properties by any Person other than the Declarant, including without limitation educational, cultural, entertainment, promotional, sporting or social events expected to draw increased vehicle, bicycle and pedestrian traffic to the Common Area, pedestrian plazas, sidewalks, pedestrian ways, bike ways within the Properties shall be approved in advance by the Board. Such approval shall be in the sole discretion of the Board.

5. Parking and Vehicles.

- a. Parking facilities shall be established as set forth in the Design Guidelines. Parking of the following vehicles is restricted: construction vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other water craft, trailers, stored vehicles or inoperable vehicles. The foregoing vehicles may be parked only in enclosed garages or docks approved in accordance with Article IX of the Declaration or other areas as may be designated by the Board. Construction vehicles and equipment shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary for construction within a Unit or the Common

Area. In the sole discretion of the Board, limitations may be placed on the parking areas, times for parking and points of entry for construction and commercial vehicles.

- b. Operation of motorized vehicles on pedestrian ways, bike ways, sidewalks and plazas maintained by the Association is prohibited unless specifically permitted in the discretion of the Board and except that golf carts may be operated on cart paths intended for such purposes. Any use of pedestrian ways, bike ways, sidewalks and plazas maintained by the Association for motorized vehicles shall be subject to local laws and ordinances, and any restrictions established by the Board in permitting such use.

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

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

- a. Dumping of grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any buffer zone, drainage or irrigation ditch, swale, stream, pond, wetlands, creek or lake, or elsewhere within the Properties or adjoining areas is prohibited, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff.
- b. Obstruction, rechanneling or any other interference with drainage flows after location and installation of drainage swales, storm sewers, or storm drains is prohibited, except that the Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.
- c. Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties are prohibited, except that Declarant and the Association shall have the right to draw water from such sources.
- d. Living trees shall be removed from the Properties only in conformance with the Design Guidelines.

7. Construction Activities. No construction, erection, or placement of any structure, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved is permitted, except in strict compliance with the provisions of Article IX of the Declaration. The following restrictions shall also apply:

- a. After commencement of construction of any improvements in the Properties, the Owner shall diligently prosecute the work thereon, to the end that the improvements shall not remain in a partly finished condition any longer than reasonably and normally necessary for completion thereof.
- b. The Owner of the Unit on which improvements are being constructed shall at all times keep streets and parking contiguous to the Unit free from excess dirt, mud, garbage, trash or other debris as may be occasioned by construction of the improvements.
- c. Rocks and trees removed during construction of improvements shall be disposed of on the Units under construction in strict conformance with the Design Guidelines.
- d. Storage of construction materials and equipment shall strictly conform to the Design Guidelines. The foregoing materials and equipment shall not be permitted within the natural barriers established under the Design Guidelines prior to construction.
- e. The Owner shall comply with and maintain any screens, fences or walls required by the ARB around trash receptacles, HVAC units, and any other improvements.

8. Signs. No signs, advertisements, billboards, solicitation or advertising structures of any kind shall be erected, modified or maintained on a Unit or within the Properties unless in conformance within the Design Guidelines and unless prior written approval of the ARB is obtained. The restrictions of this section shall not apply to the Declarant.

Specifically with respect to, but not necessarily limited to, a Residential Unit, as such term is defined in Section 8.14 of the Declaration, unless specifically approved in writing by the ARB, no "for sale" or "for lease" signs shall be permitted within any portion of the Properties. In addition, no brochure racks, information tubes, boxes or any other item or object may be placed on or erected within the Properties or attached to or placed on or adjacent to any permitted sign, either permanently or temporarily, without the prior written consent of the appropriate reviewing body. The Declarant and the ARB reserve the right to prohibit other types of signs and/or displays, and may also restrict the size, content, color, lettering, design and placement of any approved signs. Any approved sign must be in conformance with the Design Guidelines. In addition to all other rights and remedies set forth in the Declaration, the ARB, Declarant and the Board shall have the right to enter property and to remove any sign, display, or advertising structure erected in violation of this provision, and such entry shall not constitute a trespass.

Notwithstanding the preceding, an Owner is permitted to display one political sign (not exceeding 18" by 24") per candidate on his Unit for a time period not to exceed 45 days prior to the election and 5 days following the election. In addition, no signs shall be placed in any rights of ways.

9. Fences. No fences shall be erected except in conformance with the Design Guidelines, and with prior written ARB approval.

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

11. Air-Conditioning Equipment. No air conditioning equipment which is visible on the exterior of any improvement shall be permitted in the Properties unless constructed in accordance with the Design Guidelines and approved by the ARB. Approval shall be based on adequacy of screening and/or landscaping of the equipment. The ARB may prohibit window air conditioning units altogether or impose strict standards.

12. Temporary Structures. Except as specifically approved in writing in advance by the ARB, no temporary buildings (including construction trailers) shall be erected or placed on the Properties. Portable storage units are not permitted to remain on a Unit in excess of thirty (30) calendar days in any calendar year. Portable storage units shall only be placed on the driveway or other designated parking area of a Unit. No more than one portable storage unit is permitted on a Unit at any time. Portable storage units shall not be larger than eight feet high by eight feet wide by sixteen feet long.

13. Antennas. Antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind shall be constructed only after written approval of the ARB. Notwithstanding the foregoing, DBS and MMDS antennas one meter or less in diameter and television broadcast service antennas may be installed only in accordance with Federal Communications Commission ("FCC") rules and any requirements of the ARB that are consistent with the rules of the FCC, as they may be amended from time to time. Such items shall be installed in the least conspicuous location on the Unit available which permits reception of an acceptable signal

14. Subdivision. Subdivision of a Unit into two (2) or more Units, or changing the boundary lines of any Unit after a plat including such Unit has been approved and filed in the Public Records is prohibited, except with the consent of the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" for development as part of the Properties, or has the right to annex property pursuant to Section 7.1.

15. Real Estate Sales Offices. So long as the Declarant owns any property described in Exhibits "A" or "B" for development as part of the Properties, or has the right to annex property pursuant to Section 7.1, Daniel Island Real Estate Company, Inc., its successors and assigns (collectively, "DIREC") shall have the exclusive right to maintain an office for the sale or rental of real estate within the Properties. No part of the Properties may be used as an office for the sale or rental of real estate without the prior written consent of DIREC, which shall be granted in the sole discretion of DIREC.

16. Automated Teller Machines. Unless specifically approved in writing by the ARB pursuant to Article IX of the Declaration, automated teller machines that are free standing or that are located on the exterior of the primary structure on the Unit shall be prohibited within the Properties; provided however, that this provision shall not apply to any teller machine installed and operated on a Unit that contains a full-service bank, savings and loan, credit union or similar institution.

17. Supermarket. Unless specifically approved in writing by the ARB pursuant to Article IX, Section 9.1, and the Declarant, a "Supermarket", as defined below, is prohibited with the Properties. A "Supermarket" means a supermarket grocery store whose primary business is the sale of the full range of food products, including meats, fresh produce, dairy products, frozen foods, canned and boxed goods, prepared foods and sundry household products (for example, the range of merchandise sold by Publix, Piggly Wiggly and Kroger stores) and which occupies not less than 12,000 square feet of improved space. The term "Supermarket" shall not include convenience stores as that term is commonly used in the Charleston, South Carolina metropolitan area or specialty food stores, such as cheese shops or wine shops.

18. Drugstore. Unless specifically approved in writing by the ARB pursuant to Article IX, Section 9.1 and by the Declarant, a "Drugstore", as defined below, is prohibited within the Properties. A "Drugstore" means a drugstore which has a pharmacy for prescribed drugs and whose primary business is the sale of medications, health products and related sundries such as cosmetics and personal hygiene products. The term "Drugstore" shall not include a specialty health store which does not sell prescription drugs.

19. Convenience Store. Unless specifically approved in writing by the ARB pursuant to Article IX, Section 9.1 and by the Declarant, a "Convenience Store", as defined below, is prohibited within the Properties. A "Convenience Store" means a convenience store as that term is commonly used in the Charleston, South Carolina metropolitan area.

EXHIBIT "D"

Formula for Assessments and Voting Rights

1. General. Each Unit shall have the right to cast votes and the obligation to pay assessments based on the number of points ("Assessment and Voting Points") assigned to that Unit in accordance with the following provisions.

- a. Land Points. Each Unit shall be assigned one point for each 10,000 square feet of highland, or fractional portion thereof, comprising the Unit ("Land Points").
- b. Building Points. Each Unit shall be assigned one point for each 3,000 square feet of gross floor area within the Improvements (as defined below for **Exhibit "D"**) comprising the Unit, or fractional portion thereof, ("Building Points"). As used in this **Exhibit "D"**, "Improvements" shall mean enclosed structures intended for use and occupancy as permitted by these restrictions and for which an initial certificate of occupancy has been issued or which is substantially complete as determined by the general contractor, whichever is earlier.
- c. Benefit Factor and Land Classification.
 - i. The total Land Points and Building Points for each Unit shall then be multiplied by a Benefit Factor, as shown below, based on the Land Classification to calculate the total Assessment and Voting Points. If the total Assessment and Voting Points results in a fraction, then number shall be rounded to the nearest whole number.

<u>Land Classification</u>	<u>Benefit Factor</u>
National Commercial Retail/Restaurant	2.0
Local Commercial Retail/Restaurant	1.5
Hotel/Motel/Inn	1.5
Residential	1.5
Village Center	1.5
Office/Campus/Civic/Stadium	1.0
Unimproved/Improved, but Not in Use/Other	1.0

- ii. The Declarant, for so long as the Declarant owns any property described in Exhibit "A" or "B" to the Declaration for development or sale as part of the Properties, and thereafter the Board of Directors, shall determine in its sole discretion the Land Classification for each Unit. By way of example only, Land Classifications may include the following:
- (a) National Commercial Retail/Restaurant – chain restaurants, chain retail stores, fast food restaurants, supermarket grocery stores, gas stations, and banks;
 - (b) Local Commercial Retail/Restaurant – restaurants and retail stores which have a total of five or less locations nationwide;
 - (c) Hotel/Motel/Inn – hotels, motels and inns;
 - (d) Residential – apartments, residential condominiums, and other residential uses;
 - (e) Village Center – restaurants, retail stores and bed and breakfast inns which are located in that portion of the Properties designated as the Village Center as set forth on the Master Plan;
 - (f) Office/Campus/Civic/Stadium – office buildings, ambulatory care, academic campuses, town hall, police department, fire department, wellness center, sales office, library, and Battery Stadium; and
 - (g) Unimproved/Other – unimproved land and any other use not covered by any of the land classifications set forth in this Section.

If, based on the use of the building, the Unit may be classified into more than one Land Classification, the Land Classification with the highest Benefit Factor shall apply to the entire building; provided, however, that if one of the Land Classifications is Village Center, then the Unit shall be classified as Village Center.

- iii. Units are subject to re-evaluation and re-classification at the sole option of the Declarant or Board, as applicable, upon the occurrence of the following events: (a) improvement of previously

unimproved property, (b) change in ownership of the Unit, (c) change in use of the Unit approved pursuant to Article X, or (d) on an annual basis in conjunction with the preparation of the budget as set forth in Section 8.2 of the Declaration.

d. Examples.

- i. A 25,000 square foot unimproved Unit is assigned three Land Points (which would also equal the Assessment and Voting Points for that unimproved Unit). The same Unit improved with a 10,000 square foot commercial retail building being used by a national commercial tenant is assigned four Building Points for a total of seven Land Points and Building Points. This Unit would then have 14 Assessment and Voting Points, as follows:

$(3 \text{ Land Points} + 4 \text{ Building Points}) \times 2$ [Benefit Factor for National Commercial Retail/Restaurant Space] = 14 Assessment and Voting Points.

- ii. A 30,000 square foot unimproved Unit is assigned three Land Points. The same Unit improved with a three-story building located in the Village Center having a total of 30,000 square feet, used for a specialty shop, office space and apartments, is assigned ten Building Points for a total of 13 Land Points and Building Points. Based on a Land Classification of Village Center and a Benefit Factor of 1.5, this Unit would then have 20 Assessment and Voting Points, as follows:

$(3 \text{ Land Points} + 10 \text{ Building Points}) \times 1.5$ [Benefit Factor for Village Center] = 20 Assessment and Voting Points (rounded from 19.5)

2. Assessments. The decimal share of the total assessment to be levied on a particular Unit shall be computed by dividing the Assessment and Voting Points assigned to that Unit by the total Assessment and Voting Points for all Units subject to the particular assessment. The Board of Directors shall establish an annual cut off date for computing point totals for all Units. The decimal share of the total assessment for the Unit and the votes attributable to the Unit (including a summary of the computations) shall be sent to each Owner with the annual notice of assessment.

3. Voting. Each Member of the Association shall be entitled to one weighted vote for each Assessment and Voting Point assigned to the Unit under the above-referenced formula.

EXHIBIT "E"

Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("Arbitration Notice").

2. There shall be one (1) arbitrator. Subject to the qualification requirements set forth below, the Arbitrator shall be selected pursuant to the Commercial Arbitration Rules published by the American Arbitration Association (the "AAA"), as amended and in effect on the date of service of the Arbitration Notice, from a panel provided by the AAA, Charleston, South Carolina, office. The Arbitrator shall have a minimum of seven (7) years experience in a real estate development related field such as commercial real estate development, licensed commercial real estate sales or brokerage, commercial property management (office, retail or institutional), commercial real estate appraisal or executive management of a real estate service or related company. If there shall be no such person available from the panel provided by the AAA, Charleston, South Carolina, office, the Arbitrator shall be selected from such panel based on qualifications as reasonably approximating those set forth above as are available. Notwithstanding the foregoing, if either or all Parties elect and agree to pay any additional costs, the Arbitrator may be selected pursuant to the Commercial Arbitration Rules of AAA and subject to the stated qualifications from a panel provided by the AAA, Columbia, Greenville, or Myrtle Beach, South Carolina, offices. The Arbitrator shall agree in writing to abide by and be bound by these rules of arbitration and shall apply the laws of the State of South Carolina. The Arbitrator shall conduct all such hearings as are required and shall make an award no later than ninety (90) days following the service of the Arbitration Notice. The Arbitrator shall only, upon showing of cause, be permitted to extend the hearing date one (1) time, for a maximum of fifteen (15) days.

3. The Arbitrator shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately, subject to the limitations set forth above.

4. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

5. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

6. There shall be no stenographic record of the proceedings, unless all Parties otherwise mutually agree in writing.

7. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

8. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such independent expert's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent expert must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a written statement to the Parties detailing such bias or interest ("Bias Disclosure"). If any Party objects to the service of any independent expert after receipt of a Bias Disclosure, such independent expert shall be replaced by another independent expert selected by the Arbitrator.

9. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

10. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

11. There will be no posthearing briefs.

12. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form. In any event, if such Award shall include damages, the Arbitrator may only award actual damages and costs, and shall in no event be entitled to award punitive, consequential or special damages.

13. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.