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## Cross-Reference:

Deed Book 1838, Page 21, *et seq.*,  
Deed Buok 6963, Page 126, *et seq.*  
Deed Book 2705, Page 1, *et seq.*  
Deed Book 3671, Page 30, *et seq.*  
Berkeley County, South Carolina  
records

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

**SECOND AMENDED AND RESTATED**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**DANIEL ISLAND PARK**

Upon recording, please return to:  
Cynthia Spieth Morton, Esq.  
Womble Bond Dickinson (US) LLP  
5 Exchange Street  
Charleston, SC 29401

**EXHIBIT "D"**

**SECOND AMENDED AND RESTATED BY-LAWS  
OF  
DANIEL ISLAND PARK ASSOCIATION, INC.**

# SECOND AMENDED AND RESTATED BY-LAWS

OF

DANIEL ISLAND PARK ASSOCIATION, INC.

WITNESSETH:

THESE SECOND AMENDED AND RESTATED BY-LAWS are made this 1<sup>st</sup> day of December, 2023, by The Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant");

WHEREAS, prior to the execution of the Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Daniel Island Park dated as of December 31, 2023 (the "Amended and Restated Declaration"), that certain Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Daniel Island Park dated March 1, 2018 was filed of record on March 27, 2018, in Deed Book 2705, Page 1, et seq., that certain Consolidated Declaration of Covenants, Conditions, and Restrictions for Daniel Island Park was filed of record on November 2, 2007, in Deed Book 6963, Page 127, et seq., and also that certain Declaration of Covenants, Conditions, and Restrictions for Daniel Island Park was filed of record on January 26, 2000, in Deed Book 1838, Page 021, et seq., in the Register of Deeds, Berkeley County, South Carolina (such instruments as amended and supplemented are hereinafter collectively referred to as the "Original Declaration") (The definitions provided in Article I of the Original Declaration are incorporated in this preamble by reference);

WHEREAS, pursuant to the terms of that certain Assignment and Assumption of Rights and Easements between Daniel Island Development Company, Inc. and The Daniel Island Company, Inc., filed of record in Book 1093, Page 298, of aforesaid records, all Declarant's rights, title and interest in, to and under the Declaration were assigned to The Daniel Island Company, Inc.;

WHEREAS, pursuant to the terms of that certain Assignment and Assumption of Agreement between The Daniel Island Company, Inc. and Daniel Island Associates L.L.C., filed of record in Book 1478, Page 307 of the aforesaid records, all Declarant's rights, title and interest in, to and under the Declaration have been assigned to Daniel Island Associates L.L.C.;

WHEREAS, pursuant to the terms of that certain Assignment and Assumption of Agreement between The Daniel Island Company, Inc. and Daniel Island Associates L.L.C., filed of record in Book 1478, Page 307 of the aforesaid records, all Declarant's rights, title and interest in, to and under the Declaration have been assigned to Daniel Island Associates L.L.C.;

WHEREAS, pursuant to the terms of that certain Assignment of Declarant Rights between The Daniel Island Company, Inc. and Daniel Island Associates L.L.C., filed of record in Book 3671, Page 31 Public Records on January 29, 2021, all Declarant's rights, title and interest in, to and under the Original Declaration have been assigned to The Daniel Island Company, Inc.;

WHEREAS, pursuant to the terms of Section 6.6(a) of the By-Laws to the Original Declaration, the Declarant may unilaterally amend the By-Laws provided the amendment has no material adverse effect upon any right of any Member;

WHEREAS, the Declarant deems it appropriate for ease of operation and administration to amend and restate the Amended and Restated By-Laws of Daniel Island Park Association, Inc. (the "Original By-Laws") attached as Exhibit "D" to the Amended and Restated Declaration for Daniel Island Park dated March 1, 2018 and recorded in Book 2705 at Page 1 on March 27, 2018, by the Second Amended and Restated By-Laws of Daniel Island Park Association, Inc. (the "Amended and Restated By-Laws") attached as Exhibit "D" to the Second Amended and Restated Declaration for Daniel Island Park;

WHEREAS, the Association is in agreement with such Amended and Restated By-Laws; and

WHEREAS, this amendment and restatement of the Original By-Laws does not materially modify or adversely affect any rights of any Owner.

NOW, THEREFORE, pursuant to the powers retained by the Declarant under the Original By-Laws of the Association, Declarant hereby amends and restates the Original By-Laws as of the date of these Amended and Restated By-Laws. These Amended and Restated By-Laws supersede and replace the Original By-Laws.

## SECOND AMENDED AND RESTATED BY-LAWS

### OF

## DANIEL ISLAND PARK ASSOCIATION, INC.

### ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1 Name. The name of the corporation is Daniel Island Park Association, Inc. (the "Association"), a South Carolina nonprofit mutual benefit corporation.

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

1.3 Definitions. The words used in these Amended and Restated By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Daniel Island Park filed in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

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

2.1 Membership. The Association shall have two classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference. The Declarant may establish additional classes of membership as set forth in the Declaration.

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

2.3 Annual Meetings. Annual meetings shall be held annually on a date and at a time set by the Board.

2.4 Special Meetings. The president may call special meetings. In addition, it shall be the duty of the president to call a special meeting if so directed by resolution of the Board or upon a petition signed by Members representing at least five percent of the total Class "A" votes of the Association.

2.5 Notice of Meetings. Written or printed notice stating the place, day, and time of any meeting of the Members shall be delivered, personally, by mail, or by a method referenced

below, to each Member entitled vote at such meeting, not less than ten (10) nor more than sixty (60) days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting.

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

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Association, with postage prepaid. If sent by facsimile, electronic mail, or other electronic communication device, notice shall be deemed delivered when transmitted to the Member at his or her address, e-mail address, or telephone or fax number as it appears on the Association's records. Failure to receive actual notice of an Association meeting shall not affect the validity of any action taken at such meeting.

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

2.7 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members who are present at such meeting may adjourn the meeting to a time not less than five or more than 30 days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted that might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, provided that any action taken is approved by at least a majority of the votes required to constitute a quorum.

2.8 Voting. The voting rights of the Members shall be as set forth in the Declaration and in these Amended and Restated By-Laws, and such voting rights provisions are specifically incorporated by this reference. Except as otherwise specified in the Declaration or these Amended and Restated By-Laws, the vote for each Unit owned by a Class "A" Member shall be exercised by the Member owning such Unit, as provided in Article 3 of the Declaration. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or electronic ballots.

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

2.10 Proxies. On any matter as to which a Member is entitled to cast the vote for his Unit, such vote may be cast in person or by proxy, subject to the limitations of South Carolina law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these Amended and Restated By-Laws. Every proxy shall be in writing specifying the Unit for which it is given, signed by the Member or his duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon the occurrence of any of the following events: (i) conveyance of any Unit for which a proxy was given; (ii) upon receipt by the secretary of written notice of revocation of the proxy; (iii) upon receipt by the secretary of written notice of the death or judicially declared incompetence of a Member who is a natural person; or (iv) 11 months from the date of the proxy, unless a shorter period is specified in the proxy.

2.11 Majority. As used in these Amended and Restated By-Laws, the term "majority" shall mean those votes, Owners, or other groups as the context may indicate totaling more than 50% of the total eligible number.

2.12 Quorum. Except as otherwise provided in these Amended and Restated By-Laws or in the Declaration or the Articles of Incorporation of the Association, the presence of Members representing ten percent (10%) of the Class "A" votes in the Association shall constitute a quorum at all meetings of the Association. In the event that the Association is unable to establish a quorum at a duly called and held meeting, the Board may adjourn and reconvene the meeting as provided in Section 2.7 of these Amended and Restated By-Laws and the quorum requirement at such reconvened meeting shall be the presence of the Members representing five percent (5%) of the total Class "A" votes in the Association.

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

2.14 Action Without a Meeting. Any action required or permitted by law to be taken at any annual, regular, or special meeting of the Members may be taken without a meeting if: (i) the Association delivers a written ballot, or to the extent permitted by South Carolina and federal law, an electronic ballot to every Member entitled to vote on such matter; (ii) the number of votes cast by written or electronic ballot satisfies the quorum requirements set forth in Section 2.12; and (iii) at least a majority of the votes required to constitute a quorum approve such proposed action. A written or electronic ballot shall: (i) set forth each proposed action; (ii) provide an opportunity to vote for or against each proposed action; (iii) indicate the number of

responses needed to meet the quorum requirements; (iv) state the percentage of approvals necessary to approve each matter other than election of directors; and (v) specify the time by which a ballot must be received by the Association in order to be counted. Except as provided herein, no written or electronic ballot may be revoked.

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

#### **A. Composition and Selection.**

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

3.2 Number of Directors. The Board shall consist of five directors, as provided in Sections 3.3 and 3.5 below.

3.3 Directors During Class "B" Control Period. Subject to the provisions of Section 3.5, the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member during the Class "B" Control Period.

#### **3.4 Nomination and Election Procedures.**

(a) Determination of Candidates and Election of Directors. The slate of candidates for election to the Board of Directors will be determined by the submission of names to the Board of Directors by a stated date (the "Submission Date"). At least twenty-eight (28) days prior to the Submission Date, the Board of Directors will provide written, printed or electronic notice to the Members of the requirement to submit the names of candidates for inclusion on the ballot for election to the Board of Directors by the Submission Date. All persons who satisfy the criteria stated in Section 3.1 above, whose name was submitted by the Submission Date, and who satisfy the criteria stated herein or in the Declaration will be included on the ballot. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

(b) Election Procedures. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. The ballot shall be in the form stated in Section 2.14 above and as required by



South Carolina law, including South Carolina Code Section 33-31-708, as amended. Directors may be elected to serve no more than two (2) consecutive terms.

3.5 Election and Term of Office. Notwithstanding any other provision of these Amended and Restated By-Laws:

(a) At the first Association meeting occurring after Class "A" Members, other than Builders, own seventy-five percent (75%) of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration, or whenever the Class "B" Member earlier determines, the president shall call for an election by which the Class "A" Members shall be entitled to elect one of the three directors, who shall be an at-large director. The remaining two directors shall be appointees of the Class "B" Member. The director elected by the Class "A" Members shall not be subject to removal by the Class "B" Member and shall be elected for a term of two years. If the elected director's term expires prior to the happening of the event described in subsection (b) below, then a successor shall be elected for a like term.

(b) At the first Association meeting occurring after termination of the Class "B" Control Period, the Board shall be increased to five (5) directors and an election shall be held. Four (4) directors shall be elected by the Class "A" Members. Two (2) directors shall serve a term of two (2) years, and two (2) directors shall serve a term of one (1) year, as such directors determine among themselves.

Until termination of the Class "B" membership, the Class "B" Member shall be entitled to appoint, remove and replace one (1) director. Upon termination of the Class "B" membership, the director appointed by the Class "B" Member shall resign and the remaining directors shall be entitled to appoint a director to serve until the next annual meeting, at which time the Class "A" Members shall be entitled to elect a director to fill such position. Such director shall be elected for a term of two (2) years.

Upon the expiration of the term of office of each director elected by the Class "A" Members, then the Class "A" Members shall elect a successor to serve a term of two (2) years. The directors elected by the Class "A" Members shall hold office until their respective successors have been elected.

3.6 Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by the vote of Members representing a majority of the Class "A" votes, but shall not be subject to removal solely by the Class "B" Member. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director elected by the Class "A" Members, a successor director shall be elected by the Class "A" Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three consecutive unexcused absences from Board meetings, or who is more than thirty days delinquent (or is the resident of a Unit that is delinquent or is an officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a majority of the directors, and the Board may appoint a successor to fill the vacancy

until the next annual meeting, at which time the Members will elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of a director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member or to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

## B. Meetings.

3.7 Organizational Meetings. Within thirty days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

3.8 Regular Meetings. Regular meetings of the Board may be held at such time and place as a majority of the directors shall determine, but at least four such meetings shall be held during each fiscal year with at least one per quarter.

3.9 Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the president or vice president or by any two directors.

3.10 Meeting Notice. Notice of the time and place of a regular meeting shall be communicated to directors not less than four days prior to the meeting; provided, however, notice of a meeting need not be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. In addition, notices of regular meetings shall be communicated to directors in accordance with applicable law. Notice of a special meeting shall be communicated to directors not less than 72 hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) to the extent permitted by South Carolina and federal law, electronic mail or e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an electronic mail or e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, telegraph, electronic mail or e-mail

shall be deemed communicated when delivered, telephoned, telecopied, electronically mailed, e-mailed or given to the telegraph company.

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

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

3.13 Quorum of Board of Directors. At all meetings of the Board, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these Amended and Restated By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five and not more than thirty days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

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

3.15 Conduct of Meetings. The president shall preside over all meetings of the Board, and the secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings.

3.16 Open Meetings. Subject to the provisions of Sections 3.12 and 3.17, all meetings of the Board shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless permission to speak is requested on an attendee's behalf by a director. In such case, the president may limit the time any individual may speak.

Notwithstanding the above, the president may adjourn any meeting of the Board, reconvene in executive session, and exclude Persons other than directors, to discuss matters of a sensitive nature, such as pending or threatened litigation, personnel matters, etc.

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

C. Powers and Duties.

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

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

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses, including any expenses associated with the Exclusive Common Areas;

(b) levying and collecting such assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;

(d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending use restrictions and rules, and other restrictions and rules, in accordance with the Declaration;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;

(i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; provided, 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

(j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(k) paying the costs of all services rendered to the Association;

(l) keeping books with detailed accounts of the receipts and expenditures of the Association;

(m) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of Daniel Island, including the Properties;

(o) indemnifying a director, officer or ARB or committee member, or former director, officer or ARB or committee member of the Association to the extent such indemnity is required or permitted under South Carolina law or the Governing Documents; and

(p) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

**3.20 Right of Class "B" Member to Disapprove Actions.** So long as the Class "B" membership exists, the Class "B" Member shall have a right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Declaration or these Amended and Restated By-Laws, or interfere with development or construction of any portion of the Properties, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with terms hereof and which notice shall, except in the case of the regular meetings held pursuant to these Amended and Restated By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting; and

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

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

The Class "B" Member, its representatives or agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

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

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

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

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;

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

(f) commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report and describing the status of any action to collect such assessments which remain delinquent (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless otherwise specified by Board resolution); and

(g) an annual financial report shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of change in financial position of the fiscal year. Such annual report shall be prepared on an audited, reviewed or compiled basis, as the Board determines, by an independent accountant.

**3.23 Borrowing.** The Association shall have the power to borrow money for any legal purpose; provided however, the Board shall obtain Member approval in the same manner provided in Section 8.5 of the Declaration for Special Assessment if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 10% of the budgeted gross expenses of the Association for that fiscal year.

**3.24 Right to Contract.** The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common and/or long term management, operational, or other agreements with trusts, condominiums, cooperatives, or other owners or residents associations, within and outside Daniel Island, the Declarant, and/or the owner of any Private Amenity; provided, any common management agreement shall require the consent of a majority of the total number of directors of the Association.

**3.25 Enforcement.** In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable monetary fines, which shall constitute a lien upon the Unit of the violator, and to suspend an Owner's right to vote for violation of any duty imposed under the Declaration, these Amended and Restated By-Laws, or

any Association rules. In addition, the Board may suspend 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 charges owed to the Association. In the event that any occupant, tenant, employee, guest or invitee of a Unit violates the Declaration, Amended and Restated By-Laws, or a rule 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 Association. The failure of the Board to enforce any provision of the Declaration, Amended and Restated By-Laws, or any rule shall not be deemed a waiver of the right of the Board to do so thereafter

(a) Notice. Prior to imposition of any sanction hereunder or under the Declaration, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than 10 days within which the alleged violator may present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article 5 hereof; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within 10 days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; provided the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 10-day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the ten (10) Day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator.

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

(c) Appeal. If a hearing is held before the Covenants Committee, if applicable, the violator shall have the right to appeal the decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president, or secretary of the Association within ten days after the hearing date.

(d) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Declaration, these Amended and Restated By-Laws, or the rules of the Association by self-help (specifically including, but



not limited to, the towing of vehicles that are in violation of parking rules) or, following compliance with the dispute resolution procedures set forth in Section 15.4 of the Declaration, if applicable, 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 procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Unit for purposes of exercising this power of self-help shall not be deemed as trespass.

3.26 Board and Officer Training. The Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. Such programs may include instruction on applicable South Carolina corporate and fiduciary law principles, other issues relating to administering community affairs and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include property managers, attorneys and accountants, as appropriate or necessary for such purpose. Expenses relating to such educational opportunities shall be a Common Expense of the Association.

#### **ARTICLE 4: OFFICERS**

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

4.2 Election and Term of Office. The Board shall elect the officers of the Association annually at the organizational meeting of each new Board to serve until their successors are elected.

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

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

4.5 Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the president, or the secretary. Such resignation shall take effect on the date

of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. During the Development Period, the Declarant may authorize a member of the Board appointed by the Declarant or the president of the Association to execute any and all agreements, contracts, deeds, leases, checks, and other instruments on behalf of the Association. Following the Development Period and unless otherwise determined by the Board in its reasonable discretion, all agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two officers of the Association. In addition, the Board may designate and authorize other person or persons, who are not officers of the Association, to execute documents and instruments on behalf of the Association by a written resolution of the Board authorizing such person or persons.

4.7 Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.14.

## ARTICLE 5: COMMITTEES

5.1 General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. No committee appointed by the Board shall be empowered to take any affirmative action or to bind the Board or the Association without the consent of the Board.

5.2 Covenants Committee. In addition to any other committees which the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Members. Acting in accordance with the provisions of the Declaration, these Amended and Restated By-Laws, and the resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.24 of these Amended and Restated By-Laws.

5.3 Committee Membership. The Board shall strive to appoint persons to serve on a committee who have the necessary knowledge, experience or education to provide service and information to the committee necessary for the committee to fulfill its obligations in an efficient and competent manner. By way of illustration only, the Board shall strive to appoint persons to serve on the ARB or Modification Committee, as referenced in Article IX of the Declaration, who have professional knowledge, experience or education in architecture, engineering, design, landscaping, construction, or similar areas which are necessary to fulfill the duties of such committee. Further, the Board will strive to appoint persons to serve on any finance committee who have professional knowledge, experience or education in budgeting, finance, accounting, cash management, or similar areas which are necessary to fulfill the obligations of a finance committee member.

## ARTICLE 6: MISCELLANEOUS

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

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

6.3 Conflicts. If there are conflicts between the provisions of South Carolina law, the Articles of Incorporation, the Declaration, and these Amended and Restated By-Laws, the provisions of South Carolina law, the Declaration, the Articles of Incorporation, and the Amended and Restated By-Laws (in that order) shall prevail.

6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Governing Documents, including any amendments, supplements, consolidations, and restatements to the foregoing, the rules of the Association, the membership register, books of account, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate during normal business hours.

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

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

and

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

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

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

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

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

#### 6.6 Amendment.

(a) By Declarant. Until termination of the Class "B" membership, the Declarant may unilaterally amend these Amended and Restated By-Laws for any purpose. Thereafter, the Declarant may unilaterally amend these Amended and Restated By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure or guarantee Mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any such amendment shall not adversely affect the title to any Unit unless the Owner shall consent thereto in writing. In addition, during the Development Period, the Declarant may unilaterally amend these Amended and Restated By-Laws for any other purpose, provided the amendment has no material adverse effect upon any right of any Member.

(b) By Members. Except as provided above, these Amended and Restated By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing sixty-seven percent (67%) of the total Class "A" votes in the Association, and, during the Development Period, the written consent of the Declarant.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. Any amendment to these Amended and Restated By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified therein. 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 these Amended and Restated By-Laws.

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

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