



*Timothy J. Manning*

FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS FOR CLIFF RIDGE COLONY

THIS FIRST AMENDMENT TO AMENDED AND RESTATED DECLARATION OF RESTRICTIVE COVENANTS CLIFF RIDGE COLONY (the "First Amendment") is made as of the 18th day of July, 2023, by Cliff Ridge Colony Homeowners Association, Inc., a South Carolina non-profit corporation (the "Association"), in its independent capacity and on behalf of its constituent members.

**RECITALS:**

The Association subjected certain real property in a residential subdivision known as Cliff Ridge Colony (the "Subdivision"), located in Greenville County, South Carolina, to that certain Amended and Restated Declaration of Restrictive Covenants for Cliff Ridge Colony dated February 7, 2008, and recorded May 19, 2008, in the Greenville County Register of Deeds Office in Deed Book 2324 at Page 2370 (the "Amended and Restated Declaration"), the terms and conditions of said Amended and Restated Declaration being incorporated herein by reference, thereby amending and restating restrictive covenants and conditions previously imposed upon and applicable to various phases within the Subdivision. Certain administrative matters related to the Subdivision are handled by and through Cliff Ridge Colony Homeowners Association, Inc. (the "Association"), which is governed by its Second Amended Bylaws dated as of July 18, 2023 (the "Amended Bylaws"), a copy of which is attached hereto as Exhibit A and being recorded as required by the South Carolina Homeowners Association Act, Section 27-30-110, et. seq., of the Code of Laws of South Carolina. Article 12, Section 3 of the Amended and Restated Declaration provides that such document may be amended by an instrument approved by the confirming vote of a majority of the Association votes cast in accordance with the Amended Bylaws. Article I, Section 7 of the Amended Bylaws provides that such document may be amended by the affirmative vote of a majority of the Members present in person or by proxy at any regular meeting of Members or at any special meeting, provided notice has been given as provided in the Amended Bylaws. By vote, with written ballots retained in the Minute Book of the Association, a majority of the Members present in person or by proxy at a regular meeting of Members, having received appropriate notice, have approved and adopted this First Amendment as set forth below.

**NOW, THEREFORE,** for and in consideration of the premises and the mutual covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**WHEREAS,** the above recitals are incorporated herein by this reference as if set forth completely. Capitalized terms contained herein without definition shall be given the meaning ascribed to them in the Amended and Restated Declaration or the Amended Bylaws, as applicable

**WHEREAS,** With the purpose of creating a residential subdivision to be known as Cliff Ridge Colony (the "Subdivision"), College Properties, Inc. (hereinafter the "Developer"), imposed that certain set of restrictive covenants and conditions entitled "Restrictive Covenants Cliff Ridge Colony, Phase I" dated February 7, 1983, and recorded March 9, 1983, in the Office of the Register of Deeds for Greenville County in Deed Book 1184, at page 38 (the "Phase 1 Restrictions") upon certain real property consisting of Lots 101 through 179 (the "Phase I Property"), as shown on plat

prepared by Arbor Engineering, Inc. entitled "Cliff Ridge Colony, Phase I," which plat is recorded in the Office of the Register of Deeds for Greenville County in Plat Book 9-F at pages 52, 53 and 54 (the "Phase I Plat").

**WHEREAS**, Developer and Elizabeth L. Marchant further imposed the Original Restrictions, with various adjustments, to additional contiguous property, thereby expanding the Subdivision, by and through the following instruments:

1. An instrument dated May 23, 1984, entitled, "Restrictive Covenants for Cliff Ridge Colony, Phase II, Single Family Residential Area, Plat Book 10-M, Page 11," recorded in the Office of the Register of Deeds for Greenville County in Book 1213, page 232 (the "Phase II Restrictions"), which Phase II Restrictions are imposed on Lots 180 through 228 (the "Phase II Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 10-M at page 11 (the "Phase II Plat").
2. An instrument dated May 1, 1986, entitled, "Restrictive Covenants for Cliff Ridge Colony Phase 111, Sheet 2, Single Family Residential Area, Plat Book 12-B at Page 49," recorded in the Office of the Register of Deeds for Greenville County in Book 1265, page 456 (the "Phase 111-2 Restrictions"), which Phase 111-2 Restrictions are imposed on Lots 260 through 269 (the "Phase 111-2 Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 12-B at page 49, and on a revised plat recorded in Plat Book 12-B at Page 58 (collectively the "Phase 111-2 Plat").
3. An instrument dated June 20, 1986, entitled, "Restrictive Covenants for Cliff Ridge Colony, Phase III, Sheet 1, Single Family Residential Area, Plat Book 12-B at Page 63," recorded in the Office of the Register of Deeds for Greenville County in Book 1269, page 668 (the "Phase III-1 Restrictions"), which Phase III-1 Restrictions are imposed on Lots 229 through 259 (the "Phase III-1 Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 12-B, page 63 (the "Phase III-1 Plat").
4. An instrument dated January 20, 1987, entitled, "Amended Restrictive Covenants for Cliff Ridge Colony Phase III, Sheet 1, affecting Lots 235 - 239 inclusive, Nat Book 13-H at Page 24," recorded in the Office of the Register of Deeds for Greenville County in Book 1301, page 279 (the "Amended Phase 111-1 Restrictions"), which Amended Phase 111-1 Restrictions are imposed on Lots 235 through 239 (the "Phase III-1 Amendment Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 13-1-1, page 24 (the "Phase III-1 Amendment Plat").
5. An instrument dated November 3, 1986, entitled "Restrictive Covenants for Cliff Ridge Colony Phase IV, Sheet 1, Plat Book 13-H at Page 10 and Phase IV, Sheet 2, Plat Book 12-B at Page 94," recorded in the Office of the Register of Deeds for Greenville County in Book 1280, page 57, and subsequently re-recorded in Book 1281, page 132 (the "Phase IV Restrictions") The said Phase IV Restrictions are imposed on Lots 270 through 292 (the "Phase IV-1 Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 13-H, page 10 (the "Phase IV-1 Plat"), and on Lots 293 through 330 (Note. there is no Lot 303) (the "Phase IV-2 Property"), as shown on plat

recorded in the Office of the Register of Deeds for Greenville County in Plat Book 12-B, page 94 (the "Phase IV- 2 Plat").

6. An instrument dated September 22, 1987, entitled "Restrictive Covenants for Cliff Ridge Colony Phase V, Sheet 1, Plat Book 14-0 at Page 31, and Phase V, Sheet 2, Plat Book 14-0 at Page 30," recorded in the Office of the Register of Deeds for Greenville County in Book 1305, page 640, and subsequently re-recorded in Book 1306, page 342 (the "Phase V Restrictions"). The said Phase V Restrictions are imposed on Lots 351 through 361 and Lots 370 through 372 (the "Phase V-1 Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 14-0, page 31 (the "Phase V-1 Plat"), and on Lots 331 through 342, Lots 344 through 350, and Lots 362 through 369 (Note. there is no Lot 343) (the "Phase V-2 Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 14-0, page 30 (the "Phase V- 2 Plat").
7. An instrument dated December 6, 1988, entitled "Restrictive Covenants for Cliff Ridge Colony Phase VI, Plat Book 16-E at Page 50," recorded in the Office of the Register of Deeds for Greenville County in Book 1346, page 283 (the "Phase VI Restrictions"), which Phase VI Restrictions are imposed on Lot 373 (the "Phase VI Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 16-E, page 50 (the "Phase VI Plat").
8. An instrument dated April 7, 1992, entitled "Restrictive Covenants for Cliff Ridge Colony Phase VII, Plat Book 21-Z at Page 20 and Agreement Between Cliff Ridge Colony Homeowners Association, Inc. and Elizabeth L. Marchant," recorded in the Office of the Register of Deeds for Greenville County in Book 1481, page 97 (the "Phase VII Restrictions"), which Phase VII Restrictions are imposed on Lots 1 through 10 (the "Phase VII Property"), as shown on plat recorded in the Office of the Register of Deeds for Greenville County in Plat Book 21-Z, page 20 (the "Phase VII Plat").

**WHEREAS**, The Phase I Restrictions, the Phase II Restrictions, the Phase III-1 Restrictions, the Phase III-Restrictions, the Amended Phase III-1 Restrictions, the Phase IV Restrictions, the Phase V Restrictions, the Phase VI Restrictions and the Phase VII Restrictions are collectively referred to herein as the "Existing Restrictions."

**WHEREAS**, The Phase I Property, the Phase II Property, the Phase III-1 Property, the Phase 111-2 Property, the Phase III-1 Amendment Property, the Phase IV-1 Property, the Phase IV-2 Property, the Phase V-1 Property, the Phase V-2 Property, the Phase VI Property and the Phase VII Property are collectively referred to herein as the "Property."

**WHEREAS**, The Phase I Plat, the Phase II Plat, the Phase III-1 Plat, the Phase 111-2 Plat, the Phase III-1 Amendment Plat, the Phase IV-1 Plat, the Phase IV-2 Plat, the Phase V-1 Plat, the Phase V-2 Plat, the Phase VI Plat and the Phase VII Plat are collectively referred to herein as the "Plats."

**WHEREAS**, The Phase I Restrictions, and by reference, the entirety of the Existing Restrictions allow for their amendment, on the 25th year following the date of the Phase I Restrictions, by and

through an instrument approved by a majority of the then Owners of the lots located in the Subdivision.

**WHEREAS**, By vote, with Written Ballots retained in the Minute Book of the Association, a majority of the Owners of Lots in the Subdivision have approved and adopted this Amended and Restated Declaration and hereby wish to enter this instrument upon the public record, their purpose being to clarify, correct, and simplify the Existing Restrictions, and to consolidate, replace and cancel the said Existing Restrictions, so that only one instrument need be referred to in determining the full extent of covenants, conditions and restrictions imposed upon the Property.

### DECLARATIONS

**NOW, THEREFORE**, a majority of the Owners of Lots in the Subdivision hereby declare that the Property is presently affected with and shall hereafter be held, sold and conveyed subject to the easements, restrictions, covenants and conditions restated and amended herein, which are for various purposes including, but not limited to, providing for road and Common Area maintenance, governing the use and improvement of the Property and protecting the value or desirability of the Property. The easements, restrictions, covenants, and conditions restated, amended or created herein shall run with the land and be binding on all parties having any right, title or interest in the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each such Owner.

### ARTICLE 1 DEFINITIONS

In addition to terms that are expressly defined in the Recitals hereof or elsewhere in this Amended and Restated Declaration, the following definitions shall apply:

**Section 1.1 "Association"** shall mean and refer to Cliff Ridge Colony Homeowners Association, Inc., its successors and assigns. The Association is a nonprofit corporation formed and maintained in accordance with the laws of the State of South Carolina and operating in accordance with such bylaws as may be appropriate to carry out the purposes of the said Association consistent with the requirements of this Amended and Restated Declaration.

**Section 1.2 "Board of Directors" or "Board"** shall mean the body responsible for administration of the Association, selected and serving as provided in the Bylaws and South Carolina law.

**Section 1.3 "Common Area"** means all real or personal property intended for the common use and enjoyment of the Owners. More specifically, the Common Area shall include all of the Property not designated as a numbered Lot on the Plats and any real property fee or lesser interest shown on the Plats as "Common Area," "Preserved Open Space," "Parks," "Ponds," "Walking Trails," "Private Roads" or "Drainage Easements," and shall include all paved roads, streets, courts, lanes, drives, terraces, avenues or right-of-ways which have not been dedicated to a public entity, all gates, walks, driveways, service areas, play areas, swimming areas, streams, lakes, water bodies, recreational facilities and all related improvements, equipment or fixtures. The Common Area shall be owned by the Association for the common use and benefit of the owners, subject to the easements, terms, conditions and restrictions described in this Declaration.

**Section 1.4 "Common Expenses"** shall mean the actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserve for capital repairs and replacements, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration or the Bylaws of the Association.

**Section 1.5 "Lot" or "Lots"** shall mean each numbered, platted lot, whether improved or unimproved, shown on any subdivision plat of the Property, which is intended for development, use, and occupancy as a residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon. The term shall not include Common Areas or property dedicated to the public.

**Section 1.6 "Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, or a portion thereof, which is a part of the Property. The term Owner shall not include those having such interest merely as security for the performance of an obligation.

**Section 1.7 "Member"** shall mean and refer to every Owner who holds membership in the Association.

**Section 1.8 "Person"** shall mean a natural Person, a corporation, a partnership, a trustee, or any other legal entity.

## **ARTICLE 2**

### **PURPOSE AND BINDING EFFECT OF RESTRICTIVE COVENANTS**

The fundamental objective and purpose of these restrictive covenants is to create a harmonious whole in the Subdivision, to prevent the building of any structure which would be not in keeping with the general scheme of development, to insure the use of the property for attractive residential purposes only, to prevent nuisances, to prevent the impairment of the attractiveness of the Property as a whole, to maintain the desired tone of the community, to preserve the value of the Property and to secure to each lot Owner the full benefit and enjoyment of his or her Lot.

## **ARTICLE 3**

### **COMMON AREA PROPERTY RIGHTS**

**Section 3.1 Owner's Easements of Enjoyment.** Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association to impose reasonable fees and Assessments for the retirement of Common Expenses and otherwise in accordance with the terms hereof.
- (b) The right of the Association to suspend the voting rights of an Owner for any period not to exceed (sixty) 60 days for any infraction of its published Rules and Regulations and indefinitely so long as Assessments imposed against such Owner's Lot remain thirty (30) days past due;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area according to the terms hereof and subject to such conditions as may be agreed to by the Members;

(d) The right of the Association to impose rules and regulations for the use and enjoyment of the Common Area and improvements thereon, which rules and regulations may further restrict the use of the Common Area;

(e) The right of the Association to allow for civil servants and private actors to come upon the Common Area in aid of construction, emergency, police protection, fire suppression and otherwise in service of the common rights and benefit of the Owners;

(f) The right of the Association, without any concomitant obligation, to keep the Common Area and access to the Property secure in the name of preventing vandalism, trespass, damage or criminal activity in general; and

(g) The right of the Association to borrow money, in accordance with the terms hereof, for the purpose of maintaining, improving or preserving the Common Area and facilities thereon.

**Section 3.2 Delegation of Use.** Any owner may delegate, in accordance with the Bylaws, such Owner's rights of enjoyment of the Common Area to the said Owner's family members, guests, tenants, invitees or contract purchasers.

**Section 3.3 Leases of Lots.** Any lease agreement between an Owner and a lessee for the Lease of such Owner's residence on its Lot shall provide that the terms of the lease shall be subject in all respects to the provisions of this Amended and Restated Declaration, the Bylaws and any applicable rules and regulations, and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing. Other than the foregoing, there is no restriction on the right of any owner to lease his Lot.

#### ARTICLE 4

#### **ASSOCIATION MEMBERSHIP AND VOTING RIGHTS**

**Section 4.1 Membership.** Every owner of a Lot which is subject to a lien for Assessments shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

**Section 4.2 Voting Rights.** Every Member of the Association shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any single Lot.

**Section 4.3 General Standard of Association Action.** Unless a vote of the Association Members is expressly required by this Amended and Restated Declaration, all Association rights duties and obligations set forth herein shall be carried out by the Board of Directors according to a majority vote of said Board.

**ARTICLE 5**  
**ADDITIONAL ASSOCIATION POWERS AND FUNCTIONS**

**Section 5.1 Common Area Management.** The Association shall be responsible for the management and control of the Common Area and all improvements thereon (including, without limitation, furnishings, equipment, fixtures, paving, lighting, signage and landscaping) and shall keep it in good, clean, attractive, sanitary condition, order, and repair, pursuant to the terms and conditions hereof.

**Section 5.2 Dedication, Transfer, Acquisition or Encumbrance of Common Areas.** Upon 2/3's of the total Association votes being cast in favor, the Association shall have the power to dedicate any portion of the Common Areas to a local, state, or federal governmental entity. Likewise, the Association, upon the same 2/3's standard of approval, may acquire, sell, transfer or encumber, by deed, mortgage, easement, hypothecation, pledge or otherwise, any real property interest owned by the Association. An instrument to accomplish such transfer or dedication shall be considered duly authorized and effective when signed by the President of the Association, attested by its Secretary, accompanied by an affidavit declaring the particulars of the foregoing vote and duly recorded.

**Section 5.3 Personal Property for Common Use.** The Association may acquire, hold and dispose of tangible and intangible personal property as may be reasonably necessary for the common benefit of the Members or the maintenance, improvement or preservation of the Common Area.

**Section 5.4 Rules and Regulations.** The Association may make, modify and enforce reasonable rules and regulations governing the use of the Common Areas, which rules and regulations may amplify or add to, but shall not contradict, the rights and duties established by this Amended and Restated Declaration. Such rules and regulations shall be binding upon all Owners, occupants, invitees, and licensees until and unless overruled, canceled, or modified.

**Section 5.5 Special Association Remedies.** The Association shall be authorized to impose sanctions for violations of this Amended and Restated Declaration, the Bylaws, or rules and regulations. Such sanctions may include reasonable monetary charges to cover the cost of cure or to compensate other Owners for the negative affect of such violations and suspension of the right to vote or the right to use any recreational facilities within the Common Area. Any such monetary charges imposed in the name of curing or compensating for such a violation shall become a lien against the Property of the offending Owner, with the same force and effect as the Assessment lien hereinafter set forth.

**Section 5.6 Implied Rights.** The Association may exercise any other right or privilege given to it expressly by this Amended and Restated Declaration or the Bylaws or reasonably implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right or privilege.

**Section 5.7 Indemnification.** The Association, to the fullest extent allowed by applicable law and in accordance therewith, shall indemnify every officer, director, and committee member against any and all damages and expenses, including counsel fees, reasonably incurred by or

imposed upon such officer, director, or committee member 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.

The officers, directors, and committee members of the Association 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 a contract or other commitment made by them 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 free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein 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, as a Common Expense, maintain adequate general liability and officer's and director's liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 5.8 Physical Security.** The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Neither the Association, nor any Board member or successor, shall in any way be considered an insurer or guarantor of security within the Property. Likewise, the Association and Board shall not be held liable for any loss or damage for failure to provide adequate security or ineffectiveness of security measures undertaken. To this end, all Owners and occupants of any Lot and all tenants, guests, and invitees of any Owner shall assume all risks for loss or damage to Persons to Lots, and to the contents of Lots and further acknowledge that the Association, its Board of Directors, committees, or any successor to the Association have made no representations or warranties, nor has any Owner, occupant, or any tenant, guest or invitee of an Owner relied upon any representations or warranties, expressed or implied, relative to any entry gate, patrolling of the Properties or other security systems recommended or installed or any security measures undertaken within the Subdivision.

## **ARTICLE 6**

### **ANNEXATION OF ADDITIONAL PROPERTIES**

**Section 6.1 In General.** Upon 3/4's of the total Association votes being cast in favor, the Association shall have the power to annex additional real property into the Subdivision for the purpose of subjecting the annexed property to the provisions of this Amended and Restated Declaration and the jurisdiction of the Association. The foregoing standard of approval shall apply equally to annexations of additional property for private development and to annexations for the purpose of acquiring additional real property for Common Area and regardless of whether additional real property for Common Area is acquired through the use of existing Assessment monies or through a Special Assessment. Additional property so annexed shall be merged with the Property herein described and any other previously annexed property, and shall be subject to the provisions of this Amended and Restated Declaration. All properties annexed shall be contiguous (i) to the Property herein described or (ii) to property previously annexed.



**Section 6.2 Supplemental Declaration.** An instrument to accomplish such annexation shall be considered duly authorized and effective when signed by the President of the Association, attested by its Secretary, accompanied by an affidavit declaring the particulars of the foregoing vote and duly recorded.

## **ARTICLE 7 MAINTENANCE**

**Section 7.1 Association's Responsibility.** The Association shall maintain and keep in good repair and condition the Common Area. The foregoing maintenance responsibility shall include repair and replacement as necessary. The Association may maintain other property which it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable. Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement allocated to the Association shall be a Common Expense funded by Assessments as hereinafter provided.

**Section 7.2 Owner's Responsibility.** Except to the extent undertaken by the Association, each Owner shall maintain his or her Lot and all structures, parking areas, landscaping, and other improvements on such Lot in good repair and condition. Such maintenance obligation shall include, but shall not be limited to, (i) the repairing and painting (or other appropriate external care) of all structures; (ii) the pruning, trimming and care of all trees, hedges, shrubs and planted areas so that the same are esthetically in harmony with the remainder of the Subdivision and are not obstructive of vehicle or pedestrian traffic. In addition to any other enforcement rights available to the Association, if any Owner fails to properly perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and charge all costs incurred by the Association against the Lot and its Owner. However, 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 emergency. Any such charges incurred by the Association shall constitute a lien and liability against the subject Lot and Owner enforceable in the same manner as the lien for Assessments.

## **ARTICLE 8 ASSESSMENTS**

**Section 8.1 Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, or by suffering the recordation of this Amended and Restated Declaration, is deemed to covenant and agree to pay to the Association: (1) annual assessments and charges (the "Annual Assessments"), (2) annual reserve fund assessments (the "Reserve Assessments") and (3) special assessments (the "Special Assessments"). Collectively, the Annual Assessments, Reserve Assessments and Special Assessments are referred to simply as the "Assessments." Such Assessments are to be established for such purposes and collected as herein below provided. The Assessments, together with interest, costs, and reasonable attorney's fees incurred in connection with collection thereof, shall be a charge on land and a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees incurred in connection with collection thereof, shall also be the personal obligation

of the Person who was the Owner of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to his successors in title unless expressly assumed by them, but the lien of such delinquent Assessments shall follow title. No Owner may waive or otherwise escape liability for the Assessments provided for herein by abandonment of his Lot, non-use of Common Areas or otherwise.

**Section 8.2 Purpose of Assessments.**

(a) **General and Specific Uses of Assessment Funds.** In general, Assessments levied by the Association shall be used to promote the recreation, health, safety and welfare of the residents of Cliff Ridge Colony and to preserve and protect their private property interests in the Subdivision. More particularly, the Assessments shall be imposed to fund the following Common Expenses: Expenses for the operation of the Association, including payments to accountants, attorneys, bookkeepers, clerical help, contractors, caretakers, animal control personnel and other professionals or service providers whose assistance may be needed by the Association;

(i) Expenses for improving, maintaining, cleaning and operating the Common Area, including, but not limited to, the costs of repairs, replacements and additions and the cost of labor, equipment, materials, management and supervision;

(ii) Expenditures for the payment of all taxes levied upon the Common Area or any other real or personal property of the Association;

(iii) Expenses for the cost of utilities serving the Common Area or otherwise used or consumed by the Association;

(iv) Expenses incurred in caring for vacant and untended land, if any, within the Subdivision, removing grass, weeds or rubbish therefrom and doing any other thing necessary or desirable in the opinion of the Board of Directors to keep such property neat and clean for the general benefit of the Members;

(v) Expenses for the procurement and maintenance of insurance of such types and in such amounts as the Board may deem necessary and desirable;

(vi) Expenses for maintaining the aquatic health of lakes, ponds, retention areas or other bodies of water located within the Common Area, including, but not limited to, stocking with fish or appropriate vegetation and controlling invasive species;

(vii) Expenses or collections needed to build and maintain a reserve fund as more particularly set forth below;

(viii) Expenses associated with general administrative function of Board of Directors and the Architectural Review Committee; and

(ix) Expenditures for such other purposes as a majority of the Board of Directors deems necessary and consistent with the foregoing statement of general Assessment purpose.

(b) **Directive for Maintenance of Reserve Funds.** The Association shall be responsible for the establishment of a reserve fund to be built and maintained from the Assessments. To this end, the Association shall be responsible for capital budgeting and long-term planning and adjustment in contemplation of the eventual replacement of the capital assets of the Association. It is not intended that all reserve funds be maintained as security against emergency capital expenditures or replacements. Rather, reserve funds shall be accumulated and spent according to a strategy and schedule that corresponds to the depreciation of Association capital assets. Certainly, some portion of reserve funds should be considered as available for emergency expenditures of the Association, but the imposition of Special Assessments in the case of emergency costs is hereby declared equally, if not more, prudent.

It is acknowledged that the annual Reserve Assessment for the Association's fiscal year 2023 is \$316.00 for Owners of any Lot. The maximum annual Reserve Assessment for the 2024 fiscal year and for each fiscal year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval of the Members by an amount of four (4%) percent of the maximum annual Reserve Assessment of the previous year; provided, however, the Board of Directors may not – without at least sixty percent (60%) of the total Association votes being cast in favor – set the annual Reserve Assessment in any successive fiscal year so that it exceeds the prior year's annual Reserve Assessment by more than four percent (4%).

(c) **Accounting for Assessments.** All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the Common Expenses set forth hereinabove. As monies for any Assessments are paid to the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and assets of the Association, and any increments thereto or profits derived therefrom, shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to his Lot. When an Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, as all monies which any Owner has paid to the Association shall, immediately upon payment, constitute a non-refundable asset of the Association, subject only to the fiduciary duties owed to the present Owners by those charged with administration of such monies.

(d) **Capital Contribution of the Reserve Fund.** Upon the sale ("Sale") of each and every Lot in the Subdivision, there shall be due to the Association a capital contribution to the reserve fund described in Section 2(b) in an amount equal to 1/2 (0.5%) percent of the purchase price paid at the Sale (the "Reserve Fund Sale Assessment"). The Reserve Fund Sale Assessment shall be collected upon the closing of each Sale of a Lot, or if not

paid at such closing, the Reserve Fund Sale Assessment shall be paid immediately on demand by the Association, The Reserve Fund Sale Assessment shall be allocated to the Association's Capital Reserve Fund, shall be in addition to, not in lieu of, the annual Reserve Assessments, and shall not be considered an advance payment of the annual Reserve Assessments. The Reserve Fund Sale Assessment may be increased or decreased once in any given calendar year by the Board without approval of the Members by an amount equal to five (5%) percent of the Reserve Fund Sale Assessment then in effect.

(i) For purpose of this section, a "Sale" is defined as any transfer or conveyance of legal or equitable title to all or any portion of a Lot, or an interest in the Owner of the Lot, in a valid arm's length transaction for valuable consideration (i.e., other than by gift, inheritance, mortgage foreclosure or deed to a mortgage lender in lieu of foreclosure), whether in cash or in kind, to a bona fide purchaser, including but not limited to the transfer of any legal or beneficial interest in a corporation, limited liability company, partnership, trust or other entity that is an Owner of a Lot. For purposes of this Section, the transfer of five percent (5%) or less of the stock of a publicly-traded entity that owns the Lot shall be deemed a Sale.

(ii) Payment of the Reserve Fund Assessment shall be the liability of the purchaser or grantee of the Lot. In the event there is more than one grantee, all of such grantees shall be jointly and severally liable for payment of the Reserve Fund Assessment. Any agreement between the grantee and the grantor or any other person with regard to a different allocation of the responsibility of the payment of the Reserve Fund Assessment shall not affect the liability of the purchaser or grantee for such payment to the Association. The Reserve Fund Assessment is securely by a lien on the Lot as to which it applies.

**Section 8.3 Maximum Annual Assessment.** It is acknowledged that the Annual Assessment for the Association's fiscal year 2023 is \$1,074.00 for Owners of any Lot. The Annual Assessment for the Association's 2024 fiscal year and for each fiscal year thereafter shall be set by the Board of Directors and may be increased by the Board of Directors without the requisite approval of the Members described below by an amount not to exceed five (5%) percent of the maximum Annual Assessment of the previous year; provided, however, the Board of Directors may not – without at least sixty percent (60%) of the total Association votes being cast in favor – set the Annual Assessment in any successive fiscal year so that it exceeds the prior year's Annual Assessment by more than five percent (5%).

It is further acknowledged that the Annual Assessment for the Conifer Falls Road reserve fund initially addressed in the Amended Phase III-1 Restrictions for the Driveway Easements benefiting Lots 235 through 239 and Lots 240 through 247 as referred to in Article II, Section 2 of the Amended and Restated Declaration and as defined in the Recitals of the Amended and Restated Declaration for the Association's fiscal year 2023 is \$82.00. The maximum annual assessment for the Conifer Falls Road reserve fund for the 2024 fiscal year and for each fiscal year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval of the Members by an amount not to exceed five (5%) percent of the maximum annual assessment of the previous year.

**Section 8.4 Special Assessments.** In addition to the Annual Assessments and Reserve Assessments authorized above, the Association may, at any time, levy a Special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of Common Area, provided that any such Special Assessment shall have the assent of the sixty percent (60%) of the total Association votes.

**Section 8.5 Due Dates and Collection.** The Assessments provided for herein shall be published to the Members and collected annually or quarterly according to and on a schedule of due dates determined by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of Assessments on a Lot is binding upon the Association as the date of its issuance.

**Section 8.6 Failure to Assess.** The omission or failure of the Board to fix the Assessment amounts or rates or to deliver or mail to 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 event an Owner fails to receive an Assessment notice or other explanatory communication from the Board prior to the 456 day of each Association fiscal year, such Owner shall pay the Annual Assessment set for the prior fiscal year until a new Annual Assessment is made or a proper notice received, at which time any shortfall or surplus in payment shall be made up.

**Section 8.7 Computation Annual Assessments.** It shall be the duty of the Board, not less than October 31st of each year, to prepare a budget covering the estimated Common Expenses of the Association during the coming year. The budgeted annual Common Expenses shall be allocated equally against all Lots such that the resultant Annual Assessment is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses. The Board shall take into account the typical costs of collection and may, in its discretion, consider other sources of funds available to the Association.

The Board shall cause a copy of the budget and notice of the amount of the Assessment to be levied against each Lot for the following year to be delivered to each Owner at least thirty (30) days prior to the beginning of the fiscal year for which it is to be effective. Such budget and Assessment shall become effective unless disapproved at a meeting by Members holding at least a majority of the total votes in the Association. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in the Bylaws, which petition must be presented to the Board within twenty (20) days after the notice of Assessments is sent out.

Notwithstanding the foregoing and in the event the proposed budget is disapproved or if the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined, the budget in effect for the immediately preceding year shall remain applicable.

**Section 8.8 Uniform Rate of Assessment.** Annual Assessments and Reserve Assessments shall be fixed at a uniform rate for all Lots. Special Assessments shall likewise be imposed with uniformity unless there is a reasonable and equitable cause to impose such a Special Assessment

on an alternative basis, in which event the Board shall declare the equitable allocation of such a Special Assessment in the notice and balloting therefore, so that payments approximate the benefit derived from the Special Assessment expenditure. It is further acknowledged that this Amended and Restated Declaration allows for charges to be imposed and special reserve funds to be established and maintained for the unique benefit of certain Lots and their Owners. Such charges and special funds, collectible and enforceable in the same manner as Assessments, shall inherently be non-uniform in their application.

**Section 8.9 Effect of Nonpayment of Assessments: Remedies of the Association.** If any Assessment is not paid on the date when due, then such Assessment will become delinquent. Delinquent Assessments shall incur a reasonable late charge established by the Board in Rules and Regulations. Additionally, Assessments that are delinquent for more than thirty (30) days past their due date shall bear interest at the rate of 2% percent per month, compounded and accruing from the due date. Further still, all costs of collection, including reasonable attorney's fees shall be an obligation of the delinquent Owner. Such late charges, interest and collection costs shall be imposed as a further lien on the delinquent Owner's Lot and a personal liability with the same force and effect as the Assessments themselves.

If the Assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same, and/or foreclose the lien against such Owner's Lot. Also, failure to pay the Assessments when due will automatically vest in the Board, at its option, the right to file a notice of its lien in the Register of Deeds Office for Greenville County. Such a notice of lien may be signed by any officer of the Board or legal counsel for the Association and shall stipulate the name of the delinquent Owner, the Lot number against which the lien is attached, the amount of the Assessment delinquency and the fact that such lien shall continue to grow with the accrual of interest, collection costs and fees.

No Owner may waive or otherwise escape liability for Assessments by non-use of the Common Area or abandonment of his/her Lot.

**Section 8.10 Subordination of the Lien to Mortgages.** The lien for Assessments provided for herein shall be subordinate to the lien of any institutional first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu hereof, shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

## **ARTICLE 9** **ARCHITECTURAL CONTROL**

**Section 9.1 Creation, Composition, Appointment and Costs of the Architectural Review Committee.** There is hereby created by the Association the Architectural Review Committee (the "ARC"). The Board of Directors shall appoint the members of the ARC, which will be composed of at least one (1) member of the Board and such other third-party professional advisor(s) or Members as the Board shall see fit. The number of ARC members shall be considered and established by the Board each year contemporaneously with Board elections and subsequent

ARC appointments. ARC members shall be appointed each year but service for successive years shall be allowed and even encouraged in the name of efficiency and continuity of experience. The members appointed by the Board need not be Owners within the Subdivision, but ARC members shall be generally familiar with residential and community development design matters or knowledgeable about the Association's concern for aesthetics and design standards within the Property. Members of the ARC may be removed and replaced at any time with or without cause, and without prior notice, by a majority vote of the Board.

All costs of operating the ARC shall be borne by the Association. Additionally, the members of the ARC shall have the right to be reimbursed for expenses and out-of-pocket costs incurred in the performance of their duties as members of the ARC. Such expenses and costs shall be paid, at the Board's discretion, from the review fees collected by the ARC or Assessments.

**Section 9.2 Matters Requiring Approval.** No dwelling, outbuilding, garage or physical structure of any type shall be commenced, erected, placed, moved onto or permitted to remain on any Lot (or Common Area) nor shall any existing structure be altered in any way which materially changes the exterior appearance of the structure or Lot, until (1) a building permit has first been obtained from the governmental body with jurisdiction and (2) the preliminary and final plans and specifications therefor have been submitted to and approved in writing by the ARC. Likewise, no Lot clearing in connection with initial construction shall be commenced until a landscaping plan has been submitted and approved by the ARC, and no material change to the landscape or hardscape of any Lot shall be commenced without prior ARC approval. For purposes hereof, a material landscape change shall include, but shall not be limited to, the removal of any tree greater than 6 inches in diameter, measured two feet from ground level or the installation or removal of plantings or hardscaping costing more than \$1,000.00.

**Section 9.3 Review Process.** Owners seeking to improve their Lots as set forth above shall submit plans and specifications containing such information as may be reasonably required by the ARC. The following list describes, but is not intended as a limitation on, what the ARC may require:

- (a) Preliminary sketches and concept drawings;
- (b) A Site plan showing the location of all proposed and existing structures including building setbacks lines, fences, easements, property boundaries, topography, adjacent or encroaching Common Areas, driveways, walkways, parking spaces including the number thereof;
- (c) Exterior elevations of all proposed structures and alterations to existing structures, as such Structures will appear after all grading and landscaping are completed;
- (d) Specifications and samples of materials, color scheme, lighting scheme and other details affecting the exterior appearance of all proposed structures and alterations to existing structures;
- (e) Plans for landscaping, plant types and sizes, grading, drainage, water supply, and sanitary sewage disposal;

(f) The location of all existing trees having a diameter of six (6") inches measured two feet above the ground and identification of all trees (if any) the Owner proposes to remove; and,

(g) The proposed construction schedule of all construction activities;

(h) The name, contact information and qualifications of the proposed builder or contractor; and

(i) A reasonable fee to offset the administrative cost of review, outside consultation, reproduction expenses and other ARC operating expenses.

**Section 9.4 Standard of Review.** The ARC shall have the right to refuse to approve any plans, specifications, and/or plot plans, taking into consideration the suitability of the proposed improvements or alterations, the materials being used, whether or not such improvements would be in harmony with surroundings, whether or not there is compliance with the terms of this Amended and Restated Declaration and the effect such improvements or alterations would have on other residences already constructed.

**Section 9.5 Failure to Approve or Disapprove.** In the event the ARC fails to approve, disapprove or otherwise comment on plans or submissions within thirty (30) days after receipt thereof by the ARC, and such failure has continued for ten (10) days after receipt by the ARC of demand from the submitting Lot Owner for approval or disapproval of such plans without revision, the proposed improvements or alterations shall be deemed approved.

**Section 9.6 Construction Completion and ARC Rights of Access.** The construction of all houses and other structures and landscaping shall be completed within one (1) year after the construction of same shall have commenced, except where it appears that, at the sole discretion of the ARC, such completion is impossible or would result in great hardship to the Owner or its builder. Houses and other dwelling structures may not be temporarily or permanently occupied until completed. The ARC shall forward notice of any failure to comply with the provisions of this Amended and Restated Declaration relating to construction to the last known address of the subject Lot Owner. If such Owner fails to correct the noncompliance within ten (10) days from the date that such notice is mailed to the Owner (or such other time period reasonably stipulated in the notice), the Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter upon any portion of the Property, including any Lot, to correct any such noncompliance and any expenses incurred therewith, shall be a charge and lien against the subject Lot with the same force and effect as an Assessment lien. The ARC shall also have a right and easement to access any Lot to inspect for compliance with this Amended and Restated Declaration and any other applicable rules and regulations. The foregoing ARC rights to self-help and access may be exercised by, the Board of Directors, officers, agents, employees, managers, or other independent contractors of the Association. Except in an emergency situation, entry upon a Lot shall be made only during reasonable hours and after notice to the Owner thereof. Also, the foregoing rights of access and cure shall be exercised with a minimum of interference to the quiet enjoyment to the Owners' Lot. Any damage to Common Areas caused by an Owner or



such Owner's contractors or other parties providing labor or services to the Owner shall be repaired by the Owner or by the Association at Owner's expense.

**Section 9.7 ARC and Association Exculpation.** Neither the Association nor any other member of the ARC shall be responsible or liable in any way for any defects in any plans or specifications approved by the ARC, nor for any structural defects in any work done according to such plans and specifications approved by the ARC. FURTHER, NEITHER THE ASSOCIATION NOR ANY MEMBER OF THE ARC SHALL BE LIABLE IN DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARC PROVIDED FOR IN THIS AMENDED AND RESTATED DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARC FOR APPROVAL AGREES, BY SUBMISSION OF SUCH PLANS AND SPECIFICATIONS, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST THE ASSOCIATION, ITS BOARD MEMBERS OR OFFICERS, OR ANY MEMBER OF THE ARC, AND ALL SUCH PERSONS HEREBY RELEASE AND WAIVE ANY CLAIMS OR ACTIONS RELATING TO ARC OR ASSOCIATION ACTION OR OMISSION IN CONNECTION WITH PLAN SUBMISSION, APPROVAL OR DISAPPROVAL.

**Section 9.8 Maintenance of Lots during Construction and Otherwise.** During the continuance of construction, each Owner shall maintain, and shall require all contractors, subcontractors, laborers and materialmen of any type to maintain, the Lot in an orderly and reasonably well-kept condition. Dumpsters shall be regularly emptied so that construction debris does not accumulate in open sight. Owners shall be responsible for erosion control on their respective Lot in compliance with all applicable governmental laws, ordinances, rules or regulations. At all times, it shall be the responsibility of each Owner to prevent the accumulation of litter, trash, packing crates, or organic and nonorganic rubbish of any type and to prevent accumulations which shall tend to materially decrease the beauty of the Subdivision.

## ARTICLE 10

### **ARCHITECTURAL STANDARDS: USES PERMITTED AND PROHIBITED**

**Section 10.1 Use of Property.** All Lots shall be used for single-family, residential purposes only.

**Section 10.2 Dwelling Requirements.** Only one single family residential dwelling shall be erected on any Lot. Dwellings shall not exceed two and a half (2 1/2) stories in height above the foundation wall without approval from the ARC. All dwellings hereafter erected in the Subdivision shall meet the following minimum floor space requirements:

Single level Structure 1,500 square feet

Multi-Level Structure 1,500 square feet with a minimum of 1,000 square feet on the main level

Minimum floor space calculations shall be based on the heated area of the residence and any covered porches directly attached to the main body of the dwelling. Attached garages and detached accessory structures of any kind shall not be included in the foregoing calculations.

**Section 10.3 Garages.** Garages may be attached or detached from the dwelling and no garage or other detached accessory structure shall exceed 1,800 square feet in area and 20 feet in height without prior ARC approval. Any detached garage erected shall be at least 50 feet from the front lot line and no nearer than 5 feet to any side or rear lot line.

All garages that are fully enclosed and include an operative garage door may face the street but all carports must face away from the principal street of the house so that the main view of the house from the street will not be directly into such a carport. Garage doors are to be kept closed unless the garage area is maintained in a clean and neat condition.

Three (3) car garages, whether attached or detached, must be setback a minimum of fifty (50') feet from the front lot line and where feasible side loaded. The maximum width of the driveway shall not exceed twenty (20') feet. The side yard setback from the paved parking court of the side loaded garage shall be a minimum of fifteen (15') feet. All garages that are fully enclosed and include an operative garage door may face the street but all carports must face away from the principal street of the house so that the main view of the house from the street will not be directly into such a carport. Garage doors are to be kept closed unless the garage area is maintained in a clean and neat condition.

**Section 10.4 Dwelling Setback Requirements.** All Lots in the Subdivision shall be subject to such setback lines, easements and other matters shown on the Plats. All dwellings shall be constructed to face toward the front line of the Lot except that dwellings to be constructed on corner Lots shall face in the direction designated by the ARC. No dwelling shall be erected nearer to any side lot line than a distance equal to 10% of the width of the lot measured at the building setback line, and in no event shall any dwelling be less than 10 feet from the side lot line. Notwithstanding the foregoing, the ARC is authorized and shall have authority, in its sole discretion, to approve the location and positioning of a dwelling to face other than toward the front of the applicable Lot in the name of optimizing a view or vista and in instances of undue hardship created by orienting the dwelling toward the front of the Lot.

**Section 10.5 Exterior Fixtures.** The following shall be permitted only in rear yards, or otherwise screened from view in a manner deemed suitable by the ARC: HVAC equipment, utility meters, 18" satellite dishes, permanent grills, permanent play equipment and hot tubs (those at ground level must be covered). The following shall not be permitted under any circumstances: window air-conditioning units and above ground pools (except those of the inflatable variety not permanent in nature). Television and radio antennas are not permitted on the exterior of houses and should be installed in attics. Clothes lines are not permissible.

**Section 10.6 Temporary Structures.** No dwelling or building of a temporary nature will be permitted or allowed to remain on any Lot. No trailer, motor home, recreational vehicle or camper shall be used as a residence, either temporarily or permanently.

**Section 10.7 Decks and Bridges.** The proposed building of a deck or bridge into or across any natural or man-made lake area must receive prior approval from the ARC.

**Section 10.8 Boats, Campers, Etc.** The storage of boats and campers in yards or driveways is prohibited. Boats, trailers, RV's, motorcycles, bicycles, ATV's, and any other such equipment (but not including golf carts) shall be stored in a garage or approved outbuilding.

**Section 10.9 Lighting.** No exterior lighting shall be installed, maintained or permitted to remain on any Lot, the light source of which is deemed, at the sole discretion of the ARC, to be an impairment or hazard to vehicular traffic in the Subdivision or a nuisance to neighboring Lots/Owners.

**Section 10.10 Trees.** No living tree exceeding six (6) inches in diameter (measured 2 feet from ground level) nor any dogwood or other ornamental tree older than two (2) years, nor any mature Rhododendron, Mountain Laurel or other indigenous flowering shrub, shall be cut without prior written consent of the ARC unless it is within the area of the Lot approved for location of the building pad or foundation.

At the discretion of the ARC, the request to cut a tree may require the applicant to provide an evaluation recommending removal by an arborist certified by the International Society of Arboriculture ("ISA") or equivalent prior to consideration of the request. The arborist's recommendation will be taken into consideration by the ARC.

**Section 10.11 Driveways and Parking.** Permanent driveways, turnarounds and parking areas must be surfaced. A hard surface, such as brick, concrete, or asphalt must be used and adequate drainage provisions to accommodate heavy rains must be incorporated. Parking for licensees and invitees must be accommodated within the property lines, and all parked vehicles must have current license plates affixed.

**Section 10.12 Fencing.** No wall, fence or hedge in the front yard of any Lot shall be erected: (1) across or along the front lot line of any Lot, (2) across or along the side lot line of any Lot from the building setback line forward or (3) across or along the side setback line backward towards a dwelling and having a height of more than three (3) feet. All walls, fences or hedges erected in the backyard of any Lot shall be of a reasonable height which shall not unduly interfere with the view of contiguous or nearby Owners. All walls, fences or hedges proposed to be erected or placed on any Lot, whether in the front or back, or as part of the original residence designed or a later additional or additions, must first receive prior written approval of the ARC. If the ARC determines such fence, wall or hedge may interfere with views or the natural setting, such fence, wall or hedge may be prohibited, in the ARC's sole discretion.

**Section 10.13 Mobile Homes.** No mobile or modular home, manufactured home or prefabricated home constructed off-site or structure having the characteristics or appearance of a mobile or modular home shall be located upon any Lot.

**Section 10.14 Division and Combination of Lots.** No Lot in the Subdivision shall be further subdivided so as to create an additional building lot. This provision is not intended to prevent cutting off a small portion or portions of any Lot for the purpose of conveying the same to

an adjoining Owner or straightening or adjusting a boundary line. However, the remaining portion of the Lot must not violate the minimum size requirements of any governmental regulation or the development requirements hereof. Nothing herein contained shall be construed to prohibit the combination of Lots or the use of more than one Lot for construction of a single dwelling, provided prior written approval of the said construction has been obtained from the ARC and provisions of this Amended and Restated Declaration are otherwise met. As regards the combination of Lots, the resultant aggregate property shall be treated as one Lot for purpose of calculating set-backs, offsets or other construction limitations dependent on Lot dimensions. In all other respects, including, but not limited to, voting rights and assessment obligations, the combined Lots shall continue to be treated as multiple Lots, in their original number and character.

**Section 10.15 Trash and Nuisances.** No noxious or offensive activities shall be carried out upon any Lot, nor shall anything be done thereon which is or is likely to become an annoyance or nuisance to the Subdivision. Except for routine household garbage, which shall be kept in covered containers that are screened from view and regularly hauled off, no Lot shall be used in whole or in part for the placement, dumping or storage of rubbish, garbage, junk or refuse, including but not limited to junked or unlicensed motor vehicles. No liquid wastes or other substance, thing or material shall be placed or kept upon any Lot so as to emit foul or noxious odors detectable on any adjoining Lot. No loud or continuous noise nor barking dogs shall be allowed on any Lot

**Section 10.16 Animals.** No cows, pigs, goats, chickens, sheep, horses, llamas or other animals generally considered livestock may be kept on any Lot. No commercial animal raising of any type shall be permitted on any Lot. Only animals which are generally recognized as domestic pets, not to exceed a total of five per Lot Owner (exclusive of fish, gerbils or like pets kept indoors at all times), may be kept and maintained upon a Lot. All pets must be kept under the control of their Owner and kept in such a manner so as not to become a nuisance or an annoyance to other residents within the Subdivision. Dogs must be kept on a leash at all times when not within an Owner's dwelling or otherwise contained by electronic fencing or other approved containment. Specific regulation may be promulgated from time to time by the Association, which may control the type of pets to be allowed within the Subdivision, including breeds and sizes of pets to be prohibited so as to avoid nuisances.

**Section 10.17 Motorized Vehicles.** No trucks over 3/4 ton in size, dirt bikes, go-carts or un-muffled vehicle shall be allowed in the Subdivision on a temporary or permanent basis. All motor vehicles shall be maintained in proper operating condition so as not to be a nuisance by noise, exhaust emissions or otherwise. No motor vehicles shall be driven within the Subdivision, except on driveways, parking areas and on the roadways shown on the Plats or otherwise designated in Association rules and regulations. Outdoor maintenance, assembly and disassembly of motor vehicles is prohibited within the Subdivision.

**Section 10.18 Business in Homes.** No business or business activity shall be carried on or upon any Lot at any time, except that an Owner residing on a Lot may conduct business activities within the dwelling as long as:

- (a) The existence or operation of the business activity is not apparent to or detectable by sight, sound or smell;

(b) The business activity conforms to all zoning or governmental regulatory requirements;

(c) The business activity does not involve Persons coming onto the Property who do not own Lots or door to door solicitation of residents of the Property; and

(d) The business activity is consistent with the residential character of the Property and does not constitute a nuisance, a hazardous, noxious or offensive use or threaten the security or safety of other Owners, as may be determined in the sole discretion of the Board of Directors.

The terms "business" and "trade" as used in this Section shall be construed to have the ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provisions of goods or services to persons other than provider's family and for which a provider receives a fee, compensation or other form of consideration regardless of whether:

- (i) such activity is engaged in full or part time;
- (ii) such activity is intended to or does generate profit; or
- (iii) a license is required therefor.

**Section 10.19 Outside Storage.** Except during approved construction, no outside storage of personal property shall be permitted unless screened from view by enclosures, fences, shrubbery or other devices approved by the ARC. Examples of outdoor personal property that should be stored within a dwelling when not in use include, but are not limited to, yard tools, sprinklers, wheel barrows and children's toys. During approved construction, no construction material or device shall be stored on any Lot except for the purposes of such construction, and in any event not longer than the length of time reasonably necessary for such construction. All construction debris, excess materials, stumps and other matter discarded during construction shall be removed from the Lot as often as necessary to keep the Lot and all Structures neat, clean and attractive in appearance.

**Section 10.20 Speed Limits.** The Board is authorized to establish speed limits throughout the Property and erect such signs as they deem necessary. The Board is further authorized and empowered to enforce said speed limits by the promulgation of regulations relating thereto. Such regulations shall be furnished to all members of the Association.

**Section 10.21 Firearms and Fires.** No firearm or other weapon (including but not limited to air guns and bow and arrow) and no fireworks shall be discharged on any Lot or the Common Area. No hunting shall be allowed at any place within the Subdivision. Notwithstanding the foregoing, this Section shall not prohibit the Association from instituting wildlife population control programs which may include the use of firearms or weapons. No outdoor flame or fire (except cooking grills and approved outdoor fireplaces screened or fenced from view from the street and neighboring Lots) shall be permitted.

**Section 10.22 No Time Shares.** No Lot can be used for or owned by any type of "Vacation Time Sharing Ownership Plan" or "Vacation Time Sharing Lease Plan"; however, "Vacation Multiple Ownership Interests" shall be permitted. The foregoing terms shall have the statutory meanings ascribed to them in the South Carolina Time Shares Act codified at SC Code Ann. § 27-32-10 et seq.

**Section 10.23 Signage.** No signs shall be permitted on any Lots except that a single sign offering, or designating the Lot as, "for sale" may be placed on a Lot. The specific size and appearance of permitted "for sale" signs or designators shall be subject to such additional limitations as the Board may adopt and publish in Subdivision rules and regulations from time to time.

## **ARTICLE 11** **EASEMENTS**

**Section 11.1 Access and Private Road Easement.** The perpetual, nonexclusive and appurtenant easement over all the private roads and trails within the Subdivision (including all areas designated as a road, street, terrace, avenue, court, drive, trail or lane on the Plats) for vehicular and pedestrian ingress and egress to and from the Subdivision to Highway 276 (the nearest public road) is hereby ratified, affirmed and restated. It is specifically understood that the intent hereof is to memorialize the private character of the Subdivision and not to dedicate such areas to a public body for ownership and maintenance.

**Section 11.2 Driveway Easements Benefiting Lots 235 through 239 and 240 through 247.** The reciprocal, perpetual, non-exclusive, and appurtenant easements and rights-of-way over those certain 15' driveways as shown on the Phase III-1 Plat and the Phase III-1 Amendment Plat, which easements provide ingress and egress from Conifer Falls Road for the benefit of Lots 235 through 239 and Lots 240 through 247 and their Owners, respectively, are hereby ratified, affirmed and restated. No parking shall be allowed, at any time, in the said driveway easement areas, which shall be kept open at all times in order to provide continuous unobstructed access from Conifer Falls Road to Lots 235 through 239 and Lots 240 through 247, respectively. The Owners of Lots 235 through 239 and 240 through 247 shall be responsible, on an equal basis with their respective groups, for the maintenance and repair of the aforementioned driveways for the mutual benefit of these two groups of Owners and their Lots. A special reserve fund has been established and "Separate Assessments" for the maintenance of such fund shall continue to be levied on an annual basis. In all respects, the Association shall administer to accounting, collection and enforcement of said Separate Assessments in the same manner as Annual Assessments, except that the Association shall maintain separate and distinct accounts for the special reserve funds applicable to both of the subject driveway easements. The limitations on annual increases applicable as to Annual Assessments shall also apply to these Separate Assessments; however, the vote to increase the said Separate Assessments (beyond the level of annual increase that is subject to Board discretion) shall be confined to the affected group of Lot Owners.

**Section 11.3 Driveway Easement Benefiting Lots 278 and 279 and All Owners.** The reciprocal, perpetual, non-exclusive, and appurtenant easement and right-of-way over that certain 20' driveway as more particularly shown on the Phase IV-1 Plat, which easement provides ingress and egress from Hemlock Trail for the benefit of Lots 278 and 279 and their Owners is hereby

ratified, affirmed and restated. No parking shall be allowed, at any time, in the said driveway easement area, which shall be kept open at all times in order to provide continuous unobstructed access from Hemlock Trail to Lots 278 and 279.

Additionally, it is ratified, affirmed and restated that every Owner of a Lot within the Subdivision shall have and enjoy a reciprocal, perpetual, nonexclusive and appurtenant easement and right-of-way over the said 20' wide driveway for purposes of ingress and egress from Hemlock Trail to that certain Common Area lot situated at the terminus of such driveway (the "Common Storage Lot"). (More particularly, the Common Storage Lot is that certain real property designated as "Reserved by Owner" on the Phase IV-1 Plat and was deeded to the Association by instrument dated June 15, 1995 and recorded in Deed Book 1615 at Page 954.) The use of any portion of the Common Storage Lot by Owners is subject to the further terms and conditions set out below:

(a) The Association reserves the right (but not the obligation) to allow Owners in the Subdivision to store vehicles, recreational equipment or other equipment on the Common Storage Lot, subject to such rules and regulations as may be promulgated from time to time by the Association.

(b) The Association shall be responsible for the maintenance, preservation and repair of aforementioned 20' wide driveway easement area and the Common Storage Lot (including improvements thereon). The cost of said maintenance, repair, upkeep and operation shall be born by all Owners in the Subdivision uniformly through Assessments.

**Section 11.4 10' Easement for Pedestrian Circulation Benefiting All Owners.** The reciprocal, perpetual, non-exclusive, and appurtenant easement and right-of-way over that certain area designated as "10' Easement for Pedestrian Circulation" on the Phase V-2 Plat, which easement is for the benefit of all Owners to allow walking, enjoyment of the lake, fishing and general recreation around the lake is hereby ratified, affirmed and restated. This easement shall be subject to the rules and regulations promulgated by the Association from time to time.

**Section 11.5 Easement for Tennis Courts.** The reciprocal, perpetual, non-exclusive, and appurtenant easement and right-of-way over that certain area shown on the Phase V-2 Plat as lying between Lots 344 through 347 on one side and Lots 342, 341 and 339 on the other side (the "Tennis Court Common Area"), which easement is for the benefit of all Owners to allow for ingress and egress to the tennis courts situated on such Tennis Court Common Area and use and enjoyment thereof, is hereby ratified, affirmed and restated. The use and enjoyment of the Tennis Court Common

Area is subject to reasonable rules and regulations promulgated by the Association from time to time. The foregoing easement is subject to the reserved rights to maintain and service the three wells which are located on and within the Tennis Court Common Area.

**Section 11.6 Easement Affecting Lot 373.** The northeast boundary of Lot 373 adjoins the exit road from the Subdivision to Highway 276. The Association maintains certain shrubs and other landscaping improvements located along the said northeast boundary of Lot 373 extending back not more than 20 feet. In the Phase VI Restrictions an easement to accommodate this landscaping buffer was memorialized. The easement of such landscaping buffer, which is deemed

reciprocal, perpetual, non-exclusive, and appurtenant is hereby ratified, affirmed and restated. Such easement shall continue to serve as a limitation on the Owner of Lot 373, prohibiting them from placing improvements or changing the landscaping in the said easement area in any way without first obtaining the unanimous written consent of the Board.

**Section 11.7 Easement for Well and Pumping System on Lot 8.** The Phase VII Restrictions imposed an easement and right to drill a well and install a pumping system on Lot 8 within a proposed well site situated thereon and further granted to the Association the right to construct water lines within the construction access easement for future well sites on Lots 7 and 8 as shown on the Phase VII Plat. All well, pumping system and water line construction shall be approved by the ARC, taking into account the desire to preserve all trees and shrubs within the construction area. All costs of the construction shall be borne by the Association. After construction the Association shall be responsible for clean-up and maintenance of the well improvements. The foregoing rights and easements of the Association, subject to the stated limitations and obligations, are hereby ratified, affirmed and restated.

**Section 11.8 General Easement of Use and Enjoyment of Common Areas.** Each Owner shall have a right of way for ingress and egress on foot and an easement of enjoyment in, to, upon and across the Common Areas and any improvements or facilities located thereon, now or hereinafter constructed for all purposes. Free passage and access shall at all times be provided and no fence or other obstruction shall at any time be erected, maintained, placed or permitted which shall in any way interfere with such free passage or access except for security gates at the entrance to the Subdivision. The foregoing easements of this Article 11 are, in some cases, examples of specific easements in the Common Areas. Through listing some, but not all of such easements, this Amended and Restated Declaration shall not have the effect of limiting the type, substance, scope or full extent of Common Area easements inuring to the benefit of the Owners. Rather, the Common Area easements of use and enjoyment shall endure and invest in the Owners as a product of the Association's Common Area ownership.

## **ARTICLE 12**

### **ENFORCEMENT AND AMENDMENT**

**Section 12.1 Enforcement.** The Association or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Restated and Amended Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. Additionally, the Association shall have the right to request that law enforcement, public safety, animal control and other civil servants come upon the Lots and Common Area to facilitate the enforcement of laws, codes and governmental ordinances and to assist with the enforcement of this Amended and Restated Declaration.

**Section 12.2 Costs of Civil Enforcement.** In the event that any Owner or the Association resort to civil litigation to remedy a violation of this Amended and Restated Declaration and is successful in obtaining the remedy sought, the said Owner or the Association, as applicable, shall be entitled to recover court costs, reasonable attorneys' fees and expenses incurred in connection therewith. The foregoing shall not detract or diminish the right of the Association to recover costs



and expenses incurred in connection with collecting any Assessment or charge specified elsewhere in this Amended and Restated Declaration, which right shall exist without resort to civil litigation.

**Section 12.3 Amendment.** This Amended and Restated Declaration may be amended by an instrument approved by the confirming vote of a majority of the Association votes cast in accordance with the Bylaws. No amendment to the provisions of Article 8, Section 10 shall be valid and binding as to any institutional mortgage holder unless such holder shall consent in writing thereto. Further, no amendment hereto shall become effective until an instrument evidencing such amendment has been filed for record in the Office of the Register of Deeds for Greenville County. Every purchaser or grantee of any interest in the Property, as now or hereafter subjected to this Amended and Restated Declaration, by acceptance of a deed or other conveyance therefor, agrees that this Amended and Restated Declaration may be amended as provided in this Section. Further, all Owners, and each of them, hereby appoint the President and Secretary of the Association as their attorney-in-fact for purposes of declaring and attesting to the outcome of an amendment vote and executing and recording an amendment instrument in a representative capacity.

**Section 12.4 Non-Conforming Structures.** It is not the purpose or intent of this Amended and Restated Declaration to declare existing structures within the Subdivision in violation of the building limitations or restrictions set forth herein or to create a remedy of injunction or other relief as to such non-conforming, existing structures. Rather, the building limitations and restrictions set forth in this Amended and Restated Declaration are deemed to apply prospectively. On the other, hand it is not either the intent or purpose of this Amended and Restated Declaration to allow such non-conforming, existing structures to perpetually create aesthetic imbalance or otherwise detract from the Subdivision. As such it is declared that non-conforming, existing structures may remain and be maintained in their nonconforming state as of the date first above written, but such non-conforming structures shall not be rebuilt to a non-conforming state if damaged beyond 50% of their value, nor shall they be modified, altered or enhanced in such a way as to intensify their non-conforming aspects.

## **ARTICLE 13** **GENERAL PROVISIONS**

**Section 13.1 Gender.** A reference in this Amended and Restated Declaration to any one gender, masculine or feminine, includes the other one, and the singular includes the plural and vice-versa, unless the context otherwise requires.

**Section 13.2 Captions.** The headings and captions of this Amended and Restated Declaration are included only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of this Amended and Restated Declaration or the intent of any provision hereof.

**Section 13.3 Severability.** Invalidation of any portion of this Amended and Restated Declaration, or any of the covenants or restrictions contained herein by a judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 13.4 Waiver.** No provision contained in this Amended and Restated Declaration shall be deemed to have been abrogated or waived by reasons of any failure to enforce the same, regardless of the number of violations or breaches that may occur.

**Section 13.5 Notices.** Any notices required to be sent to any Owner under the provisions of this Amended and Restated Declaration shall be deemed to have been properly sent when either (i) delivered in person, (ii) mailed, postage paid, to the last known mailing address, (iii) delivered by fax transmission to the Owner's last known fax number or (iv) emailed, to the last known email address, of the Person who appears as Owner, on the records of the Association at the time of such hand delivery, fax delivery, mailing or e-mailing, as applicable.

**Section 13.6 Covenants to Run with the Land.** All provisions and easements of this Amended and Restated Declaration, unless otherwise expressly herein provided to the contrary, shall be construed as covenants running with the land and with every part thereof and interest therein, and all of the provisions hereof shall be binding upon, and shall inure to the benefit of, the Owners of all or any part thereof, or any interest therein, and his heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in, or for the benefit of, the general public. All present and future Owners and occupants of any portion of the Property shall be subject to, and shall comply with, the provisions of this Amended and Restated Declaration, as amended from time to time. The acceptance of a deed or conveyance or the entering into occupancy of any portion or portions of the Property shall constitute an agreement that the provisions of this Amended and Restated Declaration, as they may be amended from time to time, are accepted and ratified by such Owner or occupant.

[SIGNATURES APPEAR ON THE FOLLOWING PAGE]



EXHIBIT A  
Amended Bylaws

[ATTACHED ON THE FOLLOWING PAGE]

**SECOND AMENDED BYLAWS OF  
CLIFF RIDGE COLONY HOMEOWNERS ASSOCIATION, INC.**

These are the Second Amended Bylaws of Cliff Ridge Colony Homeowners Association, Inc. (the "Bylaws"). Cliff Ridge Colony Homeowners Association, Inc., is a nonprofit corporation existing under the laws of the State of South Carolina, (hereinafter referred to as the "Association") which was organized for the purpose of administering and enforcing that certain Amended and Restated Declaration of Restrictive Covenants for Cliff Ridge Colony (hereinafter referred to as the "Declaration") dated February 7, 2008, and recorded May 19, 2008, in Deed Book 2324, at Page 2370, in the Office of the Register of Deeds for Greenville County, South Carolina. Cliff Ridge Colony is a residential development located in Greenville County, South Carolina, consisting of the Phase I Property, the Phase II Property, the Phase III-1 Property, the Phase III-2 Property, the Phase V-1 Property the Phase V-2 Property, the Phase VI Property and the Phase VII Property (all as more particularly defined in the Declaration and collectively referred to herein as the "Property").

RECITALS:

WHEREAS, the Association previously adopted those certain By-Laws of Cliff Ridge Colony Property Owners' Association, Inc. (the "Original Bylaws"), which it now desires to replace and supersede in their entirety with these Bylaws.

WHEREAS, Article 10(V, Section 1, of the Original Bylaws, provides the standard for replacement or amendment, allowing that the Original Bylaws could be amended by a vote of a 2/3 of a quorum of members (a quorum of the general members being 51%).

WHEREAS, two-thirds of a quorum of Members voted, by written ballot, to approve and adopt these Bylaws and to replace and supersede the Original Bylaws in their entirety with these Bylaws, so that only one instrument remains.

NOW THEREFORE, in consideration of the duties and obligations contained herein, the receipt, sufficiency and adequacy of which is hereby acknowledged, the members do hereby agree as follows:

1. The foregoing Recitals are incorporated as a part of these Bylaws as fully as if set forth completely herein.
2. This instrument is approved, adopted and effective as the Bylaws of the Association and replaces and supersedes in its entirety the Original Bylaws.

ARTICLE I  
GENERAL

Section 1. Definitions. All terms defined in the Declaration shall have the same meaning when used in these Bylaws.

Section 2. Capitalized Terms. All capitalized terms used herein and not defined herein shall have the same meanings ascribed to them in the Declaration unless a different meaning is clearly required or intended.

Section 3. Consistency. By adopting these Bylaws, the Board intends them to be consistent with the provisions of this Association's Articles of Incorporation (the "Articles") and with the Declaration.

Section 4. Conflict. These Bylaws are to be interpreted, construed and applied with the Articles and the Declaration so as to avoid inconsistencies or conflicting results, but, if such conflict necessarily results, the provisions of the Articles or the Declaration shall control.

Section 5. Membership and Voting Rights. Membership and voting rights in the Association are set forth in Article 4 of the Declaration.

Section 6. Fiscal Year. This Association's fiscal year shall be the calendar year.

Section 7. Amendment. These Bylaws may be altered, amended, or rescinded by the affirmative vote of a majority of the Members present in person or by proxy at any regular meeting of Members or at any special meeting, provided notice has been given as hereafter provided. Any Member of the Association may propose a change to the Bylaws by written request to the Board of Directors.

Section 8. Registered Agent and Principal Office. The registered agent and principal office of the Association shall be established and maintained at such place as is determined by the Board of Directors of the Association, as designated and on record with the Secretary of State.

## ARTICLE II POWERS AND DUTIES OF THE ASSOCIATION

The powers of the Association shall include and be governed by the following provisions:

Section 1. Common Law and Statutory. The Association shall have all of the common law and statutory powers of a nonprofit corporation which do not conflict with the terms of these Bylaws or the Declaration.

Section 2. Declaration. The Association shall provide for the effective and efficient administration of the Declaration, of the Common Areas described therein, the ownership of the Common Areas, and shall assist in maintaining the safety, cleanliness, appearance and value of the Property described in the Declaration.

Section 3. Maintenance and Assessment. The Association shall manage and maintain the Common Areas owned by it and administer and enforce all provisions of the Declaration, and is empowered, according to the Declaration, to levy and collect assessments, and to perform any and all functions described in the Declaration.

Section 4. General. The Association shall have all powers necessary to undertake and perform all acts necessary and incident to its duties, in accordance with the provisions of the Declaration and the powers and duties consistent therewith, set forth in the Articles of Incorporation and these By Laws.

Section 5. Funds Held in Trust. All funds received and collected by the Association shall be held in trust for the Members of the Association in accordance with the provisions of the Declaration, the Articles and these Bylaws.

### ARTICLE III MEMBERS AND MEMBERS' MEETINGS

Section 1. Membership. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and shall pass with the title to each Lot, and it may not be separated from the ownership thereof.

Section 2. Annual Meetings. The annual membership meeting of the Association is to be held each year at least two hundred (200) days prior to the beginning of the next ensuing fiscal year, on such date and at such time and place in Greenville County, South Carolina as the Board of Directors determines.

Section 3. Special Meetings. Special membership meetings may be called at any time by: (i) the President; or (ii) the Board of Directors; or (iii) by the written request of Members entitled to cast twenty percent (20%) of all votes eligible to be cast by the Members. The agenda at special meetings shall be confined to the subject matter for which the special meeting was called.

Section 4. Notice. Written notice of membership meetings shall be given by the Secretary. All notices must specify the place, day, and hour of the meeting and, in the case of special meeting, its purpose.

Section 5. Manner of Notice. Unless waived in writing, notice of all membership meetings must be given at least fifteen (15) days in advance to each Member and shall be effective upon delivery (i) in-person, (ii) by e-mail to the Member's email address, (iii) by fax transmission to the Member's fax number, or (iv) by mailing a copy of such notice, postage prepaid, addressed to the Member's mailing address, last appearing on the books of the Association. Mailing or delivery of notice to any co-owner of a Lot is effective upon all co-owners of such Lot, unless any co-owner has requested the Association in writing to give notice to such co-owner and furnished the Association with the address to which such notice shall be sent.

Section 6. Proof of Notice. An affidavit by the person or persons actually giving notice of any meeting, and attested by the Secretary under this Association's seal, is conclusive upon any person without actual knowledge of any defect in notice as to the regularity of any notice.

Section 7. Waiver of Notice. Notice of any membership meeting may be waived in writing at any time before, at, or after such meeting; and neither the business transacted at, nor the purpose of, any regular or special meeting need be specified in any written waiver. A Member's attendance at any meeting constitutes a waiver of all defects in notice unless such Member expressly

objects at the beginning of such meeting to the transaction of any business because the meeting is not regularly called.

Section 8. Voting. The allocation of votes to a Member and rights associated therewith are set forth in Article 4 of the Declaration.

Section 9. Quorum. The presence of Members entitled to cast one-fourth (1/4) of the votes eligible to be cast by the Membership constitutes a quorum for all purposes except consideration of any action which requires the presence of Members entitled to cast a majority or greater percentage of the votes eligible to be cast by the Membership, in which case at least a majority or such greater percentage of the Members shall be present. Once established, a quorum is effective for all purposes notwithstanding the subsequent withdrawal of Members. If the required quorum is not present at any meeting duly called, a majority of the Members present have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until the required quorum is present, provided such adjournment is taken within one (1) hour following the scheduled time of the meeting.

Section 10. Adjournment. If a meeting otherwise duly called and convened with the requisite quorum present is adjourned to another time or place, notice of the adjourned meeting is not required if the time and place to which the meeting is adjourned are announced at the meeting at which the adjournment is taken; and any business may be transacted at the adjourned meeting that might have been transacted at the original meeting without additional notice and without reconstructing a quorum.

Section 11. Record Date. Any notice of any meeting of the Members must be given to each Member as shown upon the Association's books on the date such notice is given. Only those Members shown as Members in good standing upon the Association's books on the eleventh (11th) calendar day preceding a meeting are entitled to vote at such meeting, or its adjournment.

Section 12. Proxies. Any Member may vote in person or by proxy at any meeting. All proxies are revocable and terminate automatically upon conveyance of title to such Member's Lot. All proxies must be in writing signed by the Member, and expire eleven (11) months from the date signed unless otherwise expressly provided. A proxy is not revoked by incompetency or death until the Association receives written notice thereof. If a proxy confers authority upon two or more persons and does not otherwise provide a majority of such proxies present at the meeting or, if only one is present, then that one may exercise all powers conferred by the proxy. A proxy expressly may provide for a right of substitution by written designation of the proxy holder. A Member represented by a valid proxy at any meeting is "present" for all purposes. All proxies must be filed with the Secretary or Administrative Manager of the Association prior to the meeting to which they pertain or shall not be considered for that meeting.

Section 13. Membership List. At least ten (10) days prior to each membership meeting, a complete list of the Members entitled to vote at such meeting, and their respective addresses, must be kept on file at the Association's office, open to inspection by any Member. Such list also must be produced and kept open at the time and place of the meeting for inspection by any Member at any time during the meeting. In the absence of substantial compliance with the requirements of this Section, and upon the demand of any Member present, the meeting must be adjourned until such compliance occurs.



If no such demand is made, failure to comply with the requirements of this section does not affect the validity of any action taken at such meeting.

Section 14. Voting Requirements. Every act and decision done or made by a majority of the Members' votes present at a meeting duly called at which a quorum is present is the act of the Membership, except with respect to any action requiring a greater percentage of votes of the membership as to which the voting requirements of the applicable provision of the Articles or Declaration shall govern.

Section 15. Action by Written Ballot. Unless prohibited by the Articles or Declaration, any action that may be taken at any annual, regular or special meeting of the Association, may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter presented therein. Such written ballot must conform to the requirements set forth in SC Code Ann. §33-31-708.

#### ARTICLE IV BOARD OF DIRECTORS

Section 1. Number and Composition. Except as expressly provided otherwise, all powers of this Association are exercised by or under the authority of, and the business and affairs of this Association are managed under the direction of, a Board of Directors consisting of no less than (7) and no more than (9) persons: All of whom will be Members owning Lots within the Property. In the instance of corporations, partnerships, limited liability companies or other entity Owners of Lots, the respective shareholders, partners, members or other constituent individuals shall qualify for election to the Board of Directors.

Section 2. Standard of Care. Each Director shall perform all duties as a Director, including duties as a committee member, (i) in good faith, (ii) in a manner such Director reasonably believes to be in the best interest of this Association, and (iii) with such care as an ordinarily prudent person in a similar position would exercise under similar circumstances.

Section 3. Reliance. A Director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the following, unless such Director has actual knowledge that reliance is unjustified:

(a) Officers. One or more officers, employees, or managers of this Association whom the Director reasonably believes are reliable and competent in the matters presented.

(b) Professionals. Legal counsel, public accountants, or other persons as to matters which the Director reasonably believes are within such person's professional or expert competence.

(c) Committees. An Association committee upon which such Director does not serve, duly constituted pursuant to the Declaration, the Articles or these Bylaws, as to matters within designated authority, which committee the Director reasonably believes merits confidence.

Section 4. Compensation. Any Director may be reimbursed by the Board of Directors

for actual expenses incurred in the performance of such Director's duties; but no Director may be paid any compensation by this Association for any service rendered to this Association as a Director.

Section 5. Term of Office. Directors shall serve terms of three (3) years, and the terms of the Board Members shall be staggered so that the terms Directors or groups of Directors shall overlap and expire on different years. Elections shall be conducted annually, and staggering of terms shall be set such that no more than three Board vacancies shall be scheduled for regular election in any particular year. No member shall serve more than 2 consecutive terms.

Section 6. Election. Nomination for election to the Board of Directors may be made from among Members by a Nominating Committee or from the floor at the annual membership meeting. Election to the Board of Directors shall be by secret written ballot. Each Member may cast as many votes for each vacancy as such Member has under the provisions of these Bylaws. The person receiving the largest number of votes for each vacancy is elected. Cumulative voting is not permitted.

Section 7. Removal. Any Director, or the entire Board of Directors, may be removed with or without cause by a majority vote of the Members at any meeting called expressly for such purpose.

Section 8. Vacancies. If a Director dies, resigns, is removed, or is disqualified or otherwise unable to serve, the remaining Directors, even if less than a quorum, may fill such vacancy by majority vote. Any appointed Director serves only the unexpired term of his predecessor unless such appointee sooner dies, resigns, is removed, or is disqualified or otherwise unable to serve.

## ARTICLE V DIRECTOR'S MEETINGS

Section 1. Regular Meetings. The Board shall meet regularly as and when necessary for the proper conduct of the Association's affairs, on such dates and at such time and place as are determined at the immediately preceding Board meeting or by standing Board resolution. If the date, time, and place of a regular meeting are not determined by standing resolution, three (3) days' prior notice is required to any Director who did not attend the meeting at which the date, time and place of meeting was determined.

Section 2. Special Meetings. Special Board meetings must be held on not less than one (1) day prior notice to each Director when called by (i) the President; or (ii) by any three Directors.

Section 3. Quorum. Except where the provisions of the Declaration require action by a greater percentage, a majority of the Directors shall constitute a quorum for all purposes; and every act and decision done or made by a majority of the Directors present at a meeting duly called at which a quorum is present constitutes the act of the Board. Where any provision of the Declaration requires approval by a majority of the Directors, the full Board constitutes a quorum for such action. Once established, a quorum is effective for all purposes, notwithstanding the subsequent withdrawal of one or more Directors.

Section 4. Conflict of Interest. No contract or other transaction between this Association and one or more of its Directors, or any entity in which one or more of this Association's Directors are directors, officers, or financially interested, is void or voidable because of such relationship or interest if:

(a) Such relationship or interest is disclosed or known to the Board of Directors that authorizes, approves, or ratifies the contract or transaction by a vote or consent sufficient for such purpose without counting the votes or consents of the interested Directors: or

(b) Such relationship or interest is disclosed or known to the Members entitled to vote and they authorize, approve, or ratify such contract or transaction by the requisite vote or written consent; or

(c) Such contract or transaction is fair and reasonable to the Association at the time it is authorized by the Board, or the Members. Interested Directors may be present at the meeting of the Board or membership that authorizes, approves, or ratifies such contract or transaction and may be counted in determining the presence of a quorum at any such meeting without rendering the contract or transaction void or voidable.

Section 5. Adjournment. A majority of the Directors present at any meeting duly called, regardless of whether a quorum exists, may adjourn such meeting to another time and place, but notice of such adjourned meeting, must be given to the Directors not present at the time of adjournment.

Section 6. Presence. Any Director present at a meeting of the Board at which action on any matter is taken is presumed to have assented to such action unless such Director (i) votes against such action; or (ii) abstains from voting because of an asserted conflict of interest. A Director's presence at any meeting constitutes a waiver of notice of such meeting and of any and all objections to the place or time of such meeting, or the manner in which it has been called or convened, unless such Director at the beginning of such meeting objects to the transaction of business because the meeting is improperly called or convened.

Section 7. Informal Action. Any Board action that is required or permitted to be taken at a meeting may be taken without a meeting if a written consent to such action is signed by all members of the Board and filed in the minutes of the Board's proceedings. Directors are deemed present at any meeting for all purposes if a conference telephone or similar communications equipment is used by means of which all persons participating in the meeting can hear each other.

## ARTICLE VI POWERS OF BOARD OF DIRECTORS

Section 1. General. The Board has the power to exercise for and on behalf of this Association all powers, duties and privileges vested in or delegated to this Association and not reserved to its Members by any provision of these Bylaws, the Articles, or the Declaration. Without limitation, the Board may employ all managers, independent contractors, professional

advisors, and employees and agents as the Board deems advisable and prescribe their duties and fix their compensation, if any.

Section 2. Rules and Regulations. The Board has the power from time to time to adopt, alter, amend, rescind, and enforce reasonable rules and regulations governing the use of all or any portion of the Common Area and the Association's activities, or either, so long as such rules and regulations are consistent with the rights and duties established by the Articles and the Declaration.

Section 3. Enforcement. For violation of any of its rules or regulations, the Board may: (i) suspend any Member's right to services or privileges provided by this Association; or (ii) require any Member to make restitution to this Association for any loss resulting from any violation; or (iii) both.

Section 4. Suspension of Membership Rights. The Board is authorized, without prior notice, to suspend any Member's voting rights and Member's, (including Member's guests and renters), right to services or privileges provided by this Association, (including but not limited to use of recreational facilities such as clubhouse, clubhouse pools and other amenities), or either, during any period in which such member is more than thirty (30) days in default in payment of any assessment levied by this Association.

Section 5. Special Assessments. The Board has the power to determine what, if any, Assessments are to be levied pursuant to the Declaration.

Section 6. Indemnification. The Board has the power to provide indemnification for this Association's officers, directors, employees (including volunteer employees), agents, and Members to the extent and in the manner from time to time permitted by the laws of the State of South Carolina, except that the Board cannot provide such indemnification for criminal, intentional, or willful misconduct. Except to the extent such determination from time to time is reserved to the membership by the laws of the State of South Carolina, the Board's determination to provide or refuse indemnification is conclusive.

Section 7. Vacancies. The Board has the power to declare the office of any Director vacant if such Director is absent from three (3) consecutive Board meetings without justification or excuse.

Section 8. Architectural Committee. The Board of Directors of the Association shall establish an Architectural Committee as provided in the Declaration, which shall be authorized and empowered to exercise those powers and perform those duties provided in the Declaration.

Section 9. Nominating Committee and Other Committees. The Board of Directors of the Association shall establish a Nominating Committee as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

## ARTICLE VII DUTIES OF BOARD OF DIRECTORS

Section 1. General. The Board shall supervise all of the Association's officers, agents, employees (including volunteer employees), committees and contractors and see that their respective duties are properly performed. The Board shall otherwise manage the affairs of this Association as provided in these Bylaws, the Articles and the Declaration.

Section 2. Assessments. The Board shall enforce collection of all Assessments owed this Association that remain unpaid for a period of thirty (30) days by foreclosure, suit, or such other lawful procedure as the Board deems advisable, in addition to imposing the sanctions provided by the Declaration or these Bylaws.

Section 3. Estoppel Certificates. Upon request by any interested person, the Board shall cause an appropriate Association officer to issue a certificate as to the status of assessments or architectural review, or both, with respect to any Lot. Such certificates shall bind this Association as of the date of issuance when properly executed by an appropriate officer. The Board may make a reasonable, uniform charge for issuing such certificates.

Section 4. Financial. With the assistance of this Association's Treasurer, the Board shall prepare an annual budget and financial statements for presentation to the Membership at each annual meeting. The Board also must present a current statement of income and expense when requested in writing by members entitled to cast at least twenty percent (20%) of the Membership votes outstanding. As and when necessary or appropriate, or when requested by the membership, the Board from time to time also will cause a review or audit of this Association's financial affairs to be made by an independent accountant.

Section 5. Insurance. The Board shall procure and maintain in force and effect at all times insurance in compliance with the requirements of the Declaration. The Board also must cause all persons or entities employed, authorized, or contracted with to collect, disburse, and manage this Association's funds, including this Association's officers, directors, and uncompensated volunteers, to be bonded or insured with standard fidelity and errors and omissions coverage for the benefit of this Association. The premiums for the foregoing shall be paid from Association funds.

Section 6. Management. The Board may contract with any other person to manage the Association's affairs, in whole or in part; but no such management contract may be for a term longer than one (1) year and must be terminable by the Association for cause upon not more than thirty (30) days' prior written notice.

## ARTICLE VIII BOOKS AND RECORDS

Section 1. Records Enumerated. This Association must keep correct and complete (i) books and records of account; (ii) minutes of the proceedings of its Members and the Board; and (iii) a Membership Record (defined below).

Section 2. Formality. No particular formality is required for the minutes of the proceedings of this Association, as long as the nature of the action taken or defeated reasonably

can be determined from such record. Failure to maintain proper minutes of any proceeding shall not affect the validity of action taken if all requirements for any such action in fact were met.

Section 3. Membership Record. This Association's Membership Record must show (i) the name of each Owner and Co-Owner, if any, (ii) a proper legal description of such Owner's Lot, (iii) whether such Owner's membership is in good standing, and (iv) the address to which notice is to be given such Owner pursuant to these Bylaws.

Section 4. Book of Resolutions. All resolutions of the membership or Board, having more than temporary effect, shall be compiled from time to time into a Book of Resolutions and typically indexed for the future guidance of this Association's directors, officers, and members.

Section 5. Inspection. Upon reasonable notice to the association, books, records, and papers of this Association will be made available during reasonable business hours for inspection and copying by any Owner or Member. Such right of inspection may be exercised personally or by any one or more representatives. Upon request, the Association also will furnish to any Owner or Member copies (certified, if requested) of any and all of its books, records, and other papers. The Association may make a reasonable, uniform charge for such copies and certification.

## ARTICLE IX OFFICERS

Section 1. Enumeration. The regular officers of the Association shall consist of a President, Vice President, Secretary and Treasurer, who are elected, at the first Board of Directors meeting following each annual membership meeting, for a term of one year, and until their respective successors are elected and qualified, unless any such officer sooner dies, resigns, is removed, is disqualified or otherwise unable to serve. Officers must be members of the Board of Directors.

Section 2. Special Offices. The Board may appoint such other officers as it deems advisable each of whom will hold such offices for such period, have such authority, and perform such duties as the Board from time to time determines.

Section 3. Resignation and Removal. Any officer may be removed by the Board with or without cause. A resignation of any officer need not be accepted to be effective. Unexpired terms are filled by Board appointment.

Section 4. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person simultaneously may hold more than one other regular office, but any regular officer also may hold one or more special offices.

Section 5. Duties. The duties of the regular officers are as follows:

(a) President. The President: (i) is entitled to preside at all meetings of the Board and the Membership; (ii) sees that orders and resolutions of the Board are carried out; and

(iii) signs all leases, mortgages, deeds, and other written instruments, and co-signs all checks and promissory notes.

(b) Vice President. The Vice President shall act in place of the President if the President is absent, unable or refuses to act.

(c) Secretary. The Secretary: (i) records the votes and keeps the minutes of all meetings and proceedings of the Board and the Members; (ii) keeps the corporate seal of this Association and affixes it on all instruments requiring it; (iii) gives notice of all meetings of the Board and the Membership; and (iv) keeps the Membership Record as provided in these Bylaws.

(d) Treasurer. The Treasurer: (i) causes the receipt and deposit into appropriate bank accounts of all Association monies and disburses such funds as directed by the Board; (ii) signs all checks and promissory notes of this Association; (iii) keeps proper books of account; (iv) with the assistance of the Board, prepares an annual budget and a statement of income and expense for presentation to the membership at its annual meeting; and (v) reports to the Association on a quarterly basis as to the financial status of the Association. Any officer additionally may exercise such other powers, and discharge such other duties as the Board from time to time may require or permit.

#### ARTICLE X PROCEDURE

Robert's Rules of Order (latest edition) shall govern the proceedings of meetings of the Association, the Board of Directors and its Committees, except and to the extent that such rules are, by motion properly made, suspended.

**[Attestation Appears on the Following Page]**

