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Office of REGISTER OF DEEDS, SPARTANBURG, S.C.

Dorothy Earle, Register Of Deeds

) COVENANTS, CONDITIONS, EASEMENTS  
 ) AND RESTRICTIONS FOR  
 ) **BELLA CASA SUBDIVISION**

**WHEREAS**, South Tyger Properties, LLC ("Declarant") is the Developer of a certain tract of land located in Spartanburg County, Spartanburg County, South Carolina, known as Bella Casa, and being more particularly described as follows:

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Spartanburg, being shown and designated as containing 35.80 acres (3-09-00-086.00) as shown on boundary survey for South Tyger Properties, LLC made by Souther Land Surveying, dated November 28, 2018 and recorded in Plat Book 175 at Page 294 on January 28, 2019 in the Register of Deeds Spartanburg County, South Carolina (the "Plat") and reference to which Plat is hereby craved for a complete metes and bounds description (hereinafter the "Real Property").

Derivation: BEING that property conveyed to South Tyger Properties, LLC by that Deed of Real Estate dated January 25, 2019 and recorded January 28, 2019, in Deed Book 122-P Page 882, Spartanburg County Register of Deeds.

**NOW, THEREFORE**, Declarant hereby declares that the Real Property described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the Real Property and be binding on all parties having any right, title, or interest in the Real Property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

#### **ARTICLE I - DEFINITIONS**

Section 1. "**Association**" shall mean and refer to Bella Casa Homeowner's Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

Section 2. "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding the Declarant and builders holding property for resale and those having such interest merely as security for the performance of an obligation.

Section 3. "**Property**" and "**Properties**" shall mean and refer to that certain Real Property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "**Lot**" shall mean and refer to any numbered plot of land shown on the Plat.

Section 5. "**Declarant**" shall mean and refer to South Tyger Properties, LLC a South Carolina corporation, and its Successors and assigns to whom the rights of Declarant are specifically assigned as evidenced by an instrument signed by Declarant and recorded in the land records for Spartanburg County, South Carolina. Declarant may, at its option, assign only a portion of its rights hereunder, or all of such rights in connection with the appropriate portions of the Property. In the event of such partial assignment, the assignee shall not be deemed to be the Declarant, but may exercise those rights assigned to it by the Declarant. Any such assignment may be made on a non-exclusive basis. At such time as Declarant no longer is the Owner of a Lot in the Subdivision, the rights of Declarant under this Declaration shall inure to the Association.

Section 6. "**Approved Builder**" shall mean and refer to those builders which have been selected by Declarant to construct homes for sale in the Subdivision.

Section 7. "**Common Area**" shall mean and refer to all Real Property shown and designated on the Plat as "Common Area" and/or "Open Space" including but not limited to, any real property or easements owned by the Association for the common use and enjoyment of the Owners. The Common Area shall be owned by the Association for the common use and benefit of the Owners, subject to the easements, terms, conditions and restrictions described in this Declaration. Responsibility for the maintenance of the Common Area, including any paved, landscaped, lighted or other improved areas located within the Common Area shall be the responsibility of the Association.

Section 8. "**Subdivision**" shall mean and refer to the Real Property described on the Plat.

Section 9. "**Director**" shall mean the Spartanburg County Administrator or Assistant for Public Works or any of that person's duly authorized representatives.

Section 10. "**Storm Water Management Facility**" shall mean any structural storm water management measure used to treat storm water runoff including, but not limited to basins, ponds, proprietary devices, low impact development features, water quality buffers, filtration and/or other treatment devices.

## ARTICLE II - PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall be a member of the Association, which memberships shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable fees for the maintenance and lighting of entrances, the Common Area, fences, landscaping, sprinkler systems, light fixtures and related bulbs and other reasonable expenses,

(b) The right of the Association and Declarant to suspend the voting rights of an Owner for any period not to exceed sixty (60) days for any infraction of its published

rules and regulations and the right of the Association to impose fines for such infractions;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency or authority. Except as provided otherwise herein, no such dedication or transfer by the Association shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3) of each class of members and has been recorded In the Land Records Of Spartanburg County, South Carolina;

(d) The right of the Association, in accordance with the Articles of Incorporation and its Bylaws, to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;

(e) The right of the Association, in accordance with its Articles of Incorporation and its Bylaws, to borrow money for the purpose of improving the Common Area and facilities thereon. No such mortgage of the Common Area shall be effective unless an Instrument agreeing to such mortgage of Common Area is signed by two-thirds (2/3) of each class of members; and

(f) The right of the Association to exchange portions of the Common Area with the Declarant for substantially equal areas of the properties for the purpose of eliminating unintentional encroachments of improvements onto portions of the Common Areas or for any other purpose or reason.

## **Section 2.            Voting Rights.**

The Association shall have two classes of voting membership.

**Class A.**            Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The Vote for such Lot shall be exercised as the owners of the specific Lot determine, but in no event shall more than one vote be cast with respect to any Lot.

**Class B.**            Declarant shall be the sole Class B Member. Class B membership shall be a full voting membership and, during its existence, the Class B Member shall be entitled to vote on all matters or issues before or considered by the Association. The Class B Member shall be entitled to one (1) vote for each Lot it owns, plus one (1) vote for each Lot owned by a Person other than the Declarant. The Class B membership shall cease and shall be converted to Class A membership at such time as the first of the following events occur: (i) the date that all the Lots in the Community have been conveyed by the Declarant to an Owner or Owners who, either individually or through tenants and assigns, intend to occupy the Lot as their primary residence; (ii) the surrender by the Declarant of the right to appoint or remove any officer of the Association or member of the Board by a Recorded Document executed by the Declarant; or (iii) the expiration of Declarant's rights to appoint or remove any officer of

the Association or member of the Board.

**Section 3. Declarant's Covenant to Convey Title to Common Area.** Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to its property designated herein as Common Area to the Association anytime before such time as the Declarant conveys the last Lot to some person other than Declarant. Additionally, if Storm Water Management Facilities are located within the Common Area, the Declarant shall take the following actions at or prior to the time in which the Subdivision is fifty (50 %) percent built: (1) convey fee simple title to the applicable Storm Water Management Facilities to the Association, and (2) file any and all necessary documentation defining the responsible party for maintaining the Storm Water Management Facilities with the Director. The Common Area shall be free from any monetary liens but subject to easements of record, including any easements established by this Declaration. The Association shall accept the conveyance of all such Common Area and Storm Water Management Facilities pursuant to this Section.

### ARTICLE III - COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1. Creation of the Lien and Personal Obligation of Assessments.** Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) a one-time Initiation Fee (2) annual assessment or charges, and (3) special assessments for capital improvements, such to be established and collected as herein provided. The Fee and annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Approved Builder(s) are not immediately subject to this Obligation per Article III, Section 8.

#### **Section 2. Purpose of Assessments.**

(a) The assessments levied by the Association Shall be used exclusively to promote the recreation, health, safety and welfare of the residents of Bella Casa Subdivision and in particular for the improvement and maintenance of services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to,

- i. the costs of repairs, replacements and additions, labor, equipment, materials management and supervision of the Common Area;
- ii. the payment of taxes assessed against the Common Area;
- iii. the maintenance of water and sewer mains in and upon the Common Area;

iv. the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including

medians and islands located in dedicated right-of-way), drives and parking areas within the Common Area,

v. the procurement and maintenance of insurance in accordance with the Bylaws;

vi. the maintenance of lakes, ponds, retention areas or other bodies of water located within the Common Area, if any as well as the maintenance Of dams and areas surrounding such water;

vii. the maintenance of any "sign easement" areas located on any Lot, as shown on a recorded plat;

viii. the maintenance of entranceways, landscaping and lighting of the Common Area, road medians, islands and entranceways, and the lighting of streets (whether public or private);

ix. the payment of charges for garbage collection and municipal water and Sewer services furnished to the Common Area;

x. the costs associated with duties of the Architecture Review Committee;

xi. the employment of attorneys and other agents to represent The Association when necessary;

xii. the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Area and those other portions of the Subdivision which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Subdivision, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws Of the Association. When a Lot Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the funds or assets of the Association, which may have been

paid to the Association by such Owner, as all monies which any Owner has paid to the Association

shall be and constitute an asset of the Association which may be used in the Operation and management of the Subdivision.

(d) The Declarant and the Association shall be responsible for maintenance and repair of the Storm Water Management Facilities until title to the Storm Water Management Facilities is transferred to the Association pursuant to Article II, Section 3 above, at which time the Association shall be solely responsible for the maintenance and repair thereof, Maintenance and repair of the Storm Water Management Facilities is mandatory per local, state, and federal regulations.

**Section 3.** Initiation Fee. Upon the sale of each and every Lot after it has been improved with a residence for which a Certificate of Occupancy has been issued, an Initiation Fee set by the Declarant and thereafter by the Association's Board of Directors shall be collected from the Purchaser (at closing or occupancy whichever occurs first) for the benefit of the Association. The Initiation Fee shall be collected each and every time the lot legally changes title and shall not be prorated. The Initiation Fee shall be used for the same purposes as those described in Article III, Section II herein.

**Section 4.** Annual Assessment. The initial annual assessment shall be set by the Declarant. Once the initial annual assessment has been set, the annual assessment shall be paid on a calendar year basis unless changed by the Board of Directors of the Association. From and after January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the maximum annual assessment may be increased each year by the Declarant or the Board of Directors by not more than ten (10%) percent above the maximum assessment for the previous year without a vote of the Owners. From and after January 1 of the year immediately following the conveyance of the first Lot to a Class A Member, the maximum annual assessment may be increased above ten (10%) percent of the maximum assessment for the previous year only by a vote of two thirds (2/3) of all Owners who are voting in person or by proxy, at a meeting duly called for this purpose.

**Section 5.** Special Assessments.

a) In addition to the annual assessments authorized in Section 4 above, the Association may levy, in any calendar 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 in the Subdivision, provided that any such assessment shall be approved by a vote of 2/3 of all Owners who are voting in person or by proxy at a meeting duly called for this purpose at which a quorum is present. No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his lot or otherwise.

b) In addition to the Annual Assessments and the Special Assessments, the Board shall have the power to levy a Special Individual Assessment applicable to any particular

Owner (1) for the purpose of paying the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Area, including the public roads (prior to their acceptance for public maintenance), whether occasioned by an act or omission of such Owner, members of such Owner's family, or such Owner's agents, guests, employees, or invitees and not as a result of ordinary wear and tear, Or (2) for the payment of fines, penalties or other charges imposed against any Owner relative to such Owner's failure to comply with terms and provisions of this Declaration, the bylaws of the Association or any rules and regulations promulgated by the Association or Declarant pursuant to this Declaration or the bylaws of the Association. The due date of any Special Individual Assessment levied pursuant to this Section shall be fixed in the Board's resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least ten (10) days prior to the date upon which such Special Individual Assessment shall be due.

**Section 6.      Notice and Quorum for any Action Authorized under Sections 4 and 5.**

Written notice of any meeting called for the purpose of taking any action authorized under Section 4 or 5 shall be sent to all Owners not less than thirty (30) days and no more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast forty (40%) percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 7.      Rate of Assessment.** The initiation fee, annual and special assessments must be fixed at a uniform rate for all Lots within a phase or section of the subdivision. Different rates for the initiation fee, annual assessments, and special assessments may be set for different phases or section. For example, different rates may be fixed to direct vehicular access lots to existing county roads.

**Section 8.      Date of Commencement of Annual Assessments.** The annual assessments provided for herein shall commence as to all Lots owned by Class A Members as of the filing of this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. 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 subject thereto. 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 is binding upon the Association as of the date of its issuance.

Notwithstanding the provisions of this Section 8, lots owned by Declarant or Approved Builder(s) shall be exempt from all assessments during Declarant's or Approved Builder(s)' ownership of the Lot(s). The Initial Assessment and subsequent annual assessment for such Lot(s) shall commence upon the date of sale of the Lot to a Class A Member.

**Section 9. Effect of Nonpayment of Assessment.** Any assessments (or installments) which are not paid when due shall be delinquent. Any assessment (or installment) which is delinquent for a period of more than ten (10) days shall incur a late charge of \$25.00. If the assessment is not paid within thirty (30) days, a lien shall attach to the Owner's Lot. The lien shall cover all assessments, late fees, interest, costs and Attorney's fees then due or which come due until the lien is cancelled of record, and any other amounts provided in this Declaration or permitted by law. In the event that the assessment remains unpaid after thirty (30) days, the Association may, in its sole discretion, take any or all of the following action:

(a) Assess an interest charge from the date of delinquency at the rate of eighteen percent (18%) per annum, or such other rate as shall have been established by the Board of Directors;

(b) Assess a late charge at the rate established by the Board per delinquency or such other charge as shall have been established by the Board of Directors;

(c) Suspend the voting rights of the Owner during any period of delinquency;

(d) Accelerate all remaining assessments for the fiscal year in question so that unpaid assessments for the remainder of the fiscal year shall be due and payable at once;

(e) Bring an action at law or in equity against the Owner personally obligated to pay the delinquent assessment by instituting suit to collect such amounts and foreclose its lien against the Lot, and interest, costs of collection and reasonable attorney's fees of such action of foreclosure shall be added to the amount of such assessment. The Association shall have the right to foreclose its lien through any method allowed by law. The Association shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage, and convey the same.

No Owner may waive or otherwise escape liability of the assessments provided for herein by non-use of the Common Area or abandonment of such Owner's Lot.

**Section 10. Effect of Default in Payment of Ad Valorem Taxes or Assessments for Public Improvements by Association.** Upon default by the Association in the payment to the appropriate governmental authority of any ad valorem taxes levied against the Common Area or assessments for public improvements to or for the benefit of the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in the Subdivision shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments



(including any late payment penalties) in an amount determined by dividing the total taxes, assessments, and penalties due the governmental authority by the total number of Lots in the Subdivision. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or equity or may elect to foreclose the lien against the Lot of the Owner. This Section shall not become applicable until Class B membership ceases to exist.

**Section 11. Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 12. Obligation of the Declarant with respect to Maintenance Assessments.** So long as the Declarant owns at least one lot in the subdivision, Declarant may opt to either pay all expenditures in excess of collections (deficit funding) or choose to have its lots subject to the regular assessments. After fifty (50%) percent Of the lots are conveyed to Owners other than the Approved Builder (s), any such deficit funding will be considered a loan to the HOA and Declarant may ask to be reimbursed prior to the expiration of Class B membership.

#### **ARTICLE IV - INTENTIONALLY LEFT BLANK**

#### **ARTICLE V - ARCHITECTURAL CONTROL**

Until such time as the Class B membership expires, Declarant shall annually appoint the members of the Architecture Review Committee which will be comprised of at least three (3) members.

**Section 1. Plan of Design Approval.** All residences, outbuildings, and other structures initially constructed within the Subdivision by an Approved Builder (collectively, "Initial Improvements") shall be built in accordance with plans and specifications which have been previously approved by Declarant. Under no circumstances shall any additional architectural approval be required as to the Initial Improvements constructed by Approved Builder. Other than the Initial Improvements constructed by Approved Builder, no building, fence, wall, porch, deck, or any other structure or improvement (collectively, "Improvements"). Including, without limitation, the alteration or painting of the exterior surface of any Improvement shall be undertaken upon any Lot unless the plans and specifications and location of the proposed Improvement shall have been expressly approved in writing by the Architecture Review Committee. No subsequent alteration or modification of any Improvements or construction, erection or installation of additional Improvements may

be undertaken or allowed to remain on any Lot without the review and express written approval of the Architecture Review Committee in accordance with the provisions of this Declaration.

**Section 2. Architecture Review Committee.** Until such time as the Class B membership expires, Declarant shall annually appoint the members of the Architecture Review Committee, the exact number of members of the Architecture Review Committee being designated by Declarant from time to time. Each member shall be generally familiar with residential and community development design matters and knowledgeable about the Declarant's concern for a high level of taste and design standards within the Subdivision. In the event of the death or resignation of any member of the Architecture Review Committee, Declarant, for so long as it has the authority to appoint the members of the Architecture Review Committee, and thereafter the Board, shall have full authority to designate and appoint a successor. Members of the Architecture Review Committee may be removed and replaced at any time with or without cause, and without prior notice, by Declarant, for so long as Declarant has the right to appoint the members thereof, and thereafter by the Board. Subsequent to the expiration of Class B membership (and earlier if Declarant specifically assigns this right to the Board), the Board shall designate the number of and appoint the members of the Architecture Review Committee on an annual basis. At any time, Declarant may elect not to designate the number of and/or appoint the members of the Architecture Review Committee and may assign this right to the Board.

**Section 3. Procedure.** No building, fence, wall, or other structure shall be commenced, erected, or maintained upon any Lot or Common Areas, nor shall any exterior addition to, or change, or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing to harmony of external design and location in relation to surrounding structures and topography by the Architecture Review Committee.

**Section 4. Rejection of Plans and Specifications.** The Architecture Review Committee shall have the right to refuse to approve any plans, specifications, and/or plot plans, taking into consideration the suitability of the proposed building or other Improvements, the materials of which it is to be built, whether or not it is in harmony with the surroundings, and the effect it will have on other residences already constructed in the Subdivision.

**Section 5. Submittal of Plans to Architecture Review Committee.** Prior to the commencement of any construction, other than the Initial Improvements made by the Approved Builder (s) each Owner shall submit to the Architecture Review Committee, in duplicate, plans and drawings, in a one-eighth (1/8) scale or larger, which shall contain, at a minimum;

- (a) front, rear and side elevations;
- (b) floor plans showing major dimensions and openings;
- (c) exterior building material to include color and type of material (vinyl,

aluminum, cedar, etc.);

(d) exterior trim color;

(e) roofing material and color;

(f) other materials necessary to illustrate the character of the proposed construction; and,

(g) a statement/schedule of the estimated completion dates of all construction and improvements.

These requirements also pertain to any alterations and/or additions to existing structures.

The documents and other information required to be submitted shall be delivered or mailed to the Architecture Review Committee of Bella Casa c/o Hinson Management 8499 Valley Falls Road, PO Box 160207, Boiling Springs, SC 29316 or some future designee. One complete Set shall be retained by the Architecture Review Committee and the second complete set shall be returned to the applicant, with the Architecture Review Committee's approval or disapproval clearly noted thereon.

**Section 6. Effect of Failure to Approve or Disapprove.** In the event the Architecture Review Committee, or its designated committee fails to approve or disapprove such plans within thirty (30) days after they have been submitted, such approval will be automatic. The terms "Building" or "Improvements" shall be deemed to include the erection, placement, or alteration of any wall, fence driveway, or parking area, or any such activity undertaken subsequent to initial construction.

**Section 7. Hardships.** The Architecture Review Committee is authorized to modify or amend, during or before the construction or alteration of any Improvement, the provisions of this Declaration concerning set-back and location and size of Improvements for any particular Lot if in the reasonable opinion of the Architecture Review Committee, such shall be necessary to prevent undue hardship.

**Section 8. Enforcement.** In addition to the rights of the Declarant and the Association to enforce the provisions of this Declaration as set forth hereinafter, the Architecture Review Committee shall have the specific, nonexclusive right to enforce the provisions contained in this Article V and/or to prevent any violation of the provisions contained in this Article V by a proceeding at law or in equity against the Owner violating or attempting to violate any such provisions contained herein. In the event that the Architecture Review Committee, the Declarant or the Association resorts to litigation to determine the propriety of any constructed Improvement, to remove any unapproved Improvement or otherwise to remedy a violation of this Article V, the Architecture Review Committee, the Declarant, or the Association, as applicable, shall be entitled to recover court costs, attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a special assessment against the offending Owner's Lot.

**Section 9. Reservation or Rights by Declarant.** Declarant expressly reserves the

right to assign any of the duties, powers, functions, and approval authority Set forth in this Declaration to any assignee at Declarant's sole discretion.

**Section 10. Exculpation.** Neither Declarant, any Approved Builder nor any member of the Architecture Review Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architecture Review Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architecture Review Committee.

FURTHER, NEITHER DECLARANT, ANY APPROVED BUILDER NOR ANY MEMBER OF THE ARCHITECTURE REVIEW COMMITTEE SHALL BE LIABLE FOR DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURE REVIEW COMMITTEE PROVIDED FOR IN THIS DECLARATION. EVERY OWNER WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURE REVIEW COMMITTEE FOR APPROVAL AGREES, BY THE SUBMISSION OF SUCH PLAN AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST THE DECLARANT, APPROVED BUILDER, THE ASSOCIATION, THE ASSOCIATION'S BOARD MEMBERS OR OFFICERS, OR ANY MEMBER OF THE ARCHITECTURE REVIEW COMMITTEE, TO RECOVER ANY SUCH DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

**Section 11. Maintenance of Lot.** It shall be the responsibility of each Owner of a Lot to prevent the accumulation of litter, trash, packing crates, or any other accumulations which shall create an unkempt condition of the buildings or grounds on a lot and/or which shall otherwise tend to substantially decrease the beauty of the Subdivision as a whole or the specific area. No loose trash will be permitted to be strewn about the Subdivision at any time. Garbage containers must be kept out of sight from the street, except during garbage collection hours. All personal use items shall be stored inside when not in use. These items include, but are not limited to, yard tools, sprinklers, wheel barrows and children's toys which would create a nuisance for the community. Owners shall follow the Requirements for maintenance set forth in any applicable Landscaping Guidelines provided to the Owners by the Declarant and/or the Association. All Improvements on the lot shall be kept within reasonable neighborhood standards as determined by the Architecture Review Committee. In the event the requirements of this section are not adhered to, the Association shall send written notice to the Owner via certified mail giving an additional period for compliance of (10) days, unless a hardship or special circumstance requires additional time. If the violation continues, the Association may at its sole discretion hire contractors or other personnel

to correct said violation and bill the Owner for all costs incurred. The amounts owed shall, if not paid, become a lien on the Lot as specified herein.

## ARTICLE VI - USES PERMITTED AND PROHIBITED

**Section 1. Residential Use of Property.** All Lots in the Subdivision 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, except with the written approval of the Board; provided however, that nothing herein shall prevent Declarant or any Approved Builder from using any Lot owned by Declarant or such Approved Builder for the purpose of carrying on business related to the development, improvement and sale of Lots in the Subdivision.

**Section 2. Use of Outbuildings and Similar Structures.** No tent, shack, garage, barn, storage building, playhouse or other out-buildings shall be erected upon any Lot without approval from the Architecture Review Committee and, if approved, it shall not be used as a residence either temporarily or permanently. No Structure of a temporary nature or an unfinished house shall be used as a residence and no house trailer, modular home, manufactured home or mobile home shall be placed on any Lot either temporarily or permanently. Notwithstanding the foregoing, this Article VI, Section 2 shall not prohibit the use of a trailer or other structure by Declarant or any Approved Builder(s) intended as part of their construction and sales activities.

**Section 3. Trailers Boats Boat Trailers** Any boat or boat trailers, camping trailer, recreational vehicle, utility trailer and/or similar equipment used for the personal enjoyment of a resident of a Lot shall at all times be neatly stored and positioned so as to be inconspicuous or shall be within a covered and screened area and such placement is subject to Architecture Review Committee approval. The Architecture Review Committee may ask that such equipment be removed at any time it is deemed to be a nuisance by the Board or the Architecture Review Committee. A Special Individual Assessment will be imposed all cost or expenses incurred by the Association and or the Architecture Review Committee in connection with any violation of this Section.

**Section 4. Offensive Activities.** No obnoxious or offensive activity shall be permitted anywhere on a Lot or Common Areas nor shall anything be done which may become an annoyance, nuisance, or menace to the Subdivision. No Lot or any part thereof shall be used for any business, commercial, or public purpose.

**Section 5. Livestock.** No animals shall be kept, maintained, or quartered on any Lot or tract in the Subdivision except that cats, dogs, rabbits, hamsters, or caged birds may be kept in reasonable numbers as pets for the pleasure of Owners so long as said animals do not constitute a nuisance or menace to the neighborhood.

**Section 6. Aesthetics. Natural Growth, Screening.** Tall shrubbery or hedges shall be trimmed to reasonable limits where traffic hazards may be created. Further, all Owners shall be required to maintain their Lots and any Improvements thereon at all times in a

neat, attractive and presentable manner So as not to detract from the overall appearance of the Subdivision or the surrounding property. Notwithstanding the foregoing, this Article VI, Section 6 shall not apply to the construction activities on a Lot, right of way or Common Area by Declarant or any Approved Builder(s).

Clotheslines and portable basketball goals shall not be allowed. No bird baths, vegetable gardens, frog ponds, lawn sculpture, artificial plants, birdhouses, rock gardens or similar types of accessories and lawn furnishings, sand boxes or other children's play equipment shall be permitted in the front or side yards of any Lot and the installation or location of a swing set and/or permanent basketball goal on a Lot must receive prior written approval of the Architecture Review Committee.

No trees shall be removed except for (a) diseased or dead trees, (b) trees needing to be removed to promote growth of other trees, (c) safety reasons, (d) trees whose removal is necessary for approved building and construction projects.

**Section 7. Vehicles.** Each Owner subject to these restrictions shall provide space for the off-street parking of automobiles prior to the occupancy of any building or structure constructed on a Lot in accordance with reasonable standards established by the Architecture Review Committee. Vehicles shall not be parked in any front or side yard except in areas designated as a driveway or parking area. Vehicles in disrepair shall not be stored within the Subdivision. No passenger vehicles without current registration and license tags will be allowed in the Subdivision or on any Owner's Lot. Vehicles being repaired out of doors must have work completed within twenty-four (24) hours. Visiting guests only may use paved streets for temporary parking of their vehicles. No commercial vehicles in excess of 10,500 pounds gross vehicle weight may be stored or housed in the Subdivision at any time.

Street parking shall be for temporary parking only and is prohibited as a long term parking solution. The Board or its designee shall have the specific right to impose Special Individual Assessments for extended on-street parking. Special consideration may be granted by Board for extenuating circumstances.

**Section 8. Garbage and Refuse Disposal.** No portion of a Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Trash, garbage or other waste shall only be temporarily stored awaiting pickup and must be kept in adequate sanitary containers. All equipment for the storage or disposal of trash, garbage or other waste shall be kept in a clean and sanitary condition. Any container used to store garbage, refuse and debris until collected by public or private waste disposal service shall be stored on each Lot so that it shall be out of sight from all streets. All containers shall be removed from the street within twenty-four (24) hours of garbage pick-up.

**Section 9. Outdoor Fires.** No outside burning of wood, leaves, trash, garbage or other refuse shall be permitted on any Lot, except that an outdoor fireplace or permanent outdoor firepit may be approved by written approval from the Architecture Review Committee as further described herein.

**Section 10. Fences and Walls.** All fences, walls and other screens or types of barriers must be approved prior to installation or alteration pursuant to Article V, Section 1. The material, color and locations of any fences including tie point locations to house and to other installed fences, walls and other screens or types of barriers must be expressly approved in writing by the Architecture Review Committee.

**Section 11. Pools.** No pool shall be constructed or placed on any lot, either in-ground or above-ground without prior HOA approval; except the inflatable pools for small children are acceptable, temporarily, so long as such children's pool is out of street view.

**Section 12, Garages.** No residence shall be constructed without having at least a one-car garage which will be maintained permanently as a functional garage, with the exception that sales models constructed by Approved Builder(s) are not required to have functional garages while they are being used as sales models; however, there must be space to be converted to functional garage space upon conveyance of the Lot to a Class A Member.

**Section 13. Driveways and Entrances to Garages.** All driveways and entrances to garages shall be concrete or other substance approved in writing by the Board or the Architecture Review Committee and of a uniform quality.

**Section 14. Signage.** No signs shall be permitted on any Lots except that a single sign offering the Lot for sale may be placed on such Lot, providing such sign is approved by the Architecture Review Committee. The Board through the Architecture Review Committee reserves the right to allow additional signs as deemed appropriate after Class B Membership ceases. This Article VI, Section 14 shall not apply to marketing, construction, advertising or informational signs placed on any Lot, right of way or Common Area by Declarant or any Approved Builder(s). Small security vendor provided signs such as CPI or ADT are allowed. (No other small signs are allowed such as "No Trespassing", "POSTED No Trespassing", "Private Property" etc..)

**Section 15. Mailboxes.** All residences shall have a special mailbox which will be available from a source to be specified by the Declarant. Common Box Units (CBU) and/or common post boxes as required by the USPS shall be located throughout the neighborhood. Initial placement of these units shall be determined by the Declarant and/or Approved Builder with maintenance being the responsibility of the Association.

**Section 16. General Rules and Regulations.** The Board shall have the power to formulate, publish, and enforce reasonable general rules and regulations concerning the use and enjoyment of the yard space of each Lot and the Common Area(s). Such rules and regulations, along with all policy resolutions and policy actions taken by the Board, shall be recorded in a Book of Resolutions, which shall be maintained in a place convenient to the Owners and available to them for inspection during normal business hours and with reasonable notice.

**Section 17. Solar Panels and Solar Equipment.** Solar panels and equipment must be approved by the Architectural Review Committee prior to installation. No solar

panel/equipment, if approved will be visible from the street.

## ARTICLE VII - EASEMENTS

**Section 1. Easements Alone Lot Lines.** In addition to other easements as are shown on the Plat, a five foot easement reserved over and across each side and rear lot line, and a ten foot easement is reserved over and across the front lot line, for drainage, utility, cable television, gas, water, power, sewer, and telephone installation and maintenance; provided that should two Lots be consolidated to support on residence, then and in that event, the easements herein above provided shall apply only with respect to the exterior lines of such consolidated Lot.

**Section 2. Reservation Of Right to Grant Utility Easements.** Declarant specifically reserves the right to grant specific easements to any utility services at any time following the date hereof until any specific Lot shall be conveyed by Declarant. The right is reserved to authorize the laying and placement of sewer, gas, and water pipelines, telephone, cable television, telegraph, and electrical light poles on any of the streets and easements shown on the Plat. An easement for the installation and maintenance of utilities and drainage facilities is hereby reserved over all streets and easements.

**Section 3. Access Easement.** Easements for access to the Subdivision are reserved as indicated on the Plat and in recorded easements. The Declarant hereby grants, gives and conveys to each Owner a perpetual, nonexclusive easement over the areas designated as a "Court," "Drive," "Road," "Walk," "Run," "Way" or "Street" on the Plat for vehicular and pedestrian ingress and egress to and from the Subdivision. The granted under this Section are reserved and shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or a part of the Subdivision, subject to Declarant's right to amend the Plat in the future. Declarant specifically reserves the right to dedicate or convey any street, road or driveway to any governmental entity at any time following the date hereof without the consent or approval of any Owner or the Association.

**Section 4. Intentionally Left Blank**

## ARTICLE VIII - SETBACK, LOCATION, AND SIZE OF IMPROVEMENTS

**Section 1. Setbacks.** No building shall be erected on any Lot nearer to the front lot line or nearer to the Side Street line than the building setback line shown on the Plat. Any such building shall face toward the front line of the Lot except that buildings to be constructed on corner Lots shall face in the direction designated by the Architecture Review Committee. No building shall be located nearer to any interior side lot line than the distance determined by applicable building codes.

**Section 2. Detached Buildings.** Detached buildings, that are approved in this Declaration shall be contained within a fence. Pictures or renderings of all proposed detached buildings must be provided along with written description of the material, color, and size of the building. THE BUILDING AND THE LOCATION OF ALL



DETACHED BUILDINGS SHALL BE APPROVED IN ADVANCE BY THE ARCHITECTURE REVIEW COMMITTEE.

**Section 3. Barriers and Obstructions.** No wall, fence, or hedge shall be erected between the street and the front corner of the main body of a house on any Lot. Subject to approval by the Architecture Review Committee, wood fences with a maximum height of six (6') feet are required on the line facing the street and can be placed no closer to the street than a 1-2 feet from the back corner of the house on any lot subject to approval.

**Section 4. No Subdivision of Any Lot.** No Lot shall be re-cut so as to face in any direction Other than is shown on the Plat nor shall it be re-cut so as to make any building site smaller than is provided for on the Plat.

**Section 5. Combination of Lot.** One or more or parts thereof may be combined with the adjacent Lots to form a single building Lot when (i) such combination is permitted by all applicable laws and regulations and (ii) such combination is approved, in writing, by the Board. In such event the building line requirements provided herein shall apply to such Lots as combined and side line easements as shown on the Plat(s) shall be moved to follow the new side line so that the easement will run long the newly established side line.

#### ARTICLE IX - GENERAL PROVISIONS

**Section 1. Enforcement.** The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation, or Bylaws of the Association. The Declarant or the Association shall have the right to impose fines for infractions of such restrictions. In the event that the Declarant, any Owner, or the Association resorts to litigation to remedy a violation of this Declaration, such Owner, Declarant, or the Association, as applicable, shall be entitled to recover court costs, attorneys' fees and expenses incurred in connection therewith, which costs, fees and expenses may be levied as a special assessment against the offending Owner's Lot. Failure by the Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant, the Association and any Owner shall have the right to request that law enforcement, public safety and animal control officers come on the Subdivision to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

**Section 2. Severability.** Invalidation of any one of these covenants or restrictions by a judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 3. Amplification.** The provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association as may be adopted by the Association, but no such amplification shall alter or amend any of the rights or

obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws on the other, be interpreted, construed and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything in the Articles of Incorporation or Bylaws to the contrary, to the extent permitted by law.

**Section 4. Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Declarant specifically reserves the right to amend this Declaration, or any portion hereof, on its own motion without the consent of any other Owners or Members so long as Declarant owns at least one (1) Lot In the Subdivision. After Class B membership has ceased, this Declaration may be amended by an instrument signed by not less than sixty seven (67%) percent Of the Lot Votes as provided for in Article II Section 2 of this Declaration. Any amendment must be recorded in the Land Records of Spartanburg County, South Carolina. As long as Declarant or any Approved Builder owns any Lot in the Subdivision, no amendment shall be effective without the written consent of Declarant or Approved Builder.

**Section 5. Annexation.**

(a) Additional Property may be annexed into the Subdivision and made subject to this Declaration by the Declarant by filing a supplemental declaration of record. Subject to subparagraph below, such annexation must be approved by two-thirds (2/3) of each class of members.

(b) Notwithstanding the above, Additional Property may be annexed by the Declarant without the consent of the Class A Members within ten (10) years of the date of this Instrument; provided, however, that should Declarant elect to improve and develop all or part of the Additional Property, Declarant shall not have the right to impose covenants and restrictions which materially different from those contained herein without the written approval of the Association.

**ARTICLE X - MISCELLANEOUS**

**Section 1. Notice of Conveyance.** The Owner of each Lot shall cause written notice to be delivered to the Association upon the conveyance of any Lot by the Owner, advising the Association of the conveyance.

**Section 2. Declarant's Rights.** Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the Bylaws of the Association may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained In this Declaration or in the Association's Bylaws, as applicable. Furthermore, no such transfer shall be effective unless it is in a written instrument signed by both the Declarant and the transferee and duly recorded in the public records of Spartanburg County, South Carolina. Nothing in this Declaration

shall be construed to require the Declarant or any transferee to develop any of the property adjacent to or contiguous with the Property.

Notwithstanding any provisions contained in this Declaration to the contrary, so long as construction and initial sales of units shall continue, it shall be expressly permissible for the Declarant and Approved Builders to maintain and carry on upon portions of the Common Area and public streets such facilities and activities as, in the sole option of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such units, including, but not limited to business offices, signs, model units, sales offices, and rental units. The Declarant and Approved Builders authorized by Declarant shall have easements for access to and use of such facilities as well as vehicular access for construction along public streets. right to maintain and carry on such facilities and activities shall include specifically, without limitation, the right to units owned by the Declarant and any common area or other facilities which may be owned by the Association, as models, sales offices, or rental units.

In addition, notwithstanding any contrary provision of this Declaration, the By-Laws, or any Association rules, the Declarant shall have the right to replat or revise the recorded plats relating to any portion of the Property without the consent of any owner other than the owner(s) of the lots in which the boundaries are altered.

So long as Declarant owns property within the Subdivision, Declarant may, without the express written consent of any owner, the Board, the Association or the Architecture Review Committee, include in any contract or deed hereafter executed covering all of any portion of the Subdivision, any additional covenants or restrictions applicable to such lands, so long as they are consistent with and do not lower the standards set forth in this Declaration and do not violate any covenants or restrictions then in effect and recorded against the Subdivision. Further the Declarant may make any amendment to the Declaration which are necessary to comply with the guidelines established by, or the requirements of, any governmental authority, title insurer or institutional lender without the express written consent of any Owner, the Association, the Association's Board of Directors, or the Architecture Review Committee.

So long as the Declarant continues to have rights under this Article, no person or entity shall record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without compliance herewith shall result in such declaration of covenants, conditions and restrictions, or similar instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the public records.

(Signature Pages Below)

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal this 16 day of July, 2019.

SOUTH TYGER PROPERTIES, LLC

WITNESSES:

Megan M Blacker  
Kelli W McMillan

BY: [Signature] (SEAL)  
DAVID C. RICHEY (print)  
Its: OWNER (title)

STATE OF SOUTH CAROLINA

ACKNOWLEDGMENT

COUNTY OF SPARTANBURG

I, Susie M. Betenbaugh, a Notary Public, do hereby certify that DAVID C. RICHEY being an authorized signature for South Tyger Properties, LLC, personally appeared before me and acknowledged the due execution of the foregoing instrument this 16 day of July, 2019.

[Signature] (SEAL)  
NOTARY PUBLIC FOR: SC  
My Commission Expires: 10/29/25

**Exhibit A****BYLAWS OF****BELLA CASA HOMEOWNERS ASSOCIATION, INC.****ARTICLE I****NAME AND LOCATION**

These are the Bylaws of the **BELLA CASA HOMEOWNERS ASSOCIATION, INC.**, a South Carolina nonprofit corporation (the "Association"). The principal office of the Association shall be located at 8499 Valley Falls Road, Boiling Springs, SC 29316, but meetings of Members and Directors may be held at such places as may be designated by the Board of Directors from time to time.

**ARTICLE II****DEFINITIONS**

The capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Covenants, Conditions, Easements and Restrictions For Bella Casa Subdivision (Declaration)

**ARTICLE III****PURPOSE AND POWERS OF THE ASSOCIATION**

This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are to (i) enforce the Declaration, (ii) provide for maintenance, preservation, and architectural control of the Property described in the Declaration, including the residential Lots, Common Areas, Areas of Common Responsibility, and Areas of Extended Lot Owner Responsibility, and (iii) to promote the health, safety and welfare of the Owners within the Community and any additions thereto as may hereafter be brought within the jurisdiction of the Association, and for this purpose to:

(a) Exercise all of the powers and privileges and to perform, or delegate to an appropriate person or entity the authority to perform, all of the duties and obligations of the Association, including the establishment and amendment of the Regulations of the Association and the use and maintenance of the Common Area, Area of Common Responsibility, and Area of Extended Lot Owner Responsibility, as set forth in the Declaration;

(b) Fix, levy, collect and enforce payment by any lawful means, all Assessments pursuant to the terms of the Declaration; pay all expenses in connection therewith; and pay all office and other expenses incident to the conduct of the business of the Association, including all license fees, taxes, and governmental charges levied or imposed against the Property;

(c) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property including, but not limited to the Common Area, as determined advisable by the Board of Directors;

(d) Borrow money, mortgage, pledge, deed in trust, or hypothecate any and all of its real or personal property including, but not limited to the Common Area, as security for money borrowed or debts incurred; provided that any such borrowing of money, mortgage, pledge, deed in trust or hypothecation shall have been approved by the affirmative vote of the holders of not less than a majority of the votes of the Members present or represented at a duly called meeting at which a quorum is present;

(e) Annex additional residential property and Common Area into the Community; provided that any such annexation shall have been approved by the

affirmative vote of the holders of not less than a majority of the votes of the Members present or represented at a duly called meeting at which a quorum is present;

(f) Participate in mergers and consolidations with other nonprofit corporations organized for the same or similar purposes; provided that any such merger or consolidation shall have been approved by the affirmative vote of the holders of a majority of the votes of all Members of the Association;

(g) Make, by decision of the Board of Directors, and subject to applicable law, any election of a fiscal year for the Association, as the Board of Directors shall determine from time to time;

(h) Designate, as set forth in these Bylaws and in the Declaration, or by amendment to these Bylaws, Neighborhoods to be under the authority and control of the Association pursuant to voting rights of the Members as established by the Declaration, these Bylaws, as amended, and the Board of Directors.

(i) Have and exercise any and all powers, rights, and privileges which a corporation organized under the South Carolina Nonprofit Corporation Act (S.C. Code Annotated §§ 33-31-101, *et seq.*) (the "Act") may now or hereafter have or exercise, including the right to enter into agreements with other associations and entities for the management and maintenance of the common areas of such associations or entities; and

(j) Maintain liability and hazard insurance on the Property to be procured by and in amounts established by the Board of Directors in its sole discretion and with insurance companies licensed to do business in South Carolina, and to enter into co-insurance or other cost sharing arrangements with other associations within or related to the Property.

Notwithstanding the purposes and powers of the Association enumerated above, the Association, after passage of control to the Lot Owners by conversion of the Class "B" membership to Class "A" membership as set forth in the Declaration, shall not enter into, either directly or indirectly, contracts or leases with the Developer (including a management contract) unless there is a right of termination of any such contract or lease, without cause, which is exercisable without penalty at any time after transfer of control in accordance with the Declaration, upon not more than ninety (90) days' notice to the other party to such contract or lease.

#### ARTICLE IV

##### MEMBERSHIP; MEETINGS OF MEMBERS; VOTING

Section 4.1 Membership The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration.

Section 4.2 Annual Meetings. After the expiration of Class B Membership, annual meetings of the Members shall be held at a time, date and place established by the Board of Directors each year so long as no annual meetings of the Members shall be scheduled on a legal holiday.

Section 4.3 Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or as otherwise prescribed under the Act. Only those matters that are within the purpose or purposes described in the meeting notice may be conducted at a special meeting.

Section 4.4 Notice of Meetings.

(a) Written notice in English specifying the time, date and place of the meeting of the Members and, in the case of a special meeting, the purpose(s) for which the special meeting is called, shall be given by any fair and reasonable manner. The mailing of a copy



of such notice of a special or annual meeting by first class mail or registered mail, postage prepaid, at least ten (10) days (or if notice is mailed by other than first class or registered mail, at least thirty (30) days) and not more than sixty (60) days before such meeting date to each Member entitled to vote at the meeting, addressed to the Members' address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice shall be considered fair and reasonable.

(b) The notice requirement may be waived by a Member before or after the date and time of the meeting as stated in the notice. The waiver must be in writing, be signed by the Member and be delivered to the Association for inclusion in the minutes of the meeting; provided that the attendance by a Member at a meeting waives notice unless the Member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(c) Notwithstanding the foregoing, upon the unanimous vote of the Board of Directors, an emergency meeting may be called with twenty-four (24) hours' notice to those Members entitled to vote at such meeting, in the event an issue requires the immediate attention of the Members of the Association.

(d) If a meeting of Members is adjourned to a different date, time, or place, notice need not be given of the new date, time or place, if (i) the new date, time, or place is announced at the meeting before adjournment; and (ii) the record date fixed pursuant to Section 4.10 for the adjourned meeting is not changed for the new meeting (either voluntarily by the Board of Directors or as required under the Act).

Section 4.5 Quorum. The presence at a meeting, whether in person or by proxy, of Members entitled to cast ten percent (10%) of the total votes of the Members of the Association shall constitute a quorum for any action except as otherwise provided in

the Articles of Incorporation, the Declaration, or these Bylaws. If a quorum is not present or represented at any duly called and noticed meeting, the Members present at the meeting may, by majority vote, adjourn the meeting without further notice to a new date, time and place and the quorum requirement at such new meeting shall be reduced to five percent (5%) of the total votes of the Members of the Association. Nothing herein shall prohibit any such new meeting to be held at a later time on the same date and in the same place as the originally noticed meeting.

Section 4.6     Proxies. Votes may be cast in person or by proxy. All appointments of proxies shall be by written appointment form, signed either personally or by an attorney-in-fact and filed with the Secretary prior to the vote being taken at the meeting in the case of a vote that is taken at a scheduled meeting (or such other time set out on the appointment form or meeting notice) and by the deadline established by the appropriate notification of a vote to be taken in any other manner. Except as otherwise allowed herein or by written authorization of the Board of Directors of the Association, no appointment form shall confer on the proxy a broader authority than to vote on the matter(s) or at the meeting(s) than is defined on the appointment form. Every proxy shall be revocable at the pleasure of the Owner issuing it, up to the time that the vote for which it was issued is cast. A proxy shall automatically terminate and cease to be effective upon (i) the Member attending any meeting and voting in person, (ii) conveyance by the Member of such Member's Lot, (iii) receipt by the Secretary or other officer or agent authorized to accept proxies of a written notice, signed by the Member, revoking the proxy, or (iv) receipt by the Secretary or other officer or agent authorized to accept proxies of notice of the death of the Member prior to the proxy casting a vote.

Section 4.7 Parliamentary Rules. Robert's Rules of Order (latest edition) or such other rules as the Board of Directors may adopt shall govern the conduct of corporate proceedings when not in conflict with the Declaration, the Articles of Incorporation, these Bylaws or with the laws of the State of South Carolina.

Section 4.8 Failure to Hold Meetings. The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with these Bylaws does not affect the validity of a corporate action.

Section 4.9 Authorization to Vote and Notice by Owner. It shall at all times be the responsibility of any Lot Owner to keep current with the Association, the name and address of the Member authorized to cast the vote assigned to that Lot and to receive notification from the Association as to any meetings which the Association may be required to send. Proof of the authority to receive notice and to vote shall be presented to the Association in the form of a certificate signed by all of the Owners of the Lot. Such certificate shall be deemed valid until revoked by a subsequent certificate.

Section 4.10 Record Date. The Board of Directors shall set the record date for determining the Members entitled to notice of a Members' meeting; to vote at a Members' meeting; and to exercise any rights in respect of any other lawful action. The record date shall not be more than seventy (70) days before the meeting or action requiring a determination of the Members occurs.

Section 4.11 Voting Requirements. Unless otherwise required in these Bylaws, the Declaration, the Articles of Incorporation, the Act or other applicable law, the affirmative vote of the holders of a majority of the votes of the Members present or represented at a duly called meeting at which a quorum is present or represented, which

affirmative vote also constitutes a majority of the required quorum, is the act of the Members.

Section 4.12 Action by Written or Electronic Ballot.

(a) Any action that may be taken at any annual, regular or special meeting of Members may be taken without a meeting if the Association delivers a written or electronic ballot to every Member entitled to vote on the matter.

(b) A written or electronic ballot shall (i) set forth each proposed action; and (ii) provide an opportunity to vote for or against each proposed action.

(c) Approval by written or electronic ballot pursuant to this section is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) All solicitations for votes by written or electronic ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and (iii) specify the time by which a ballot must be received by the corporation in order to be counted.

Section 4.13 Action by Written Consent. Any action required or permitted to be approved by the Members may be taken without a meeting if the action is approved by Members holding at least eighty percent (80%) of the votes of all Members of the Association. The action must be evidenced by one or more written consents describing the action taken, signed by those Members representing at least eighty percent (80%) of

the votes of all Members of the Association, and delivered to the Association for inclusion in the minutes or filing with the corporate records. Written notice of Member approval pursuant to this section must be given to all Members who have not signed the written consent. If written notice is required, Member approval pursuant to this section is effective ten (10) days after the written notice is given.

## ARTICLE V

### BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 5.1     Number & Types. Prior to the expiration of Class B Membership all Directors shall be appointed by the Declarant. Following the expiration of Class B Membership the affairs of the Association shall be managed by a Board of Directors of not fewer than three (3) Directors. All Directors must be Members in good standing with the Association in order to seek election to, or continue to hold a position on, the Board of Directors.

Section 5.2     Term of Office. At the first annual meeting after the expiration of Class B Membership, the Members will elect three (3) Directors for staggered terms of three (3) years in accordance with Section 6.2 of these Bylaws.

#### Section 5.3     Removal.

(a)     Any Director(s) elected by the Members may be removed from the Board of Directors, with or without cause, by the affirmative vote of the holders of a majority of the votes of all Members of the Association.

(b)     Any Director(s) who is a Member and who is not in good standing with the Association, or who misses three (3) consecutive Board meetings (unless such absence shall have been excused by the President of the Association or other person(s)

authorized to do so), may be immediately removed from the Board of Directors by the remaining Directors and replaced in accordance with these Bylaws.

(c) In the event of the death, resignation, or removal of a Director, a successor shall be selected by majority vote of the remaining Directors and shall serve for the unexpired term of his predecessor.

Section 5.4 Compensation. Directors shall not receive compensation for their service on the Board.

Section 5.5 Action Taken Without a Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors may be taken without a meeting if the action is taken by unanimous written consent of the Directors. The action must be taken by one or more written consents describing the action taken, signed by each Director, and included in the minutes filed with the corporate records. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## ARTICLE VI

### NOMINATION AND ELECTION OF DIRECTORS

Section 6.1 Nomination. Nomination for election for the Board of Directors shall be made by a nominating committee or as specified in guidelines set forth by the Board of Directors. For purposes of the first annual meeting, the nominating committee, when created, shall consist of a chairman and at least two (2) additional Members of the Association. For purposes of any and all annual meetings other than the first annual meeting, at least one (1) member of the nominating committee shall be a Director. The nominating committee shall be appointed by the Board of Directors. Members of the nominating committee shall serve from the close of the annual meeting until the close of the next annual meeting. The nominating committee shall make as many nominations for

election to the Board of Directors as it shall in its discretion determine, but not fewer than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 6.2     Election. Unless agreed to otherwise by the affirmative vote of the holders of a majority of the votes of Members present or represented at a duly called meeting at which a quorum is present, election to the Board of Directors shall be by secret ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of these Bylaws and the Declaration. At the first annual meeting after adoption of these Bylaws, the Members shall elect three (3) Directors to staggered terms as follows: one (1) Directors for a term of one (1) year, one (1) Director for a term of one (2) years, and one (1) Director for a term of three (3) years; and at each annual meeting thereafter, the Members shall elect successor Directors for terms of three (3) years. The term of any Director shall be automatically extended and shall not expire until the annual meeting at which a successor for that Director is elected or appointed. The nominee(s) receiving the largest number of votes shall be elected. If no nominees are nominated pursuant to these Bylaws, the Director(s) shall be appointed by the current Board of Directors. Cumulative voting (i.e., voting more than one (1) time for any Director), is not permitted under any circumstance.

## ARTICLE VII

### MEETINGS OF DIRECTORS

Section 7.1     Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly or more frequently, and at dates, times and places determined by a majority of the Board of Directors. Without the approval of all of the Directors, no meeting shall fall upon a legal holiday. No notice shall be required for regular meetings.

Section 7.2     Special Meetings. Special Meetings of the Board of Directors shall be held when called by the President of the Association or any two (2) Directors, after not less than two (2) days' notice is given, either personally, by mail, or by telephone, to each Director, unless waived in writing signed by the Director or by attendance of the meeting without objection or participation.

Section 7.3     Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business by the Board of Directors. Every act or decision authorized by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as an act of the Board of Directors.

## ARTICLE VIII

### POWERS, DUTIES AND REQUIREMENTS OF THE BOARD OF DIRECTORS

Section 8.1     Powers. The Board of Directors, When Empowered, shall have the power, but not the obligation, to perform such duties as authorized by the Declaration, to include, but not be limited, to:

(a) Adopt, amend and publish the Architectural Guidelines for the Community and Rules and Regulations of the Association governing (i) the Community, Lots, the Common Area and all other property easements established for the benefit of the Association Members, as well as any facilities that may be placed or constructed thereon; (ii) the personal conduct of the Members and their guests while within the Property; and (iii) the establishment of Assessments for the infraction thereof;

(b) Suspend the voting rights, the right to use the recreational facilities on the Common Areas, and the services provided by the Association, including without limitation architectural review services, of a Member during any period in which each Member shall be in default in the payment of any Assessment levied by the Association



or for any other violation of the Declaration, the Architectural Guidelines, or the Regulations;

(c) Exercise for the Association of all of the powers, duties, and authority vested in, reserved or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;

(d) Declare the office of a Director to be vacant in the event such Director (i) is absent from three (3) consecutive regular meetings of the Board of Directors unless such absence shall have been excused by the President of the Association or other person(s) authorized to do so, or (ii) is not in good standing as a Member of the Association, including without limitation failure to pay any Assessments when due;

(e) Employ a manager, an independent contractor, Treasurer of the Association or such other employees as they may deem necessary, to prescribe their duties;

(f) Levy Assessments and to collect from the Members all costs of collection, including but not limited to court costs and reasonable attorney fees, for all infractions of the Association's Regulations, the Architectural Guidelines, the Declaration, Articles of Incorporation and/or these Bylaws;

(g) Grant easements or waivers to or enter into licenses with Lot Owners in the Community with respect to encroachments on the Common Area and other violations of the Declaration, Architectural Guidelines and Regulations; and

(h) Delegate, in part or in whole, to any employee, agent, director, officer, contractor, manager or other appropriate entity, any power or authority given to the Board of Directors by the Declaration or these Bylaws.

Section 8.2 Duties. It shall be the responsibility of the Board of Directors to:

(a) Comply with the requirements of the Act regarding annual meetings;

(b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) Perform such other duties as required by the Declaration, the Articles of Incorporation or the Bylaws.

(d) Take legal action where it is deemed prudent and to be in the best interest of the Association by the Board of Directors, including without limitation foreclosure of the lien against any Lot for which Assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner(s) personally obligated to pay the same as provided in the Declaration, or both;

(e) Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. At all times the Association records with respect to payments made or due shall be deemed correct unless proper documentation to the contrary can be produced. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment. A reasonable charge may be made by the Board for the issuance of these certificates;

(f) Procure and maintain liability and hazard insurance on property owned by the Association in amounts established by the Board of Directors in its sole discretion and with insurance companies licensed to do business in South Carolina with an A.M. Best rating of AA or better (or an equivalent rating);

(g) Cause and pay for all officers or employees having fiscal responsibilities to be bonded, if and as it may be deemed appropriate by the Board of Directors;

(h) Cause the Common Area to be maintained.

Section 8.3 Requirements: The Board may, without a vote of the Members, initiate actions or proceedings: (a) initiated to enforce the provisions of or otherwise

permitted by the Declaration, these Bylaws, Architectural Guidelines, or Regulations; (b) initiated to challenge property taxation or condemnation proceedings; (c) to defend claims filed against the Association or to assert counterclaims in proceedings instituted against it.

## ARTICLE IX

### OFFICERS AND THEIR DUTIES

Section 9.1     Enumeration of Offices. The offices of this Association shall be a President and Vice President, who shall be appointed from the then current Directors, a Secretary/Treasurer, and such other officers as the Board of Directors may from time to time by resolution create.

Section 9.2     Appointment of Officers. All officers shall be appointed by the Board of Directors.

Section 9.3     Term. Officers of the Association shall be appointed annually by the Board of Directors, and each shall hold office for one (1) year unless such officer shall resign, be removed, or otherwise be disqualified to serve.

Section 9.4     Special Appointments. The Board of Directors may appoint such other officers, agents, or entities to perform duties on behalf of the Association. The Board of Directors shall determine, in its sole discretion, the authority, duties and compensation of such other officers, agents, or entities and the period of time such other officers, agents and entities shall perform such duties. The Board of Directors may remove such other officers, agents, or entities in its sole and absolute discretion.

Section 9.5     Resignation and Removal. Any officer may be removed from office, with or without cause, by a majority vote of the Board of Directors. Any officer may resign at any time giving written notice to the Board of Directors, the President or the Secretary.

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

Section 9.6     Vacancies. A vacancy in any office may be filled by appointment by the Board of Directors. The officer appointed to such vacancy shall serve for the remainder of the term of the officer being replaced.

Section 9.7     Multiple Offices. The offices of Secretary and Treasurer may be held by the same person, otherwise no office may be held by the same person during the same time period. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 9.4.

Section 9.8     Duties. The duties of the Officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors; see that the orders and resolutions of the Board of Directors are carried out; may be authorized by the Board of Directors to sign all contracts, leases, mortgages, promissory notes, deeds and other written instruments and shall be authorized, in addition to the Treasurer and any other authorized parties, to sign on all Association checking accounts.

(b) Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board of Directors.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; keep any corporate seal obtained by the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing Members of the Association together with their addresses,

authenticate the records of the Association and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors; if authorized by the Board of Directors to do so, shall sign all checks, promissory notes and other financial instruments of the Association; and keep proper books of accounts.

## ARTICLE X

### COMMITTEES AND ARCHITECTURAL CONTROL AUTHORITY

When Empowered, the Board of Directors by majority vote may appoint an Architectural Control Authority for the Community. In addition, the Board of Directors may appoint other committees as deemed appropriate in carrying out its purpose, including the establishment of a nominating committee as contemplated herein. Compensation for committee members and for any employees of the Association assigned to or hired by these committees shall be fixed or approved by the Board of Directors.

## ARTICLE XI

### BOOKS AND RECORDS

The books and records of the Association, required to be made available to the Members by the Act, shall at all times, during reasonable business hours and by appointment, be subject to inspection at the office of the Association.

## ARTICLE XII

### FUNDS AND BONDS

Section 12.1 Payments and Depositories. All monies collected by the Association shall be treated as the separate property of the Association and such monies may be

applied by the said Association to the payment of any of the expenses of operating and managing the Association, or to the proper undertaking of all acts and duties imposed upon it by virtue of these Bylaws, the Articles of Incorporation and the Declaration. As Assessments are paid to the Association by any Owner of a Lot the same may be commingled with the Assessments paid to the Association by the other Owners of Lots. All funds and other assets of the Association, and any increments thereto or profits derived therefrom, or from the leasing or use of the Common Areas, shall be held for the benefit of the Members of the Association.

The depository of the Association shall be such bank or other federally insured depository institution as shall be designated from time to time by the Board of Directors and in which the funds of the Association shall be deposited. Withdrawal of funds from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.

In the event the Board of Directors uses funds collected and held in the Association's reserve account(s), the Board of Directors shall have the option, in its sole discretion and without notice to the Members, to replenish (in whole or in part) or not to replenish said reserve account(s).

Section 12.2 Bonds. At the discretion of the Board of Directors, fidelity bonds may be required on all members of the Board of Directors, the officers of the Association and any other persons, employees or entities handling or responsible for the funds of the Association. The amounts of such bonds shall be determined by the Directors, but if it is determined that bonds are to be obtained, they shall be at least equal to the amounts to be handled at any point by that person or entity. Unless verification that the bonds have been

provided by such person or entity is obtained by or provided for the Board of Directors, the premiums for these bonds shall be paid by the Association as a common expense.

#### ARTICLE XIII

##### CORPORATE SEAL

The Association may have a seal in circular form having within its circumference the name of the Association.

#### ARTICLE XIV

##### AMENDMENTS

Section 14.1 Amendment by Members; Correction of Clerical Errors. Except as otherwise required herein, by the Articles of Incorporation, or by applicable law, these Bylaws may be amended by the affirmative vote of the holders of Two-Thirds (2/3) of the votes of all of the Members of the Association, provided that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class "B" Membership. Without limiting the foregoing, the Association shall, at any time and from time to time as they see fit, have the right (but not the obligation) to cause the Bylaws to be amended to correct any clerical or scrivener's error(s) or to conform to the requirements of the Federal Housing Administration or the Veterans Administration or the Federal National Mortgage Corporation, FHLMC and such other secondary market agencies as the same may be amended from time to time.

Section 14.2 Amendment by Board of Directors. In addition to any other right to amend as set out herein, the Board of Directors may amend and/or restate these Bylaws without the consent of the Lot Owners, their mortgagees, or the Association, in order to (1) designate, add, withdraw, or otherwise modify neighborhoods or neighborhood voting in

the Community, or (2) add, subtract, or otherwise modify the number of Directors on the Board.

Section 14.3 Conflict with Articles or Declaration. In the case of any conflict between the Articles of Incorporation and these Bylaws or the Regulations, the Articles of Incorporation shall control; and in the case of any conflict between the Declaration, the Regulations, and these Bylaws, the Declaration shall control.

## ARTICLE XV

### MISCELLANEOUS

Section 15.1 In case of any conflict with the mandatory provisions of the Act, the mandatory provisions of the Act shall control.

Section 15.2 Subject to the right of the Board of Directors to set such date or to a ruling by the Internal Revenue Service, the fiscal year of the Association shall begin on the 1st day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 15.3 The Association shall indemnify an individual made a party to a proceeding because the individual is or was a Director or officer against liability incurred in the proceeding if the individual complies with the requirements of the Act and shall pay for or reimburse the reasonable expenses incurred by the Director or officer who is a party to a proceeding in advance of final disposition of the proceeding if the Director or officer complies with the terms of the Act.

Section 15.4 The Board shall interpret the terms of the Bylaws and its interpretation shall be final.