

Berkeley County  
Cynthia B. Forte  
Register of Deeds  
Moncks Corner 294616120

00009871 Vol:10738 Pg: 93



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Instrument Number: 2014- 00009871

As

Recorded On: May 07, 2014

Restrictive Covenants

Parties: AME DEVELOPMENT GROUP LLC

To

CYPRESS GROVE

Billable Pages: 36

Recorded By: WEEKS AND IRVINE

Num Of Pages: 41

Comment: CYPRESS GROVE

**\*\* Examined and Charged as Follows: \*\***

Restrictive Covenants 46.00

Recording Charge: 46.00

**\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\***

I hereby certify that the within and foregoing was recorded in the Register of Deeds Office For: Berkeley County, SC

**File Information:**

**Record and Return To:**

Document Number: 2014- 00009871

WEEKS AND IRVINE

Receipt Number: 478421

8086-B RIVERS AVENUE

Recorded Date/Time: May 07, 2014 02:32:51P

NORTH CHARLESTON SC 29406

Book-Vol/Pg: Bk-R VI-10738 Pg-93

Cashier / Station: S Ritter / Cash Station 11



*Cynthia B. Forte*

Cynthia B Forte - Register of Deeds

**AMENDED AND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS, AND EASEMENTS  
FOR  
CYPRESS GROVE**

This AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (the "**Declaration**") is made and entered into this 1st day of May, 2014, by AME Development Group, LLC, a South Carolina limited liability company (hereinafter sometimes referred to as the "**AME**") for the benefit of itself and its successors and assigns.

**RECITALS:**

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Cypress Grove was recorded in the Register's Office for Berkeley County on June 20, 2013, in Book 10197, at Page 045 ("**Initial Declaration**"); and

WHEREAS, the First Amendment to Initial Declaration was recorded in the Register's Office for Berkeley County simultaneously herewith ("**First Amendment**"); and

WHEREAS, AME, as the original Declarant is authorized to unilaterally amend the Initial Declaration (as previously amended) in accordance with Article IX, Section 3 of the Initial Declaration; and

WHEREAS, pursuant to such authority, AME, as the original Declarant, amends and restates the Initial Declaration (as previously amended) to read in its entirety as more particularly set forth hereinbelow.

**Article I  
Definitions**

In addition to any other terms defined in this Amended and Restated Declaration, the following terms shall have the following meanings when used herein:

1. "**Association**" means the Cypress Grove Homeowners' Association, Inc., a South Carolina non-profit corporation, its successors and assigns.
2. "**Bylaws**" mean the Amended and Restated Bylaws of Cypress Grove Homeowners' Association attached as **Exhibit B** to this Amended and Restated Declaration.
3. "**Common Area**" means all real property (including improvements and fixtures thereon or attached thereto), and other property, real, personal, or mixed, which from time to time may be designated by Declarant for the common use and enjoyment of the Owners or conveyed to the Association in fee simple; together with all rights-of-way, easements, appurtenant, improvements and hereditaments described in this Amended and Restated

Declaration or designated as Common Area on any recorded plats of the Development, including but not limited to landscape easements, utility easements, and those certain sewer and drainage easements and appurtenances (including all storm water management facilities) as shown on those certain plats recorded in Plat Book P at Pages 260-264 and in Plat Book R, at Page 218-any other plats recorded in the Office of the Register of Deeds for Berkeley County, South Carolina ("**Register of Deeds**"), and/or on the Phases 1, 2, 3 and 4 (as these terms are hereinafter defined), all of which shall be and are covenants running with the land at law. The "Common Area" expressly includes the community amenity facility, any and all land owned by the Association (and all landscaping and/or improvements thereon) and all monument signs at any entrance to the Development.

4. "**Declarant**" means and refers to AME Development Group, LLC, a South Carolina limited liability company ("**AME**") and Cypress Grove Development Partners, LLC, a South Carolina limited liability company ("**Cypress**"), their respective successors and assigns in interest, and their specific assigns of their rights as Declarant under this Declaration, which assignment must be recorded in the Register's Office for Berkeley County and must be described as specific assignment of the Declarant's rights. It is understood and agreed that AME Development Group, LLC and Cypress Grove Development Partners, LLC shall have equal rights, duties and responsibilities as Declarant as further provided in Article IX, Section 5, below. The term "Declarant" shall mean collectively all persons comprising the Declarant hereunder, or each person comprising the Declarant hereunder, as the case may require to achieve the express purposes hereof.

5. "**Declarant Control Period**" means the period of time until (i) Declarant owns no Lots attributed hereunder to its respective Phase 1, 2, 3 and 4 Property, (ii) Declarant assigns its rights as Declarant by written assignment recorded in the Register of Deeds as set forth above, or (iii) a person comprising the Declarant records a notice in the Register of Deeds indicating that it thereby assigns and cedes its Declarant rights to the Association. Notwithstanding any provision herein to the contrary, Declarant may not assign its rights as Declarant under item (iii) above until at least seventy percent (70%) of the Lots attributed hereunder to its respective Phase 1, 2, 3 and 4 Property have been sold. When a Declarant's Control Period ends, the non-Declarant members shall have the right to elect the ceding Declarant's Board Members. Notwithstanding any provision to the contrary, any Declarant may retain control of its ARB for purposes of approving initial construction on any Lot until all of its Lots have sold. The term "Declarant Control Period" shall be applied separately to each person comprising the Declarant.

6. "**Declaration**" means this Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements, as the same may be amended, renewed or extended from time to time in the manner herein prescribed.

7. "**Development**" means Cypress Grove a single-family residential development proposed to be developed by the Declarant on one or more of the Properties.

8. "**Governing Documents**" means this Declaration, and the Bylaws, as each may be amended from time to time.

9. **"Lot"** means any numbered plot of land and improvements thereon, with delineated boundary lines intended for single-family residential use, appearing on the Plats, and expressly excluding Common Areas and roads and streets shown on the Plats. Anything to the contrary contained herein notwithstanding, until such time as the Final Phase 3 and 4 Plat (as defined below in the definition of "Plat") has been recorded as provided in such definition, then the Phases 3 Property and the Phase 4 Property shall be deemed to consist of one hundred fifty-three (153) Lots all owned by Cypress.

10. **"Member"** means every person or legal entity that holds membership in the Association.

11. **"Mortgage"** means any mortgage constituting a lien on a Lot or any other parcel of real property which comprises a portion of the Property.

12. **"Mortgagee"** means the owner and holder of a Mortgage at the time such term is being applied.

13. **"Owner"** means the record owner, whether one or more persons or legal entities, of the fee simple title to any Lot or other parcel of real property which comprises a portion of the Property, including Declarant if it owns any such Lot or other parcel of real property, and contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

14. **"Plat" or "Plats"** means one or more plats of the Development recorded in the Office of the Register of Deeds, including but not limited to that certain plat entitled: Final Plat of Cypress Grove-Phases 1 & 2 prepared by Sinclair & Associates, Inc., dated September 10, 2008, recorded in the Office of the Register of Deeds in Plat Book P at Pages 260-264, (the **"Phase 1 and 2 Plat"**); Boundary Survey Prepared for Cypress Grove Development Partners, LLC, prepared by Sinclair & Associates, Inc., dated December 13, 2013, recorded in the Office of the Register of Deeds in Plat Book R at Page 218-P (the **"Interim Phase 3 and 4 Plat"**); the Final Phase 3 and 4 Plat (as hereinafter defined); and any plat of the Property constituting additional Properties (if they are annexed pursuant to Article II hereof) which may be recorded by Declarant in the Office of the Register of Deeds hereafter. As used herein, the term **"Final Phase 3 and 4 Plat"** means the "Final Plat of Cypress Grove – Phases 3 & 4" to be recorded by Cypress, or its successor or assign, in the Office of the Register of Deeds and setting forth and establishing the numbered plot of land and improvements thereon, with delineated boundary lines, intended for single-family residential use within the Phases 3 Property and the Phase 4 Property.

15. **"Phase 1 Property"** means that portion of the Property containing Lots, Common Areas, streets and roads, all as more particularly shown for "Phase 1" on the Phase 1 and 2 Plat.

16. **"Phase 2 Property"** means that portion of the Property containing Lots, Common Areas, streets and roads, all as more particularly shown for "Phase 2" on the Phase 1 and 2 Plat.

17. **"Phase 3 Property"** means that portion of the Property containing Lots, Common Areas, streets and roads, all as more particularly shown for "Phase 3" on the Final Phase 3 and 4 Plat. Until such time as the Final Phase 3 and 4 Plat has been recorded as provided above, the Phase 3 Property shall, together with the Phase 4 Property, be deemed to be comprised of Tracts A, B, C and D as reflected on the Interim Phase 3 and 4 Plat.

18. **"Phase 4 Property"** means that portion of the Property containing Lots, Common Areas, streets and roads, all as more particularly shown for "Phase 4" on the Final Phase 3 and 4 Plat. Until such time as the Final Phase 3 and 4 Plat has been recorded as provided above, the Phase 4 Property shall, together with the Phase 3 Property, be deemed to be comprised of Tracts A, B, C and D as reflected on the Interim Phase 3 and 4 Plat.

19. **"Property"** means the Phase 1 Property, Phase 2 Property, Phase 3 and Phase 4 Property, together with such other additional real estate which may hereafter be made subject to this Declaration pursuant to Article II of this Declaration and brought within the jurisdiction of the Association as provided herein.

**Article II**  
**Property Subject to This Declaration**  
**and The Jurisdiction of**  
**Cypress Grove Homeowners' Association, Inc.**

1. Phases 1, 2, 3 and 4 Property. The Lots or other parcels of real property comprising Phases 1, 2, 3 and 4 Property shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and shall be within the jurisdiction of the Association as set forth in this Declaration.

2. Additional Property.

The remaining portions of any real property depicted on any Plats of Cypress Grove, exclusive of the Phases 1, 2, 3 and 4 Property, or any property adjoining the Property, or any property adjoining such additional property within a one (1) mile radius thereof ("**Additional Properties**"), or any part thereof, may be brought under and made subject to the terms and conditions of this Declaration by Declarant and be made part of the Property and brought within and made subject to the jurisdiction of the Association in future stages of development, without the consent of Owners, the Association or its Members, provided such additions occur within six (6) years after the date of the recording of this Declaration in the Office of the Register of Deeds.

The Additional Properties shall be made subject to this Declaration and the jurisdiction of the Association by recording one or more Amendments to this Declaration and associated Plats with respect to such Additional Property or Properties filed in the Office of the Register of Deeds, which shall extend the terms and conditions of this Declaration and the jurisdiction of the Association to such Additional Properties and thereby subject such additions to the benefits, agreements, restrictions, covenants and obligations set forth herein, including, but not limited to, assessments as determined in accordance herewith.

The obligation for Owners of Lots any portion of the Additional Properties to pay the assessments described in Article V hereof shall commence upon the filing of the Amendment to this Declaration concerning such Additional Property. The Owners of such Lots shall have the same voting rights as the Owners of Lots in Phases 1, 2, 3 and 4 Property, and such voting rights shall commence as of the date of the filing of the Amendment to this Declaration concerning such Additional Property.

### **Article III Property Rights**

1. Ownership of Common Areas. At such point in time as a Declarant, in its sole discretion, deems appropriate, but in no event later than when such Declarant ceases to own at least one Lot shown on any Plat of the Property, as amended by the addition of Additional Property, such Declarant shall convey the Common Areas shown on any Plat of the Property (each person comprising Declarant as to such portion of the Phase 1, 2, 3 and 4 Property originally attributed to such person hereunder) to the Association subject to all rights-of-way, easements, management agreements and the like of record, unless the same has otherwise been conveyed in whole or in part as hereinafter provided. Notwithstanding the recordation of any Plat or any other action by Declarant or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public unless the Declarant, or the Association after conveyance to the Association, shall choose to convey or dedicate all or a portion of the Common Areas or interests therein, including without limitation, easements, to a public body or governmental entity or agency or to a private, non-profit entity for the purpose of creating a park or greenway. The Association shall not thereafter convey or mortgage any part of the Common Areas without the prior consent of those Owners owning at least sixty-seven (67%) of the Class A Lots (as defined in Article IV Section 2(a) below).

2. Owners' Rights to Use and Enjoy the Common Areas. Each Owner shall have the nonexclusive, non-severable easement and right to use and enjoy the Common Areas, which easement and right shall be appurtenant to and run with the title to each Lot and shall pass with the title thereto, subject to the following:

(a) the right of the Association to promulgate and enforce reasonable rules and regulations governing the use of the Common Areas to insure the safety, enjoyment and rights of all Owners therein;

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility which may be situated upon the Common Areas, if at all;

(c) the right of the Association to suspend the voting rights with respect to such Lot in the Association and the right of the Association to suspend the right to use the Common Areas by an Owner for any period during which any assessment against the Owner's Lot remains unpaid; and further to suspend such right to use the Common Areas for a period not to exceed sixty (60) days for any infraction of this Declaration, the Association Bylaws, or its published rules and regulations; and

(d) the right of the Declarant or the Association to grant utility, drainage, sewer, and such other easements of the types and for the purposes set forth in Article VII across the Common Areas or to make dedications or conveyances as set forth in Section 1 above;

(e) the obligation of each Owner to pay assessments as set forth in this Declaration.

3. Owners' Easements for Ingress and Egress. Every Lot shall have as a part thereof a perpetual, non-exclusive right to use any cul-de-sac or roadway, if any, which may be constructed by the Declarant and conveyed to the Association as part of the Common Area for the purpose of providing access to and from each Lot, and said perpetual, non-exclusive right shall be an easement running with the land and pass with the title to each Lot. Culs-de-sac and roadways set forth as temporary easements on any Plats of the Property shall not be deemed to have granted perpetual, non-exclusive rights of use to Owners but shall be subject to removal upon opening of any road extensions adjacent thereto by Declarant.

4. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws of the Association, such Owner's right of enjoyment to the Common Areas and facilities thereon to the members of such Owner's family, guests, tenants, or contract purchasers who reside permanently or temporarily in the residential dwelling on such Owner's Lot so long as such Owner is not in default of payment of assessments or in violation of any terms of this Declaration.

#### **Article IV The Association**

1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership in the Association shall be appurtenant to, and may not be separated from, ownership of any Lot.

2. Voting Rights and Classes of Lots. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots (as this term is defined below). Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person or legal entity owns an interest (other than leasehold or security interest) in any Lot, all such persons or legal entities shall be Members and the voting rights appurtenant to said 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 Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots or other parcels of real property which comprise a portion of the Property owned by the Declarant (either AME Development Group, LLC or Cypress Grove Development Partners, LLC) which have not been conveyed to purchasers who are not affiliated with Declarant. During the Declarant Control Period, the Declarant shall be entitled to five (5) votes for each Class B Lot owned by it; following such

Declarant Control Period, the Declarant shall be entitled to one (1) vote for each Class B Lot owned by it.

3. Availability of Document. The Association shall maintain current copies of the Declaration, the Bylaws, and rules and regulations, concerning the Development as well as its own books, records, and financial statements available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by Lots or other parcels of real property which comprise a portion of the Property. All such documents shall be available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

4. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm, or corporation to act as managing agent of the Development at a compensation to be established by the Board of Directors and to perform all of the powers and duties of the Association; provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

5. Maintenance. The Common Areas and certain features thereof that are deemed common amenities and facilities, being of benefit to all Lots, shall be maintained exclusively by the Association. Said common amenities may include, without limitation, entrance walls, signage, lighting, landscaping, greenways, streets, common walks, and storm water and drainage easements (and appurtenances, equipment and facilities related thereto) located within the Common Areas. (The common amenities shall be provided at Declarant's sole and absolute discretion and Declarant is under no obligation to provide any of the amenities listed above.) The Association shall also maintain all utilities and all storm and drainage easements and appurtenances, equipment and facilities related thereto located within the Common Areas, together with common amenities not maintained by public entities or utilities. The Association shall not be responsible for the maintenance of any Lots or the improvements within the boundaries thereof; rather, the Owner shall be responsible for the same.

6. Working Capital Fund. The Association shall have a working capital fund. The working capital fund shall be maintained in a separate account for the use and benefit of the Association and shall be used to meet unforeseen expenditures or to acquire furniture, equipment, or services deemed necessary or desirable by the Board of Directors of the Association. All sums paid unto the working capital fund are in addition to and not in lieu of regular assessments for common expenses. Excluding the first sale of each Lot from the Declarant (either AME or Cypress) to an Owner or a preferred builder as determined by Declarant, including but not limited to, Eastwood Homes and a single preferred builder to be selected by Cypress for the Phase 3 and 4 Property, there shall be assessed by the Association and collected from each purchaser of a Lot a capital contribution in the amount of Five Hundred and No/100 (\$500.00) Dollars which shall be deposited into the working capital fund. The initial amounts in the working capital fund shall, until such reimbursement has been completed in full, be used to reimburse Declarant for the monies expended by Declarant in constructing the pool



and clubhouse amenity to be constructed as part of the Common Areas (such reimbursement to be pro-rata in respect of the amounts contributed to such construction cost by each person comprising Declarant but with respect to each such person comprising Declarant such reimbursement to be limited in amount to the amounts of such working capital fund funded from such person's portions of the Phase 1, 2, 3 and 4 Property).

7. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of all Common Areas, and all improvements thereon, which the Association is obligated to maintain. Such reserve fund shall be maintained from the annual assessments described in Article V of this Declaration.

## **Article V Covenant for Assessments**

1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot owned within the Property, hereby covenants and causes by this Declaration to impose upon each such Lot, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association, annual assessments or charges and special assessments for working capital and reserve funds for capital improvements, permitted in this Declaration, and established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made and shall be enforced as a lien in the same manner as a mortgage on the Lots, including foreclosure as a remedy. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall pass to an Owner's successors in title unless such successor acquires title through the foreclosure sale process.

2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used as follows:

(a) To maintain in a good and attractive condition the landscaping, including, without limitation, the mowing of lawns, planting and maintenance of shrubs, flowers and other plants, and watering on and within the boundaries of the Common Areas;

(b) to maintain the parks and greenways, if any, in the Common Areas common walks, common signage and entrance ways (including any walls erected at said entrance ways);

(c) to construct, maintain, repair and replace any and all lighting, drainage pipes, inlets, basins, ditches, swales, berms, rip rap, landscaping, vegetative cover, passive and active storm water detention, wetlands, and other facilities, equipment, and improvements installed upon, above, or under the Common Areas;

(d) to construct, maintain, repair and replace all trails or paths, if any, in the Common Areas as a common amenity in a reasonably passable condition, free from falling trees,

undergrowth, and other obstructions; and to keep all dead, diseased or decaying trees, shrubs and bushes removed from such areas and to replace such items with new trees, shrubs and bushes;

(e) to construct, maintain, repair and replace all recreational and related facilities, if any, located within the Common Areas as a common amenity; provided, that, the reference to said facilities herein shall not be construed to require said facilities to be constructed or installed in the Common Areas or elsewhere on the Properties;

(f) to maintain any improvements required by any County, State, or federal agency to be installed and maintained upon, under, or over the Common Areas;

(g) to keep all Common Areas clean and free from debris and to maintain same in a clean and orderly condition, and to maintain the landscaping therein, including any necessary removal and replacement of landscaping;

(h) to provide such security services as may be deemed reasonably necessary for the protection of the Common Areas, and any recreational and related facilities, if any, located within the Common Areas, from theft, vandalism, fire and damage from animals;

(i) to pay all ad valorem taxes levied against the Common Areas and any property owned by the Association;

(j) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws;

(k) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;

(l) to maintain a reserve fund as provided in Article IV, Section 7, of this Declaration; and

(m) to maintain a contingency reserve equal to 10% of the sum of the amounts described in the above subsections (a) through (k) of this Section 2 in order to fund unanticipated expenses of the Association.

The foregoing notwithstanding, no portion of any annual assessments may be used to fund (or to reimburse any person for the funding of) the initial construction of any Common Area and/or any improvements located thereon or therein; provided, however, that this limitation shall not restrict the reimbursement from the working capital fund described in Article IV, Section 6 above.

3. Maximum Annual Assessment. Until January 1 of the calendar year following the conveyance of the first Lot by Declarant to another Owner, the maximum annual assessment shall be Four Hundred Twenty-Five and NO/100ths (\$425.00) Dollars per Lot.

(a) The maximum annual assessments established above may be increased, effective January 1 of each calendar year following the conveyance of the first Lot by Declarant to another

Owner, without a vote of the membership of the Association by an amount not to exceed the greater of (1) five percent (5%) per year over the previous year; or (2) the percentage increase, if any, in the Consumer Price Index (published by the United States Department of Labor, Washington, DC) for all cities over the immediately preceding twelve (12) month period which ended on the previous October 31. If the annual assessment is not increased by the maximum amount permitted under the terms of this Section, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the assessment may be increased by that amount within the next three future years at the election of all members of the Board of Directors of the Association without a vote of the membership, in addition to the maximum increase permitted under the terms of the preceding sentence.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, said maximum annual assessments may be increased without limitation if such increase is approved by Members entitled to no less than sixty-seven (67%) of all of the votes (appurtenant to each class of Lots) to which all Members are entitled. Such voting may be represented in person or by proxy at a meeting duly called for such purpose.

(c) The Board of Directors may fix the annual assessments at amounts not in excess of the maximum. If the Board of Directors shall levy less than the maximum annual assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by majority vote, levy a supplemental assessment. In no event shall the sum of the initial and supplemental assessments for that annual period exceed the applicable maximum annual assessment permitted under Subsection 3(a) of this Article.

4. Special Assessments for Capital Improvements. In addition to the annual and supplemental annual assessments authorized in Section 3 above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto; provided, that any such assessment requires the same assent of the members as provided in Section 3 (b) of this Article.

5. Assessment Rate. Both annual and special assessments must be fixed at an equal amount for all Lots.

6. Notice and Quorum for Any Action Authorized Under Article V. Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following date set for the preceding meeting.

7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot upon the filing of this Declaration (or the filing of an Amendment to this Declaration if relating to the Additional Properties) in the Office of the Register of Deeds. The first annual assessment shall be adjusted and prorated according to the number of months remaining in the annual accounting period for the Association. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot or parcel is binding upon the Association as of the date of its issuance.

8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve (12%) percent per annum. Assessments shall constitute a lien against the Lots. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot in the same manner as the foreclosure of a mortgage, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of the assessment due and owing. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Areas or by abandoning Owner's Lot or parcel. The lien provided for herein shall be subordinate to any mortgage of record attaching to such Lot.

## **Article VI Architectural Control**

1. Plan of Design Approval; Fines for Failure to File; Lien. No improvements (including, but not limited to, repairs, replacements, paint, siding, trim, doors, windows, fences, ornamentation, residences and all other structures, outbuildings, yards and landscaping (hereinafter collectively referred to as "Design Details")) shall be undertaken upon any Lot, except by Declarant or, unless the plans and specifications and a site plan showing the location of the proposed improvements on the Lot shall have been submitted to the Architectural Committee established in Section 2 of this Article and expressly approved by the same in writing. The terms of this Article VI shall also not apply to the initial construction of improvements on a Lot by Declarant. The plans should also indicate the location of all existing trees on the Lot in excess of six (6) inches in diameter, such measurement to be taken four and one-half (4-1/2) feet above grade. No subsequent alteration or modification of any existing improvements or construction, erection or installation of additional improvements may be undertaken or allowed to remain on any of the Lots without the review and express written approval of the Architectural Committee, subject to Section 5 below.

Failure to submit plans or commencing construction without the prior written approval of the Architectural Committee (as required herein) shall be grounds for, among other things, the Board of Directors to levy a fine against such Owner. Said fine shall be a lien against the Lot

enforceable as a mortgage upon the filing of such lien as provided herein. Such lien shall be subordinate to the lien of any mortgage of record against such Lot.

2. Architectural Committee. There shall be two Architectural Committees hereunder, one for purposes of the Phase 1 and 2 Property and the other for purposes of the Phase 3 and 4 Property. As long as AME, or its successors or assigns, owns any Lot within the Phase 1 and 2 Property then AME, or a single designated successor at any time, shall have the exclusive authority to designate the number of and appoint the members of the Architectural Committee for the Phase 1 and 2 Property. As long as Cypress, or its successors or assigns, owns any Lot within the Phase 3 and 4 Property then Cypress, or a single designated successor at any time, shall have the exclusive authority to designate the number of and appoint the members of the Architectural Committee for the Phase 3 and 4 Property. The members of the Architectural Committee shall be appointed on an annual basis, and need not be members of the Association. In the event of the death, removal, or resignation of any member of the Architectural Committee, the applicable of AME or Cypress (or their applicable successor or assign) shall appoint a successor member to complete the term of the member who died, resigned, or was removed. Members of the Architectural Committee may be removed and replaced at any time with or without cause, and without prior notice, by Declarant. Once Declarant no longer owns any Lot or parcel, the Board of Directors shall designate the number of and appoint the members of the Architectural Committee on an annual basis and shall also appoint a successor member of the need arises.

3. Procedures. The Architectural Committee shall review all plans and specifications submitted pursuant to Section 1 above as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and direction of facing of main elevation with respect to nearby streets, and nature and appropriateness within the Development of all Design Details;
- (b) conformity and harmony of all Design Details and the exterior design, color, type and appearance of exterior surfaces or residences, all fences, structures and ornamentation;
- (c) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots, Common Areas, and any improvements situated thereon and drainage arrangement; and
- (d) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Architectural Committee, or matters in which the Architectural Committee has been vested with the authority to render a final interpretation and decision.

The Architectural Committee is authorized to request the submission of samples of proposed construction materials. Any modification or change to the Architectural Committee approved set of plans, specifications, site plan, and materials must again be submitted to the Architectural Committee for its inspection and approval or disapproval. The Architectural Committee's approval or disapproval shall be in writing. If the Architectural Committee approves

the plans, specifications and site plan for the proposed improvements, the construction of such improvements must be promptly commenced and diligently pursued to completion and if such construction is not commenced within the time set therefor by the Architectural Committee in the written approval (but in no event later than one (1) year after such approval), such approval shall be deemed rescinded and, before construction of improvements can thereafter be commenced on the subject Lot, the plans, specifications and site plan therefor must be again approved by the Architectural Committee pursuant to this Article.

4. Lien for Fines; Enforcement; Easement of Access for Enforcement; Remedy of Foreclosure. The Board of Directors of the Association, with or without the recommendation of the Architectural Committee, shall have the specific, nonexclusive right (but no obligation) to enforce the provisions contained in this Article and to prevent any violation of the provisions contained in this Article by, among other things, a fine in such amount as determined by the Board of Directors levied against the Owner of a Lot who violates or attempts to violate any such provisions contained herein by filing any such fine as a lien against such Lot in the public records of Berkeley County and enforcing payment of any such fine by an action of foreclosure against such Lot, including attorney's fees and costs of enforcement, as well as any other proceeding at law or in equity against the Owner of the Lot who violates or attempts to violate any such provisions contained herein. The Association shall have an easement and right of access over, upon and across the Lots in the Subdivision for purposes of enforcing the provisions of this Article and Article VIII concerning maintenance of Lots.

5. Effect of Failure to Approve or Disapprove. If the Architectural Committee fails to approve or disapprove the design of any proposed improvements within forty-five (45) days after plans, specifications, and site plan therefor have been received by the Architectural Committee, approval will not be required, and the requirements of this Article shall be deemed to have been fully satisfied; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Architectural Committee if they contain erroneous data or present inadequate information upon which the Architectural Committee can arrive at a decision. Notwithstanding the foregoing, the Architectural Committee shall have no right or power, either by action or failure to act, to waive or grant any variance relating to any mandatory requirements specified in the Declaration.

6. Right of Inspection. The Architectural Committee shall have the right, at its election, to enter upon any of the Lots during preparation, construction, erection, or installation of any improvements thereon to determine that such work is being performed in conformity with the approved plans and specifications.

7. Limitation of Liability. Neither the Architectural Committee, the members thereof, the Board of Directors of the Association, Association Members, nor the Declarant shall be liable in damages or otherwise to any Owner or anyone submitting plans, specifications, site plans and other submittals pursuant to this Article VI, or to any third party, member of the Association, or Owner of any other Lot with respect to the review, approval, disapproval, failure to review or failure to approve or disapprove any plans, specifications, site plans or other submittals pursuant to this Article VI, or with respect to any claims of mistake of judgment, negligence or nonfeasance arising out of or related to this Article VI.

8. Compensation. No member of the Architectural Committee shall be entitled to compensation arising out of services performed pursuant to this Article.

#### **Article VII Easements Reserved By Declarant**

Lots, parcels of real property which comprise a portion of the Property and the Common Areas shall be subject to those easements and rights-of-way, if any, as shown on the recorded Plats of the Property.

In addition thereto and in lieu thereof, Declarant reserves the following perpetual easements:

(a) a seven point five foot (7.5') easement along each side Lot line of each Lot (i) for the erection, installation, construction, repair, replacement, and maintenance of wires, lines, conduits, pipes, and poles, appurtenances, appliances, equipment and the like in connection with the transmission and distribution of electricity, telephone, cable television, and other utilities; and (ii) for the erection, installation, construction, and maintenance of storm water, drainage facilities, land drains, pumping and lift stations, open drainage ditches, public and private sewers, pipelines for supplying natural gas, water, and the like utilities and wires, lines, conduits, pipes, appurtenances, appliances, equipment and the like in connection therewith, and for, any other public or quasi-public facility, service or function;

(b) a twenty five foot (25') front easement and twenty foot (20') rear easement along Lot lines adjacent to streets for the installation of driveways, curbing, and curb cuts for driveways;

(c) the right and easement to erect permanent walls on the Common Areas for the purposes of providing screening, privacy, decoration, retainage and topographical stability in connection with the overall plan and development of the Development, the Property and the Lots located therein and thereon;

(d) a temporary easement for the benefit of Declarant over the Common Areas for the purpose of temporarily storing construction materials or parking vehicles and equipment in connection with the construction of improvements on the Common Areas or on adjacent or contiguous property owned by Declarant;

(e) an easement for the purpose of maintenance of landscaping over the Common Areas in such amount, manner and maintenance as the Declarant, in its sole discretion, shall determine; and

(f) an easement for the installation and maintenance of utilities (including transformers and service facilities) and other commonly beneficial amenities including, without limitation, mailboxes, trash containers and area lighting over the Property and Common Areas.

(g) temporary cul-de-sac easements as shown on any Plat of the Property.

Each Owner, by acceptance of a deed to a Lot, and the Association by its acceptance of a deed to the Common Areas, acknowledge and agree to the foregoing reservation of easements and the right of Declarant to transfer such easements to the Association or to public or private utility companies as Declarant may choose.

The easements reserved by the Declarant include the right to cut or remove without replacement any trees, bushes or shrubbery, make any gradings of the soil, or take any similar action required by a utility for acceptance of a transfer or reasonably necessary to provide economical utility installation and maintenance of the overall appearance of the Development.

Within any of the foregoing easements, no structure, planting or other material shall be placed or permitted to remain which may, in Declarant's sole opinion, interfere with the installation or use of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements, or which may otherwise damage or interfere with the enjoyment or use of the easements for their intended purposes.

The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of such Lot, except for those improvements for which, a public authority or utility company is responsible.

2. Encroachments. Each Owner of a Lot with an exterior wall, roof or eave, including overhangs, fence, concrete or asphalt walk or patio, which encroaches on the Common Area and/or an unimproved portion of a Lot of another Lot Owner and which encroachment exists solely by virtue of original construction by the Declarant or with Declarant's express approval, shall have an easement over that portion of the Common Area or adjacent Lot affected by the encroaching wall, roof, eave, fence, walk or patio for the purpose of using said portion of the Common Area or adjacent Lot for the encroaching Owner's own benefit and for the purpose of maintaining the encroaching structure in good condition and repair. In the case of a wall, roof, eave or fence encroachment, it shall be the responsibility of the Owner thereof to maintain the encroaching wall, roof, eave or fence in good condition and repair. If any such encroaching wall, roof, eave, fence, patio or walkway shall be destroyed or removed, it shall not be replaced or rebuilt so as to encroach upon the adjacent Lot or Common Area.

### **Article VIII General Covenants Uses Permitted and Restricted**

1. Residential Use of Property; Enforcement of Article; Fines; Lien; Foreclosure. All Lots shall be used for single-family residential purposes only, and no business or business activity shall be carried on or upon any Lot at any time; provided, however, that nothing herein shall prevent Declarant from using any Lot owned by Declarant for the purpose of carrying on business related to the development, improvement and sale of Lots in the Development.



The Board of Directors of the Association, with or without the recommendation of the Architectural Committee, shall have the specific, nonexclusive right to enforce the provisions contained in this Article and to prevent any violation of the provisions contained in this Article by, among other things, a fine in such amount as determined by the Board of Directors levied against the Owner of a Lot who violates or attempts to violate any such provisions contained herein, by filing any such fine as a lien against such Lot in the public records of Dorchester County and enforcing payment of any such fine by an action in foreclosure against such Lot, including attorney's fees and costs of enforcement, as well as any other proceeding at law or in equity against the Owner of the Lot who violates or attempts to violate any such provisions contained herein.

The Association shall have an easement and right of access over, upon and across the Lots in the Development for purposes of enforcing the provisions of this Article and Article VIII concerning maintenance of Lots.

2. Setbacks and Building Lines. Each structure, including without limitation, residential dwellings, garages, whether attached or detached, utility buildings, and any other permitted structures, erected on any Lot shall be situated on such Lot in accordance with the building and setback lines as shown on the recorded Plats of the Development. In no event shall any dwelling, garage, utility building or other permitted structure be constructed and located upon any Lot nearer to any side Lot line than ten (10%) percent of the width of the Lot measured at the front wall of the structure.

3. Re-Cutting Lots: Combining Lots. No Lot may be re-cut so that it faces a street other than as shown on the pertinent Plat of the Property. Lots or portions thereof may be combined with adjacent Lots to form a larger Lot than shown on a Plat. Easements and rights-of-way reserved in Article VII shall then apply to the new exterior Lot lines.

4. Dwelling Floor Space. Each Lot shall contain no more than one (1) residential dwelling containing the minimum floor space as follows:

- |     |                                   |                  |
|-----|-----------------------------------|------------------|
| (a) | One-story dwelling -              | 1050 square feet |
| (b) | One and one-half story dwelling - | 1050 square feet |
| (c) | Two-story dwelling -              | 1050 square feet |

No dwelling on any Lot shall have more than two stories as measured from grade and above. In calculating the minimum floor space, only the heated area of the dwelling shall be included. Any area comprising porches, garages, breezeways, porte-cocheres, unfinished attics and unfinished basements shall be excluded.

5. Garages. No garage erected on any Lot shall be more than two stories in height. All garages shall be attached to residential dwellings.

6. Detached Structures. No detached outbuilding or other structure shall be erected on any Lot that is more than two stories in height. All detached structures must be to the rear of

the main dwelling and must be constructed within the building setback lines for the Lot. Any detached structure to be erected, constructed, or placed upon any Lot must be approved in writing by the Architectural Committee.

7. Building and Zoning Codes. All structures must comply with all applicable building and zoning codes.

8. Swimming Pools. No swimming pools of any kind, including below and above ground pools, may be erected or constructed on any Lot.

9. Obstructions to View at Intersections and at Driveway, Entrances to Streets. Vegetation shall not be permitted by any Owner to obstruct the view at street intersections or at driveway entrances to streets.

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

11. Use of Outbuildings and Similar Structures. No structure of a temporary or permanent nature, unless approved in writing by the Architectural Committee, shall be erected or allowed to remain on any Lot. In no event shall any trailer, camper, shack, tent, garage, utility building, shed, greenhouse, barn or other structure of a similar nature be used as a residence, either temporarily or permanently; provided, however, that this Section shall not be construed to prevent the Declarant from using sheds or other temporary on Lots during construction.

12. Completion of Construction. The Architectural Committee shall have the right to take appropriate legal action, at law or in equity, to compel the immediate completion of any dwelling or other structure not completed within one (1) year from the date of commencement of construction.

13. Animals; Pets; Livestock. No animals, livestock, exotic pets, poultry, or other fowl of any kind (whether domestic or exotic) shall be raised, bred or kept on any Lot, except that a reasonable number of dogs, cats, or other small in-door household pets (ex. parakeets, fish, hamsters, gerbils) may be kept; provided, however, that they are not kept, bred, or maintained for any commercial purposes. "Reasonable number" shall mean not exceeding three (3) pets outdoors at any time. Any household pets must not constitute a nuisance or cause unsanitary conditions. Any such pets shall be securely fenced upon the Owner's Lot so as to prevent them from trespassing upon other Lots in the Development. All applicable local laws or regulations, including leash laws, shall be observed.

14. Offensive Activities. No noxious, offensive or illegal activities shall be carried on upon any Lot, nor shall anything be done thereon or any substance, thing, or material be kept thereon which is or may cause any noise or foul or obnoxious odors or become an annoyance or nuisance to the Owners of other Lots or that will or might disturb the peace, quiet, comfort, or serenity of other Owners.

15. Signs. No advertising signs or billboard shall be erected upon any Lot. This restriction shall not apply to signs used to identify and advertise the subdivision as a whole, nor to signs for selling Lots during the initial construction of residences on Lots; provided that such signs are approved by the Architectural Committee.

16. Fences. No fences of any kind shall be permitted on any Lot without the express written permission of the Architectural Committee. No fence shall exceed six (6) feet in height. Privacy fences shall be of a shadowbox design. No fences shall be erected or begun on any Lot without the prior written approval of the Architectural Committee as provided in Article VI hereof. Materials, height and location are subject to approval in accordance with this Section.

17. Decorative Yard Ornamentation. No decorative statues, birdbaths, fountains, ornaments, figurines, or any other decorative structures or items are permitted in the front or side yards of any Lot.

18. Maintenance. Each Owner shall keep and maintain the Owner's Lot and any improvements and landscaping thereon in good condition and repair, including, without limitation (a) repairing and painting (or other appropriate external care) of all structural improvements; (b) seeding, watering and mowing of all lawns; (c) pruning and trimming of all trees, hedges and shrubbery so that the same do not obstruct the view of pedestrians and motorists of street traffic. The Architectural Committee shall have the power and responsibility of enforcing this Section.

19. Antennae Satellite Dishes and Disks. No antennae, satellite dishes or disks, ham radio antennae, or antenna towers for receiving or transmitting radio, television, or other electronic transmission shall be permitted to be placed or used upon any Lot, except for small television receiving disks, not exceeding eighteen (18) inches in diameter, attached to or ground mounted immediately adjacent to the rear or side of the residential dwelling or attached garage on a Lot.

20. Playground Equipment and Basketball Goals. No basketball hoops or goals, whether free-standing, removable or attached to mounts shall be placed in or on any street, road, right-of-way, side walk, front yard, driveway, easement, or attached to the front or side of residences or garages. Basketball goals or hoops may be placed on a Lot only to the rear of residences or garages. All playground equipment, including without limitation, sandboxes, children's wading pools, swings, gym sets, soccer goals, volleyball or badminton nets, shall only be placed or kept in the rear of residences and garages and shall not be placed or kept in front or side yards.

21. Motorized Vehicles. No commercial, recreational, or disabled vehicles, boats, jet skis, boat trailers, motorcycles, motor homes, trucks, buses, vehicles on blocks or any like equipment or mobile or stationary trailers of any kind shall be kept, stored or parked overnight either on any street or on any Lot, except within a fully enclosed garage or behind the residence or garage, screened from view from any street adjacent to a Lot. Notwithstanding the foregoing, passenger automobiles may be parked in driveways, if the number of vehicles owned by Owner

exceeds the capacity of the garage. All motor vehicles must be equipped with functioning mufflers to maintain the lowest possible noise level when operated. The foregoing shall not be interpreted or applied to prevent the temporary, non-recurrent parking of any vehicle, boat, trailer or motor home for a period not to exceed forty-eight (48) hours or upon any Lot.

22. Construction Debris Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. All construction debris and litter shall be maintained in a manner that prevents any hazardous condition and/or distribution to any other Lot. All construction debris and litter shall be removed within fifteen (15) days of construction completion. No other garbage and refuse shall be kept or allowed to accumulate on any Lot except in sanitary containers designed for that purpose.

23. Changing Elevations. No Owner shall excavate or extract earth for any business or commercial purpose from any Lot. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots, unless approved in writing by the Architectural Committee.

24. Tanks. Fuel oil and gas tanks may not be installed on any Lot. Small fuel containers for lawn mowers and the like implements may be kept on Lots.

25. Clotheslines and Garbage Cans. Clotheslines and garbage cans and equipment shall be screened to conceal them from view of adjacent Lots and streets. No garbage incinerators shall be permitted on any Lot.

26. Firearms and Weapon Discharge. Any firearm or weapon discharge or release, other than for defense or protection or one's life or property, is strictly prohibited on any and all Property in the Development. Firearms and weapons shall include, without limitation, rifle, gun, pistol, shotgun, black powder gun, pellet or BB gun, bow and arrow, crossbow and arrow, and any other weapon from which any bullet, shot, or projectile may be discharged or released.

27. Model Homes. Declarant shall have the right to construct and maintain model homes on any of the Lots.

28. Driveways and Entrances to Garages. All driveways and entrances to garages shall be concrete or a substance approved in writing by the Architectural Committee and of a uniform quality.

29. Off-Street Parking. Provisions must be made by each Owner of a Lot for the parking of at least two automobiles belonging to occupants and guests off the adjacent streets and in garages on Lots. The parking of guest or occupant vehicles on streets for long or repeated periods of time during the day or night or both, except for occasional, non-regular social gatherings and functions, shall not be permitted. No vehicles shall be permitted to be parked on Lots except in garages or on driveways.

30. Aesthetics. Natural Growth. Screening. Trees which have a diameter in excess of six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be

intentionally destroyed or removed except with the prior written approval of the Architectural Committee.

31. Wild Bird Sanctuary. The Properties are declared to be a wild bird sanctuary. No wild bird of any type shall be killed or harmed above, upon or within the boundaries of the Properties.

32. No Pools, Wells or Irrigation. There shall be no pools, above or below ground, wells of any kind, irrigation systems or any trenching of dirt on any Lot, nor shall any Owner have access to water except from Berkeley County Water and Sewer Authority.

### **Article IX General Provisions**

1. Enforcement by Fine; Lien; Court Action; Foreclosure of Lien. The Association, or any Owner, shall have, the right to enforce, by any proceeding at law or in equity, all or any provisions of this Declaration including, without limitation, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by this Declaration as amended. Failure of the Association or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter and such failure shall not be deemed acquiescence in any breach of this Declaration. Each Owner shall have all appropriate remedies at law or in equity to enforce the provisions of this Declaration and the Bylaws of the Association and any duly authorized rules and regulations governing the Development against the Association.

2. Severability. Invalidation of any of the terms and conditions or provisions of this Declaration by final judgment of a court of competent jurisdiction shall not affect any other provisions which shall remain in full force and effect..

3. Amendment. This Declaration may be amended unilaterally by Declarant without vote or consent of any other person (including any Owner) at any time prior to the first (1<sup>st</sup>) anniversary of the Declarant Control Period. This Declaration may also be amended by an instrument signed by the Owners owning not less than ninety percent (90%) of the Lots (provided, however, that from and after the expiration of the time that the Declarant may unilaterally amend this Declaration then this Declaration may be amended by an instrument signed by the Owners owning not less than seventy-five percent (75%) of the Lots).

4. Duration. This Declaration and its covenants and restrictions shall run with and bind the land until January 1, 2023, after which time they shall be automatically extended for successive periods of ten (10) years.

5. Joint Declarant.

(a) Except as otherwise expressly provided herein, all matters requiring the consent, approval or other action of the "Declarant" shall require the like consent, approval or other action of all persons comprising the "Declarant" hereunder. In the event of a dispute

among the persons comprising the Declarant, and involving a matter expressly requiring the consent, approval or other action of the "Declarant" hereunder, then such matter shall be referred to and determined by the Board of Directors.



(b) Anything to the contrary contained herein notwithstanding, the liability of any and all persons comprising the Declarant hereunder shall be several, not joint, and each such person (i) shall be responsible only for its own actions or omissions, and (ii) shall be responsible only for its own acts or omissions occurring during the period during which it was a Declarant hereunder.

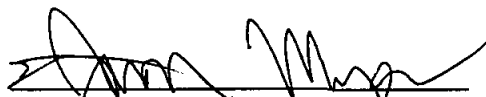
6. Association Liens; Effect of Sale or Transfer or Foreclosure; Mortgagee Protection. Anything to the contrary contain in the Governing Documents notwithstanding, any lien or other encumbrances at any time created by or for the benefit of the Association on any Lot (an "**Association Lien**") shall at all times, in all manner and for all purposes be subordinate to the lien of any Mortgage on a Lot and/or to any Mortgage of Declarant. The sale or transfer of any Lot shall not affect any Association Lien on that Lot, provided, however, the sale or transfer of any Lot pursuant to or in connection with any Mortgage foreclosure (or any deed-in-lieu thereof to as Mortgagee), shall extinguish the lien of such Association Lien against such Lot as to payments which became due prior to such sale or transfer pursuant to Mortgage foreclosure or the recording of such deed-in-lieu-of foreclosure. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any Mortgage as provided in this Declaration. No mortgagees shall be required to collect assessments or other Association Lien amounts hereunder.

IN WITNESS WHEREOF, Declarant, by and through its authorized representative, has caused this instrument to be executed the day and year first above written.

Witness:

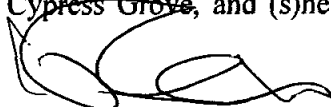
AME DEVELOPMENT GROUP, LLC

  
\_\_\_\_\_  
  
\_\_\_\_\_


  
By: Jason Myers, Managing Member

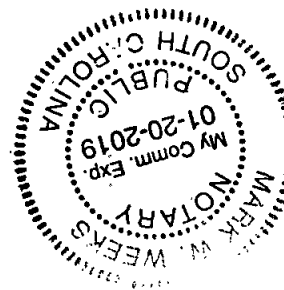
STATE OF SOUTH CAROLINA    )  
  )  
COUNTY OF CHARLESTON    )    PROBATE

Personally appeared before me the undersigned witness, who says on oath that (s)he saw the within named Jason Myers, Managing Member of AME Development Group, LLC, a South Carolina limited liability company, sign, seal and, as the act and deed of said limited liability company, deliver the within written Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Easements for Cypress Grove, and (s)he with the other witness, witnessed the execution thereof.

  
\_\_\_\_\_

Sworn to before me this  
6th day of May, 2014.

  
Notary Public for the State of South Carolina  
My Commission Expires: 1-2-15



## EXHIBIT "A"

00009871 Vol:10738 Pg: 116

ALL those certain pieces, parcels or lots of land situate, lying and being in the County of Berkeley, State of South Carolina, known and designated as Lots 62 through 151, H.O.A. .20 acres, H.O.A. .29 acres, H.O.A.34 acres and H.O.A. 2.44 acres, Phases 1 and 2, Cypress Grove, on a plat by Sinclair & Associates, LLC entitled "FINAL PLAT OF CYPRESS GROVE - PHASES 1 & 2 PREPARED FOR AME DEVELOPMENT GROUP, LLC" which plat is duly recorded in the ROD Office for Berkeley County, South Carolina on January 8, 2013 in Plat Book P at Pages 260 through 264; said lots in general having such size, shape and dimensions, more or less, as will by reference to said plat more fully appear, but having such actual size, shape and dimensions as shall be seen by an actual on the premises survey.

BEING a portion of the property as conveyed to AME Development, LLC by Deed of CR Properties, LLC, dated July 13, 2007 and recorded in the Berkeley County Register of Deeds Office on July 19, 2007 in Book 6726 at Page 105.

## TMS Nos.:

Lot 62	210-08-01-022	Lot 92	210-08-01-010	Lot 122	210-08-01-061
Lot 63	210-08-01-023	Lot 93	210-08-01-011	Lot 123	210-08-01-062
Lot 64	210-08-01-024	Lot 94	210-08-01-012	Lot 124	210-08-01-063
Lot 65	210-08-01-025	Lot 95	210-08-01-013	Lot 125	210-08-01-064
Lot 66	210-08-01-026	Lot 96	210-08-01-014	Lot 126	210-08-01-065
Lot 67	210-08-01-027	Lot 97	210-08-01-015	Lot 127	210-08-01-066
Lot 68	210-08-01-028	Lot 98	210-08-01-016	Lot 128	210-08-01-067
Lot 69	210-08-01-029	Lot 99	210-08-01-017	Lot 129	210-08-01-068
Lot 70	210-08-01-030	Lot 100	210-08-01-018	Lot 130	210-08-01-069
Lot 71	210-08-01-031	Lot 101	210-08-01-019	Lot 131	210-08-01-070
Lot 72	210-08-01-032	Lot 102	210-08-01-020	Lot 132	210-08-01-071
Lot 73	210-08-01-033	Lot 103	210-08-01-021	Lot 133	210-08-01-072
Lot 74	210-08-01-034	Lot 104	210-08-01-043	Lot 134	210-08-01-073
Lot 75	210-08-01-035	Lot 105	210-08-01-044	Lot 135	210-08-01-074
Lot 76	210-08-01-036	Lot 106	210-08-01-045	Lot 136	210-08-01-075
Lot 77	210-08-01-037	Lot 107	210-08-01-046	Lot 137	210-08-01-076
Lot 78	210-08-01-038	Lot 108	210-08-01-047	Lot 138	210-08-01-077
Lot 79	210-08-01-039	Lot 109	210-08-01-048	Lot 139	210-08-01-078
Lot 80	210-08-01-040	Lot 110	210-08-01-049	Lot 140	210-08-01-079
Lot 81	210-08-01-041	Lot 111	210-08-01-050	Lot 141	210-08-01-080
Lot 82	210-08-01-042	Lot 112	210-08-01-051	Lot 142	210-08-01-081
Lot 83	210-08-01-001	Lot 113	210-08-01-052	Lot 143	210-08-01-082
Lot 84	210-08-01-002	Lot 114	210-08-01-053	Lot 144	210-08-01-083
Lot 85	210-08-01-003	Lot 115	210-08-01-054	Lot 145	210-08-01-084
Lot 86	210-08-01-004	Lot 116	210-08-01-055	Lot 146	210-08-01-085
Lot 87	210-08-01-005	Lot 117	210-08-01-056	Lot 147	210-08-01-086
Lot 88	210-08-01-006	Lot 118	210-08-01-057	Lot 148	210-08-01-087
Lot 89	210-08-01-007	Lot 119	210-08-01-058	Lot 149	210-08-01-088
Lot 90	210-08-01-008	Lot 120	210-08-01-059	Lot 150	210-08-01-089
Lot 91	210-08-01-009	Lot 121	210-08-01-060	Lot 151	210-08-01-090

H.O.A. (.20 acres) 210-08-01-091  
H.O.A. (.29 acres) 210-08-01-092

H.O.A. (.34 acres) 210-08-01-093  
H.O.A. (2.44 acres) 210-08-01-094

**TOGETHER WITH**



ALL those certain pieces, parcels or tracts of land situate, lying and being in the County of Berkeley, State of South Carolina, being shown and designated as TRACTS A, B, C & D, on a plat prepared by Sinclair & Associates, Inc., dated December 13, 2013, entitled "BOUNDARY SURVEY PREPARED FOR: CYPRESS GROVE DEVELOPMENTS PARTNERS, LLC" and recorded in the Register of Deeds Office for Berkeley County, South Carolina, in Plat Cabinet R, at Page 218-P.

BEING a portion of the same property conveyed to AME Development Group, LLC by Deed of CR Properties, LLC, dated July 13, 2007, and recorded in the Office of the Register of Deeds for Berkeley County, SC in Book 6726, Page 105.

P/O TMS#: 210-00-00-163

**EXHIBIT 'B'**  
**AMENDED AND RESTATED**  
**BYLAWS**  
**OF**  
**CYPRESS GROVE HOMEOWNERS' ASSOCIATION, INC.**  
***A South Carolina Nonprofit Mutual Benefit Corporation***

Pursuant to the provisions of the South Carolina Nonprofit Corporation Act, the Board of Directors of Cypress Grove Homeowners' Association, Inc., a South Carolina nonprofit mutual benefit corporation, has or intends to adopt the following Bylaws for such corporation.

**ARTICLE I**  
**Name, Principal Office, and Definitions**

1.1 **Name.** The name of the corporation is Cypress Grove Homeowners' Association, Inc. ("Association")

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

1.3 **Definitions.** The words used in these Bylaws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in the Declaration of Covenants, Conditions, and Restrictions for Cypress Grove Chase Homeowners' Association, Inc. filed in the Office of Register of Deeds for Berkeley County, South Carolina, as it may be supplemented and amended ("**Declaration**"), unless the context indicates otherwise.

**ARTICLE II**  
**Association: Membership, Meetings, Quorum, Voting, Proxies**

2.1 **Members.** Each Owner of a Lot (as defined in the Declaration) shall be a Member of the Association. The Association shall have two classes of membership as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference subject to such terms and conditions as set forth in the Declaration and these Bylaws. In particular, some Members are Owners of Class A Lots and some Members are Owners of Class B Lots.

2.2 **Notice of Ownership.** In order to confirm Membership, upon purchasing a Lot in Cypress Grove, the Owner of such Unit shall promptly furnish to the Association a legible copy of the

instrument conveying ownership to the Owner, which copy shall be maintained in the records of the Association.

2.3 Place of Meetings. Association meetings shall be held at the Association's principal office or at such other suitable place convenient to the Members as the Board may designate.

2.4 Annual Meetings. The first Association meeting, whether a regular or special meeting, shall be held not later than sixty (60) days after the expiration of the Declarant Control Period, unless earlier set by the Declarant. Meetings shall be of the Members. Subsequent regular annual meetings shall be held each year at a time set by the Board.

2.5 Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of the Board or upon a petition signed by at least twenty-five percent (25%) of the voting interest of the Members. The notice of any special meeting shall state the date, time, and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

2.6 Notice of Meetings. It shall be the duty of the Secretary to mail or to cause to be delivered to the Owner of each Lot (as shown in the records of the Association) a notice of each annual or special meeting of the Association stating the time and place where it is to be held and in the notice of a special meeting, the purpose thereof. If an Owner wishes notice to be given at an address other than the Lot, the Owner shall designate by notice in writing to the Secretary such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices for annual and special meetings shall be served at least thirty (30) days but not more than sixty (60) days in advance of such meeting.

If mailed, the notice of a meeting shall be deemed to be delivered upon the earliest of: (a) the date received; (b) five (5) days after its deposit in the United States mail, as evidenced by its postmark, if mailed with first class postage affixed; (c) the date shown on the return receipt, if mailed by registered or certified mail, return receipt requested, and signed by or on behalf of the addressee; or (d) thirty (30) days after its deposit in the United States mail, as evidenced by the postmark, if mailed with other than first class, registered, or certified postage affixed.

2.7 Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice either before or after such meeting. Attendance at a meeting by a Member shall be deemed waiver by such Member of notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance also shall be deemed waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.8 Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, a majority of the Members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At any such adjourned meeting, the

necessary quorum shall be fifty (50%) percent of the Members who were present either in person or by proxy at the original meeting, and further, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.9 Voting. The Declaration shall set forth the Member's voting rights; such voting rights provisions are specifically incorporated by this reference.

2.10 Authority of Person Voting. The Board shall have the authority to determine, in its sole discretion, whether any person claiming to have authority to vote on behalf of or as a Member has such authority. If the Member is a corporation, partnership, limited liability company, trust, or similar entity, the Association may require the person purporting to vote on behalf of such Member to provide reasonable evidence that such person (the "Representative") has authority to vote for such Member. Unless the authority of the Representative is challenged in writing at or before the time of voting, or is challenged orally at the time of voting, the Association may accept such Representative as a person authorized to vote for such Member, regardless of whether evidence of such authority is provided.

2.11 Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of such Member's Lot, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

2.12 Majority. As used in these Bylaws, the term "majority" shall mean those votes of the Members, or other group as the context may indicate, totaling more than fifty percent (50%) of the votes of Members at a meeting at which a quorum is present.

2.13 Quorum. At all meetings of Members, regular or special, the presence, in person or by proxy, of at least ten percent (10%) of the total eligible vote of the Association shall constitute a quorum. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. Any amendment to this Section shall comply with the provisions of Section 33-31-1023 of the South Carolina Nonprofit Corporation Act.

2.14 Conduct of Meetings. The President shall preside over all Association meetings, and the Secretary shall keep the minutes of the meetings and record in the minute book all resolutions adopted and all other transactions occurring at such meetings. Further, Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation, the Declaration, these By-Laws or the statutes of the State of South Carolina.

2.15 Action Without a Meeting. Any action to be taken at a meeting of the Members, or which may be taken at a meeting of the Members, may be taken without a meeting if written consents setting forth the action so taken are signed by Members holding at least eighty percent (80%) of the Association's voting power. Action taken without a meeting shall be effective on

the date that the last consent is executed or, if required, the date Declarant consents to the action unless a later effective date is specified therein. Each signed consent shall be delivered to the Association and shall be included in the minutes of the meetings of the Members filed in the permanent records of the Association.

### **ARTICLE III**

#### **Board of Directors: Number, Powers, Meetings**

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

3.1 **Governing Body; Composition.** The business and affairs of the Association shall be governed by a Board of Directors. Each director shall have one equal vote. Except with respect to directors appointed by Declarant during the Declarant Control Period, the directors shall be Members or residents of the Community; provided, however, that no two persons, being either Owners or residents, of any one Lot may serve on the Board at the same time. A "resident" shall be any person eighteen (18) years of age or older whose principal residence is a Lot within the Community. In the case of a Member which is not an individual, any officer, director, partner, member or manager of a limited liability company, or trust officer of such Member shall be eligible to serve as a director unless a written notice to the Association signed by such Member specifies otherwise; however, no Member may have more than one such representative on the Board at the time, except in the case of directors appointed by Declarant.

3.2 **Number of Directors.** During the Declarant Control Period, the Board shall consist of five (5) directors, two (2) appointed by AME (or its successor), two (2) appointed by Cypress (or its successor) and the fifth (5<sup>th</sup>) appointed by the other four (4) and to be independent from either AME or Cypress. Thereafter, the Board shall consist of three (3) to five (5) directors, as provided in Section 3.4 below.

#### **3.3 Nomination and Election Procedures.**

(a) **Nomination of Directors.** Except with respect to directors appointed by Declarant during the Declarant Control Period, nominations for election to the Board shall be made by a "Nominating Committee." The Nominating Committee shall consist of a Chairman, who shall be a Board member, and two (2) or more Members or representatives of Members who may also be Board Members. The Board shall appoint the Nominating Committee not less than thirty (30) days prior to each election to serve a term of one year or until their successors are appointed, and such appointment shall be announced at each such election. The Nominating Committee shall make as many nominations for election to the Board as it shall, in its discretion, determine, but in no event less than the number of positions to be filled as provided in Section 3.4 below. Nominations shall also be permitted from the floor. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

### 3.4 Election and Term of Office.

(a) During Declarant Control Period. The Declarant shall have the sole and exclusive right to appoint and to remove the directors of the Association until the first to occur of the following:

- (i) thirty (30) days following the expiration of the Declarant Control Period;
- (ii) twenty (20) years after this Declaration is Recorded; or
- (iii) Upon Declarant's surrender in writing of the authority to appoint and remove directors and officers of the Association.

Notwithstanding its right to appoint and remove officers and directors of the Association, Declarant reserves the right to approve or disapprove specified actions of the Association as provided in Section 3.18 herein.

(b) Subsequent to Declarant Control Period. Upon the expiration of the Declarant Control Period, directors shall be elected by the Members and hold office as follows:

(i) The Association shall call a special meeting to be held at which Members shall elect three (3) directors to serve until the next annual meeting of the Members. At the next annual meeting of the Members following the expiration of the Declarant Control Period, the Members shall elect two (2) directors for an initial term of two (2) years and one (1) director for an initial term of one (1) year. At the expiration of the initial term of office of each director, a successor shall be elected to serve for a term of two (2) years. The directors shall hold office until their respective successors shall have been elected by the Association.

(ii) Thereafter, directors shall be elected at the Association's annual meeting. Each Member may cast the entire vote assigned to his Lot for each position to be filled. There shall be no cumulative voting. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

(iii) After the expiration of the Declarant Control Period, upon the affirmative vote of sixty-seven (67%) percent of the Members, the number of directors may be expanded to any odd number up to and including five (5) directors. In the event the Members vote to expand the Board, the additional directors shall each serve a term of two (2) years on a staggered basis such that in one year three (3) directors would be elected for a term of two (2) years, and the following year two (2) directors would be elected for a term of two (2) years each, depending on total number of directors.

3.5 Removal of Directors and Vacancies. At any regular or special meeting of the Association duly called, any one or more directors may be removed, with or without cause, by a vote of a majority of the Members and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Members shall be

given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any director who had three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than thirty (30) days may be removed by a majority vote of the remaining directors at a meeting.

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

Declarant shall be entitled to appoint or remove Directors at any time during the Declarant Control Period. Thereafter, Declarant may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director it has appointed.

A. Meetings.

3.6 Annual Meetings. The Board shall hold an annual meeting within thirty (30) days following each annual meeting of the Members at such time and place the Board shall fix.

3.7 Regular Meetings. The Board may hold regular meetings at such time and place a majority of the directors shall determine, but the Board shall hold at least four (4) such meetings during each fiscal year with at least one per quarter. The Board shall give notice of the time and place of a regular meeting to directors not less than six (6) days prior to the meeting; provided, the Board need not give notice of a meeting to any director who has signed a waiver of notice or a written consent to holding the meeting.

3.8 Special Meetings. The Board may hold special meetings when called by written notice signed by the President, the Vice President, or any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least six (6) business days before the time set for the meeting. Notices given by personal delivery, telephone, or electronic communication shall be delivered or communicated at least seventy-two (72) hours before the time set for the meeting. Notices of such meetings shall also be delivered to the Members contemporaneously with the directors' notices.

3.9 Waiver of Notice. The transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present; and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice

of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10 Telephonic Participation in Meetings. Members of the Board or any committee the Board designates may participate in a meeting of the Board or committee by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this Section shall constitute presence at such meeting.

3.11 Quorum of Board of Directors. At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless the Bylaws or the Declaration specifically provide otherwise. A meeting at which a quorum is present initially may continue to transact business notwithstanding the withdrawal of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact without further notice any business which it might have transacted at the original meeting. Any amendments to this Section shall comply with the provisions of the Section 33-31-1024 of the South Carolina Nonprofit Corporation Act.

3.12 Compensation. Directors shall not receive any compensation from the Association for acting as such. The Association may reimburse any director for expenses incurred on the Association's behalf. Nothing herein shall prohibit the Association from compensating a director, or any entity with which a director is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director pursuant to a contract or agreement with the Association, provided that such director makes his or her interest known to the Board prior to entering into such contract and a majority of the Board, excluding the interested director, approves such contract.

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

3.14 Open Meetings. Subject to the provisions of Section 3.15, all Board meetings shall be open to all Members, but attendees other than directors may not participate in any discussion or deliberation unless a director requests permission for that person to speak. In such case, the President may limit the time such person may speak. Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors. Only the following matters are open for discussion in executive session:

(a) matters pertaining to Association employees or involving the employment, promotion, discipline, or dismissal of an officer, agent or employee of the Association;



(b) consultation with legal counsel regarding disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;

(c) investigative proceedings concerning possible or actual criminal conduct;

(d) matters subject to specific constitutional, statutory; or judicially imposed requirements protecting particular proceedings or matters from public disclosure; and

(e) any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

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

#### B. Powers and Duties.

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

3.17 Duties. The Board's duties shall include, without limitation:

(a) causing to be prepared and adopting, in accordance with the Declaration, an annual budget establishing each Member's share of the Common Expenses and any Neighborhood Expenses;

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

(c) providing for the operation, care, upkeep, and maintenance of the Common Area and entering into agreements with adjacent property owners to allocate maintenance responsibilities and costs of certain public rights-of-way and other property within or adjacent to the Property;

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

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

- (f) making and amending Rules and Regulations in accordance with the Declaration;
- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;
- (i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) paying the cost of all services rendered to the Association;
- (l) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (m) making available to any prospective purchaser of a Lot, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Property;
- (o) indemnifying an Association director, officer, or committee member, or former Association director, officer, or committee member to the extent such indemnity is required by South Carolina law, the Articles of Incorporation, or the Declaration; and
- (p) assisting in the resolution of disputes between Owners and others without litigation, as set forth in the Declaration.

3.18 Right of Declarant to Disapprove Actions. During Declarant Control Period, Declarant shall have a right to disapprove any action, policy, or program of the Association, the Board, and any committee which, in Declarant's sole judgment, would tend to impair rights of Declarant or any builders approved by Declarant under the Declaration or these Bylaws, interfere with the development or construction of any portion of the Property, or diminish the level of services the Association provides.

- (a) The Association shall give Declarant written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the

Board, or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, which notice complies as to the Board meetings with Sections 3.7, 3.8, 3.9, and 3.10 and which notice shall, except in the case of the regular meetings held pursuant to the Bylaws, set forth in reasonable particularity the agenda to be followed at said meeting; and

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

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

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

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

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

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

- (a) accrual accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) the Association's cash accounts shall not be commingled with any other accounts;

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

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

(f) an annual report consisting of at least the following shall be made available to all Members within one-hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines, by an independent public accountant; however, upon written request of any holder, guarantor, or insurer of any first Mortgage on a Lot, and at the expense of the party making the request, the Association shall provide an audited financial statement. During the Declarant Control Period, the annual report shall include certified financial statement.

3.21 Borrowing. The Association shall have the power to borrow money for any legal purpose; however, the Board shall obtain Member approval in the same manner provided in Article V of the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed twenty percent (20%) of the Association's budgeted gross expenses for that fiscal year. No Mortgage lien shall be placed on any portion of the Common Area without the affirmative vote or written consent, or any combination thereof, of Members representing at least eighty percent (80%) of the total vote in the Association.

3.22 Right to Contract. The Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with residential or nonresidential owners' associations outside the Property; however, any common management agreement shall require the Board's consent.

3.23 Enforcement. In addition to such other rights as are specifically granted under the Declaration, the Board shall have the power to impose reasonable monetary fines, which shall constitute a lien upon the Lot of the violator, and to suspend an Owner's right to vote for violation of any duty imposed under the Governing Documents. In addition, the Board may suspend any services the Association provides to an Owner or an Owner's Lot if the Owner is more than thirty (30) days delinquent in paying any assessment or other charges owed to the Association. In the event that any occupant, tenant, employee, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the Association shall first assess the fine against the occupant, tenant, employee, guest, or invitee; however, if the occupant does not pay the fine within the time period the Board sets, the Owner shall pay the fine upon notice from the

Association. The Board's failure to enforce any provision of the Governing Documents shall not be deemed a waiver of the Board's right to do so thereafter.

(a) Notice. Prior to imposition of certain sanctions requiring notice under the Declaration, the Board, or its delegate, shall serve the alleged violator with written notice describing (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than ten (10) days within which the alleged violator may present a written request for a hearing to the Board; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed; however, the Board may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person.

(b) Hearing. If a hearing is requested within the allotted ten (10) day period, the hearing shall be held before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board may elect to enforce any provision of the Governing Documents by self help (specifically including, but not limited to, towing vehicles that are in violation of parking rules) or, following compliance with the dispute resolution procedures set forth in of the Declaration, if applicable, by suit at law or in equity to enjoin any violation or to recover monetary damages or both, without the necessary compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or Person responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred. Any entry onto a Lot for purposes or exercising this power of self help shall not be deemed as trespass.

3.24 Board Standards. While conducting the Association's business affairs, the Board shall be protected by the business judgment rule. The business judgment rule protects a director appointed by Declarant from personal liability so long as the director: (i) serves in a manner the director believes to be in the best interests of the Association and the Members; or (ii) serves in good faith. The business judgment rule protects a director not appointed by Declarant from liability for actions taken or omissions made in the performance of such director's duties, except for liability for wanton and willful acts or omissions.

In fulfilling its governance responsibilities, the Board's actions shall be governed and tested by the rule of reasonableness. The Board shall exercise its power in a fair and

nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

The burden of proof in any challenge to an action or inaction by a director shall be on the party asserting liability.

The operational standards of the Board and any committee the Board appoints shall be the requirements set forth in the Governing Documents or the minimum standards which Declarant, the Board, and the Architectural Committee may establish. Such standard shall, in all cases, meet or exceed the standards set by Declarant and the Board during the Declarant Control Period. Operational standards may evolve as the needs and demands of the Community change.

3.25 Board Training Seminar. Each director is encouraged to complete a board training seminar within such director's first six months of directorship. Such seminar shall educate the directors about their responsibilities and duties. The seminar may be in live, video or audio tape, or other format.

#### **ARTICLE IV** **Officers**

4.1 Officers. The Association's officers shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not be Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. The same person may hold any two (2) or more offices, except the offices of the President and Secretary. Moreover, the Secretary shall be responsible for preparing minutes of all directors' and Members' meetings and for authenticating records of the corporation.

4.2 Election and Term of Office. The Board shall elect the officers of the Association at the first Board meeting following each annual meeting of the Members, to serve until their successors are elected.

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

4.4 Powers and Duties. The Association's officers shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Secretary shall prepare, execute, certify, and Record amendments to the Declaration as provided in the Declaration. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent or both.

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

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

4.6 Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other Association instruments shall be executed by at least two (2) officers or by such other person or persons as a Board resolution may designate.

4.7 Compensation. Officers' compensation shall be subject to the same limitations as directors' compensation under Section 3.12.

## **ARTICLE V**

### **Committees**

The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

## **ARTICLE VI**

### **Miscellaneous**

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

6.2 Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order (the then current edition) shall govern the conduct of Association proceedings when not in conflict with South Carolina law or the Governing Documents.

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

6.4 Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Lot, any Member, or the duly appointed representative of any of the foregoing, at any reasonable time and for a purpose reasonably related to his or her interest in a Lot: the Declaration, Bylaws, and Articles of Incorporation, including any amendments, any Supplemental Declarations, the Rules and Regulations, the membership register, books of account, and the minutes of meetings of the Members, the Board and committees. The Board shall provide for such inspection to take place at the Association's office or at such at other place within the Property as the Board shall designate.

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

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made;  
and

(iii) payment of the cost of reproducing copies of documents requested.

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

6.5 Notices. Unless the Declaration or these Bylaws otherwise provide, all notices, demands, bills, statements, or other communications under the Declaration or these Bylaws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

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

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

6.6 Amendment.

(a) By Declarant. During the Declarant Control Period, Declarant unilaterally may amend these Bylaws for any purpose. Thereafter, Declarant or the Board unilaterally may amend these Bylaws at any time, and from time to time, if such amendment is necessary: (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Lots; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Lots; provided, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing.

(b) By Members Generally. Except as provided above, these Bylaws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing greater than fifty percent (50%) of the total vote in the Association, and the consent of Declarant, so long as Declarant during Declarant Control Period.

(c) Validity and Effective Date of Amendments. Amendments to these Bylaws shall become effective upon Recordation, unless the amendment specifies a later effective date. Any procedural challenge to an amendment must be made within one year of its Recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of



conditions or circumstances operate to amend any provisions of these Bylaws. The Secretary shall prepare, execute, certify, and Record amendments to these Bylaws.

No amendment may remove, revoke, or modify any of Declarant's rights or privileges without its written consent during the Declarant Annexation Period.