

- (e) Common Area or Common Areas means the general common properties, as defined herein in Section 7.
- (f) Common Expenses means the expenses for which the Co-Owners are liable to the Association and include:
 - (i) Expenses of administration, maintenance, insurance, operation, repair or replacement of the Common Areas, and of the portions of the Residences which are the responsibility of the Association.
 - (ii) Expenses declared Common Expenses by provisions of this Declaration and/or the By-Laws.
- (g) Co-Owner means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a Residence.
- (h) Declaration shall refer to this Declaration of Covenants, Conditions, Restrictions and Easements for Riverwalk Townhomes at Arrowhead which Declaration shall also be referred to herein as "Covenants".
- (i) Lot means a residential homesite located on Property which is subject to this Declaration.
- (j) Owner (See "Co-Owner" above in Section 3(g)).
- (k) Person means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.
- (l) Residences means an individual townhome type dwelling located on a Lot within the Property.
- (m) Property means and includes the land, the Buildings, all improvements and structures thereon, as shown and described on Exhibit "A" and all easements, rights and appurtenances belonging thereto.
- (n) Project means Riverwalk Townhomes at Arrowhead, which is created by this Declaration.

4. PROPERTY SUBJECT TO THIS DECLARATION. The real property which is subject to the covenants and restrictions contained in this Declaration is the Property described in Exhibit "A". Declarant shall have the right, without the consent of the Association, to subject additional property to this Declaration by recording one or more Supplementary Declarations, for property being located either contiguous or nearby. The additional property that can be subject

to this Declaration is sometimes referred to as "Future Phase" Property. Upon the filing of a Supplementary Declaration, the operation and effect of these Covenants shall be extended to the additional properties. The specific plans and layout for Future Phases have not yet been finalized; it being understood that floor plans and other design criteria may be modified by Declarant, or its successors.

4.1 Common Names. It is recognized that for purposes of sales, marketing and ultimately signage, the Project may simply be known as Riverwalk Townhomes at Arrowhead.

4.2 General Plan of Development.

(a) For purposes of these Covenants the phrase "master plan" shall mean and refer to conceptual master plans, general land use maps, advertising brochures, designs and drawings commissioned by Declarant for this specific Project and prepared by landscape architects, planners, designers, engineers, graphic illustrators and artists and similar professionals displaying possible future uses of the Property, prepared as an aid for orderly development of the Property or as part of its communications with the public and property purchasers, or as part of its research programs undertaken by Declarant for future development of the Property. Declarant intends to develop the Property in accordance with its own conceptual master plan, as modified from time to time, as a residential community. Declarant reserves the right to review and modify its Project's master plan at its sole option from time to time both prior to and after construction of any improvements.

(b) In general, all future Owners of Lots within the Property recognize that Declarant will have portions of the Property and/or Future Phases under development for an extended period of time. As part of the development process, it is understood that the quiet enjoyment of the Property may be interfered with from time to time to some extent by construction operations. As stated above, Declarant has presented to the public certain renderings, plans, and models showing possible future development of the Property. Declarant does not warrant in any way the designs in those renderings, plans or models or how any portions of the future improvements to the Property will actually be developed or how any portions of the existing improvements may be modified. All purchasers of Lots within the Property accept that any such renderings, plans or models are preliminary and in no way represent the final development plan of the Property. All Owners further agree that Declarant shall have the sole right of design, construction, development, improvement and modification of improvements of the Property.

Declarant expressly disclaims that any rights shall arise, or any restraints be created, by any reference or depiction of land use as shown on any Project master plan.

5. GENERAL COVENANTS APPLICABLE TO ALL OWNERS AND ALL RESIDENCES WITHIN THE PROPERTY.

5.1 Architectural Standards for Improvements. The general intent of these Covenants is that all structures to be constructed on the Property, or any modifications to said structures, must be approved by Declarant. Accordingly, no buildings, wall, fence, sign, roof, exterior light or other structure or improvement, addition, or erection whatsoever shall be commenced or placed upon any Lot or Residence or any portion of the Property, unless installed by the Declarant, or as approved in accordance with this Declaration. Except as provided above, no exterior construction, addition, erection, or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials, and location shall have been submitted in writing to and approved by the Declarant. Any change to the exterior color of any improvement located within the Property must be approved by the Declarant.

5.2 Siting. Declarant shall have the right to control and decide the precise site and location of any structure constructed within the Property. For the purpose of flexibility, there are no established setbacks with respect to siting and Declarant shall have sole discretion as to the siting of any structure.

5.3 Parking. Owners, their guests and invitees shall be permitted to use any common parking areas, if any, not located upon a Lot, on a first come first serve basis. Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, trailers (either with or without wheels), motor homes, campers, camper trailers, boats and other watercraft and boat trailers shall not be permitted to be parked or stored in the Common Area parking spaces. Parking on the streets within the Project, except for emergency and guest parking, is prohibited.

5.4 Mandatory Landscape Maintenance. In order to preserve the aesthetic value and economic value of the Property as a whole, each Lot within the Property is subject to a mandatory landscaping maintenance program for the area outside of the Building envelope, including, e.g., both the front portion of the Lot, to wit, from the street to the facade of the Residence facing the street; and the side and rear portions of the Lot. The cost of Lot upkeep and landscaping services shall be included as part of the base assessment as described in section 8 below.

5.5 Mandatory Exterior Maintenance. In addition to the maintenance of the Common Areas and the landscaping maintenance referenced above, and for the same reasons set forth in Section 5.4, the Association shall be responsible for the exterior maintenance of each Residence within the Property. Maintenance, repair or refurbishing of the exteriors of the Residences shall be performed so as to maintain the exterior portions in a safe, attractive, structurally sound and aesthetically pleasing condition. The exterior maintenance shall include the following: painting, repair, replacement and care of the roofs, downspouts, exteriors of the Buildings, trees, retaining walls, walks and other exterior improvements. Notwithstanding any provision in this Declaration to the contrary, such exterior maintenance shall not include the repair or replacement of glass surfaces, windows, window frames, window sashes, sliding glass doors, screens, exterior doors, door frames, door sashes, HVAC units, patios, fireplaces, or any

outdoor fireplace walls located on an Owner's Lot which repair, replacement and maintenance thereof shall be the responsibility of said Owner. For the purposes set forth herein, there is hereby reserved to the Declarant and the Association, and their successors and assigns, the right of unobstructed access on, over and across each Lot at all reasonable times to perform such exterior maintenance as provided in this Section 5.5. For all exterior maintenance performed on a Residence, the cost of such maintenance or repair shall be included as part of the base assessment as described below.

5.6 Owner's Responsibilities for Repair.

(a) Other than the landscaping and exterior maintenance services described in Sections 5.4 and 5.5 above, an Owner is responsible for the maintenance and repair of his or her Residence. Each Owner shall also be responsible for maintenance and repair of any damage to the Residence itself or to a contiguous Residence caused by a negligent action or inaction within the Owner's Residence, which directly or indirectly causes damage to the other Residence or to the Residence itself. Notwithstanding the foregoing, by allocating responsibilities of maintenance and repair to Owners, it is not the intention of Declarant to affect the ultimate insurance obligations as well as the reconstruction obligations of the Association. Notwithstanding any provision contained herein to the contrary, Owners shall be responsible for maintaining, repairing and replacing the patio situated directly to the rear of the Owner's Residence.

(b) Except in the event of an emergency situation, in the event that the Declarant or Association determines that any Owner has failed or refused to properly discharge his obligations with respect to the maintenance, cleaning, repair, or replacement of items for which he is responsible under this Declaration, then the Declarant or Association shall give such Owner written notice of the intent to provide such necessary maintenance, cleaning, repair, or replacement ("corrective work") at such Owner's sole cost and expense, and setting forth with reasonable particularity the corrective work deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days in which to complete said corrective work in a good and workmanlike manner, or in the event that such corrective work is not capable of completion within said fifteen (15) day period and such Owner provides written notice to the Declarant or Association of such a fact, to commence said maintenance, cleaning, repair, or replacement and diligently proceed to complete same in a good and workmanlike manner.

In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after proper notice, the Association may provide any such corrective work at such Owner's sole cost and expense, and said cost, including reasonable overhead and administrative costs, shall be added to and become a part of the specific assessment as described below in Section 8.

5.7 Uses of Residences.

(a) Each Residence is restricted as to use by the Owner or Owners thereof, their lessees and invitees, it being the intent of the Declarant that the Residence be used for residential purposes only which are consistent with and appropriate to the design of the Building.

(b) No Owner shall do, suffer, or permit to be done, anything in his Residence which would impair the soundness or safety of the Project, or which would be noxious or offensive or an interference with the peaceful possession and proper use of other Residences, or which would require any alteration of or addition to any of the Common Areas to be in compliance with any applicable law or regulation, or which would otherwise be in violation of law.

(c) Notwithstanding anything else to the contrary in this Section 5.7, the Declarant, its successors, assigns and agents shall be permitted to use one or more Lots for purposes of a real estate sales model and office, including signage pertaining thereto.

(d) Notwithstanding anything else to the contrary in this Section 5.7, Owners may have home offices located on the Property, provided that said offices do not regularly have business visitors, nor involve sales or storage of inventory or increase traffic or include frequent deliveries within the Property, and so long as the office activity is consistent with the residential character of the Property and does not constitute a nuisance, a hazardous or offensive use, or threaten the security or safety of other residents of the Property.

(e) In case of any emergency originating in or threatening any Residence, regardless of whether the Owner or his tenant, if any, is present at the time of such emergency, the Association's Board of Directors and all managerial personnel shall have the right to enter such Residence for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate. To facilitate entry in the event of any such emergency, the Owner of each Residence, if required by the Association, shall deposit under the control of the Association a key to such Residence.

(f) No animals, livestock or poultry of any kind shall be raised, bred or kept on any portion of the Property, except that dogs, cats or other usual and common household pets not to exceed a total of two (2) may be permitted in a Residence. However, those pets which are permitted to roam free or, in the sole discretion of the Association, endanger health, make objectionable noise or constitute a nuisance or inconvenience to the Owners of other Residences or the owner of any portion of the Property shall be removed upon the request of the Association. If the Owner fails to honor such request, the pet may be removed by the Association. No pets shall be kept, bred or maintained for any commercial

purpose. Dogs shall be confined on a leash held by a responsible person at all times whenever they are outside a Residence.

(g) Reference is made to the By-Laws attached hereto as Exhibit "C" for specific rights and authority of the Board with respect to the Project.

(h) Declarant and/or the Board may promulgate additional rules, regulations and/or restrictions applicable to the Property before, during, and after any or all improvements are constructed.

(i) Declarant may include additional restrictions or modifications in deeds to various properties to further define the scope of this general use condition. The allowance or approval of a proposed use under this Section shall not be interpreted as a representation that such use complies with any applicable governmental zoning and/or land use regulation. Such regulations may apply further use restrictions in addition to the above. Furthermore, if Declarant elects to allow submittal of Future Phases hereunder, Declarant, at its discretion, may define allowed uses on said property at that time, which may include uses not allowed on the original Property. With regard to such Future Phases, the type and size of future development shall be at the sole discretion of Declarant, its successors and assigns. Absent such further definition of use, however, the provisions of this Declaration shall be applicable to such Future Phases.

(j) Draperies, curtains or venetian blinds must be installed by each Residence Owner on all windows of the Residence and must be so maintained thereon at all times. All draperies and curtains must have white or off-white backing or lining and all venetian blinds must be white or off-white in color.

(k) The Declarant hereby declares and affirms that the use restrictions described herein shall be deemed restrictive covenants running with the land and are imposed as a limitation and burden upon each Lot and upon the Declarant and upon all future Owners of Lots.

5.8 Assessments For Common Expenses: Responsibilities For Maintenance. The obligations of all Residence Owners with regard to assessments for Common Expenses and the maintenance and repair of the individual Lots shall be as provided in Section 8 below and in the By- Laws of the Association which are attached hereto as Exhibit "C".

5.9 Alterations In Residences. A Residence Owner may make any improvements or alterations within his Residence that do not impair the structural integrity or mechanical systems, fire safety, or lessen the support of, any portion of any other Residence. Subject to the provisions of Section 6 below, any exterior alteration, however, is subject to architectural review and approval of the Declarant.

5.10 Variances. Declarant or Association may, but shall not be required to, authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, or when design merit warrants such variance. No variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) preclude Declarant or Association from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

5.11 Limitation of Liability. The standards and procedures established by this Article are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Project; they do not create any duty to any third parties. Review and approval of any application pursuant to Section 5 or Section 6 may be made on the basis of aesthetic considerations only, and the Declarant and Association shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all Residences are of comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property owners.

5.12 Designation or Assignment. Declarant may, in its sole discretion, designate one or more persons from time to time to act on its behalf in reviewing applications hereunder. Declarant may also, from time to time, but shall not be obligated to, delegate all or a portion of its reserved rights under this Section to (i) a review board appointed by Declarant or by the Board, or (ii) a committee comprised of architects, engineers, or other persons who may or may not be Owners. Any such delegation shall be in writing specifying the scope of responsibilities delegated and shall be subject to (i) Declarant's right to revoke such delegation at any time and reassume jurisdiction over the matters previously delegated and (ii) Declarant's right to veto any decision which Declarant determines, in its sole discretion, to be inappropriate or inadvisable for any reason. So long as Declarant has any rights under this Section 5, the jurisdiction of the foregoing entities shall be limited to such matters as Declarant specifically delegates to them.

6. PARTY WALLS.

6.1 General Rules of Law to Apply. The wall and parapet which are to be built as part of the original construction of the Residence upon the Property and placed on the dividing line between the Residences, shall constitute and are hereby declared to be a party wall and each Lot shall be subject to and together with an easement in said party wall, said easement to be appurtenant to each Lot. The extent not inconsistent with the provisions of this Section, the general rules of law in the State of South Carolina regarding party walls and of liability for property damage due to negligent or willful acts or omissions shall apply thereto.

6.2 Sharing of Repair and Maintenance Costs. Unless there is evidence of negligence of one of the Owners, the cost of reasonable repair and maintenance of the party wall shall be shared equally by the Owners of said adjoining Residences.

6.3 Destruction by Fire or Other Casualty. If the party wall is destroyed or damaged by fire or other casualty or by physical deterioration, either Owner or the Association may restore it, and shall have an easement over the adjoining Lot for purposes of making such restoration. The Owner of the other Lot shall contribute equally to the cost of restoration thereof, without prejudice, however, to the right of either Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions. Any such restoration or reconstruction is subject to the administration and oversight of the Association.

6.4 Weatherproofing. Notwithstanding any other provision of this Article, any Owner who by his/her negligent or willful act, causes the party wall to be exposed to the elements or excessive heat or cold, shall bear the whole cost of furnishing the necessary protection against such elements or heat or cold, and of repairing the party wall from damage caused by such exposure.

6.5 Right to Contribution Runs with Land. The right of either Owner to contribution from the other Owner under this Article shall be appurtenant to the Lot and shall pass to such Owner's successors in title, shall constitute a lien upon the land until paid, and shall run with the land and bind the parties and their heirs and successors in title.

6.6 Encroachment. If any portion of any Residence now encroaches upon any other Residence or Lot, or if any such encroachment shall occur hereafter as a result of: (a) settling of the building; (b) alteration or repair to the Common Areas made by or with consent of the Board or; (c) as a result of repair or restoration of the building or any Residence by damage by fire or other casualty; or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the building or buildings stand.

6.7 Mechanic's Lien. Each Owner of a Residence agrees to indemnify and hold harmless the Owner of the adjoining Residence for any mechanic's liens arising from work done or material supplied to make repairs or replacements for which the first-mentioned owner is responsible.

6.8 Enforcement. Except as otherwise expressly provided herein, either the Declarant and/or the Association shall have the right to enforce, by any proceeding at law or in equity, or both, all of the terms and provisions of the Articles of this Declaration. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

7. COMMON AREA. The Common Areas of the Property are as follows:

7.1 Sewer, water, drainage and irrigation pipes, excluding those which are the property of the utility district.

7.2 Electric connections and site lighting, excluding those which are the property of the utility company.

7.3 The mailbox areas and all appurtenances thereof, if any.

7.4 All Limited Common Areas, if any, which are expressly designated for the exclusive use of a Residence and its Owner.

7.5 The various areas throughout the Project referenced as "Common Area A, B, C D, and E" on the Plats of record.

7.6 Such easements through the Residences for pipes, ducts, plumbing, wiring and other facilities for the furnishing of utility services to Residences, general easements for access, maintenance, repair, reconstruction or replacement of structural members, equipment, installations and appurtenances, and for all other services necessary or convenient to the existence, maintenance, safety and use of the property, whether or not such easements are erected during construction of the Property or during reconstruction of all or any part thereof, except such easements as may be defined.

The Association shall be authorized to acquire, own, improve, maintain, manage, convey, and grant easements, licenses, or concessions with respect to the Common Area once conveyed to it and to enter into agreements relating to the use of same. Notwithstanding the timing of conveyance of any Common Areas to the Association, the budget utilized to develop the base assessment, pursuant to Section 8, will take into consideration the proposed Common Areas prior to conveyance to the Association. The intent here is that Declarant has reserved the right to determine, in its sole discretion, the actual timing of the conveyance of title to the Common Areas to the Association, but in the interim, the Association will have the sole responsibility for maintaining and repairing the property that is considered Common Area regardless of whether the actual conveyance to the Association has occurred. Declarant may reserve in any conveyance of Common Area the right to modify, release, or withdraw the property so conveyed from the classification of "Common Area". Declarant also reserves the right and power, without the approval of the Association or anyone else, to (a) change the boundary lines between any Common Area owned by Declarant and other property owned by Declarant; or (b) modify, add to, or remove property owned by Declarant from the designation of Common Area, or (c) to require reconveyance of same if deemed necessary in Declarant's discretion.

8. ASSESSMENTS.

8.1 Purpose of Assessment. The assessments levied by the Association, its successors and assigns, shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and for the specific purposes of, e.g., the improvement, upkeep, landscaping, and exterior maintenance of the Property. Assessments may be used for the cost of insurance, labor, equipment, materials, management and administration, maintenance, supervision and to fund reserve accounts to meet unforeseen expenditures of the Association or thereof, as well as for such other purposes that are permissible activities of, and are undertaken by, the Association, its successors and assigns, pursuant to this Declaration and applicable law. The primary funding sources available to be included in the Association budget include: (a) base assessments; (b) special assessments; (c) specific assessments; (d) working capital contributions; and (e) Declarant subsidies or loans (if any), all of which are described in this Section 8 and may generically be referred to as assessments.

8.2 Date of Commencement of Assessments. Assessments shall start on the date of the closing of the sale of a Lot which has a Residence constructed thereon. The sale of a Lot that does not contain a Residence, shall not trigger the payment of Assessments. The first assessment for any Residence shall be adjusted according to the number of days then remaining in that fiscal year.

8.3 Budget of Estimated Assessments. At least thirty (30) days before the beginning of each fiscal year, the Association shall prepare a budget of estimated assessments for the coming year, including any contributions made to a reserve fund pursuant to Section 8.4. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Residences, and the amount to be generated through the levy of the various assessments set forth in this Section 8. If the Association fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

8.4 Base Assessments. The Association, its successors and assigns, is authorized to levy base assessments equally against all Residences and shall be paid in such manner and on such dates as may be fixed by Association. While the base assessments shall typically be paid in monthly installments, the Declarant may allow the payments to be paid in other periodic installments. The Association shall have the right to accelerate any unpaid base assessment installments in the event an Owner is delinquent.

To compute the base assessment, the Association shall prepare a budget covering the estimated costs of operating the Property during the coming year, which shall include a capital reserve. These costs shall include, but are not limited to, the maintenance of all Common Areas, the cost of mandatory landscape maintenance, the cost of the exterior maintenance of a Residence as set forth above, and the cost of insurance. With respect to

a capital reserve, the budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Association shall include in the budget capital contributions to fund reserves in an amount sufficient to meet the projected need with respect to both amount and timing by annual contributions over the budget period.

8.5 Special Assessments. In addition to the other assessments authorized by this Section 8, the Association may levy three (3) types of special assessments from time to time: Emergency, Non-Emergency and an Insurance Assessment.

(a) Emergency. The Association shall have the power to levy emergency special assessments to supplement the base assessment for the purposes of cleaning up debris and trees, repair and replacement of infrastructure and otherwise recovering from an extraordinary wind, rain, flooding or hail damage resulting from a natural disaster, or Act of God, including, but not necessarily limited to, a earthquake, hurricane, tropical storm or cyclone (hereinafter collectively referred to as "natural disaster"). This power is granted to the Association to be exercised in emergency type situations when funds are needed to cover unbudgeted expenses arising out of such a natural disaster. The inclusion of the ability of the Association to levy special assessments for emergency purposes is not to be construed to prevent the Association from making a part of its regular budget, and accordingly of the base assessment, a reserve amount for emergency purposes.

(b) Non-Emergency. The Association shall have the power to levy a non-emergency special assessment. Special assessments shall be paid as determined by the Association, and the Association may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

(c) Insurance Assessment. The Association shall have the power to levy a special insurance assessment for purposes of paying the premiums on the master and/or common insurance policies purchased by the Association as set forth in Section 10 below.

8.6 Specific Assessment. The Association shall have the power to specifically assess a Residence, pursuant to this Section 8.6 as it shall deem appropriate, in its sole discretion. Three (3) examples of the use of a specific assessment are: (a) to cover the costs of providing specific services requested by a Residence Owner; (b) to cover the costs of bringing a Lot or Residence into compliance within the provisions of this Declaration; and (c) to cover the costs of insurance for the Residences and the Property as described in Section 10, it being recognized that insurance costs vary greatly from year to year due to external circumstances giving rise to the need for flexibility in assessing for same. Failure of the Association to exercise its authority under this Section 8.6 shall not be grounds for any action against the Association and shall not constitute a waiver of the Association's right to exercise its authority under this Section 8.6 afterwards. The

Association may also specifically assess Owners for expenses which benefit less than all of the Residences. Such specific assessment shall be assessed equitably among all of the Residences which are benefited according to the benefit received, as determined by the Association in its sole discretion.

8.7 Working Capital Assessment. At the initial closing of a Residence, and each subsequent resale of same, the Association shall be entitled to collect from the purchaser a working capital assessment which amount shall initially be two (2) months of base assessments. The funds collected from this working capital assessment shall be maintained for the use and benefit of the Association. The Association shall have to right, without a vote of the Owners, to adjust the amount of the working capital assessment in the future.

8.8 Subsidies or Loans by Declarant. Declarant may, but shall not be obligated to, fund all or part of the deficits of the Association for any fiscal year by payment of a subsidy which may be either a contribution, an advance against future assessments due from Declarant, or a loan, as determined by Declarant. If a loan, it shall be appropriately documented by a promissory note and shall provide for customary market rate repayment terms. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant. An example of when a loan might be made is in an emergency situation where funds are not readily available to the Association so that on an interim basis, until a special assessment can be levied, the Association and Declarant could agree on such an interim loan arrangement.

8.9 Exempt Property. The following property shall be exempt from the payment of assessments referenced in 8.3 through 8.8:

(a) All Common Area and such portions of the property owned by Declarant as are included in the definition of Common Areas referenced hereinabove;

(b) Any property dedicated to and accepted by any governmental authority or public utility.

8.10 Personal Obligation for Assessments. Each Owner, by accepting the deed (after completion of a Residence thereon), whether or not it shall be so expressed in any such deed or other conveyance, including any purchaser at a judicial sale, is deemed to covenant and agree to pay all assessments or charges as described in Section 8. Upon transfer of title to a Residence, the grantee shall be jointly and severally liable for the assessments which are due at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first mortgagee taking title through foreclosure proceedings pursuant to this Section 8.

(a) Failure of the Association to fix assessment amounts or rates or to deliver or mail to each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay any and all assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

(b) No Owner may exempt himself or herself from liability for assessments by non-use of Common Areas, abandonment of his or her Residence, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(c) Upon written request, the Association will furnish to any Owner liable for any type of assessment a certificate in writing setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

8.11 Effect of Nonpayment of Assessments. 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 in an amount set by the Association and shall accrue interest not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum on the principal amount due. Additionally, the costs of collection shall be added to any amount due, which costs of collection shall include without limitation reasonable attorney's fees incurred by the Association. If the assessment is not paid within thirty (30) days, a lien shall attach. The lien shall cover all assessments then due or which come due until the lien is canceled 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 institute suit to collect such amounts and foreclose its lien. The Association shall have the right to foreclose its lien in any method allowed by law.

8.12 Lien for Assessments. The Association shall have a lien against each Residence to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of South Carolina law), and costs of collection (including attorney's fees). The lien of the assessment shall be superior to all other liens and encumbrances on such Residence, except for (a) liens for ad valorem taxes; (b) liens for all sums unpaid on first priority Mortgage duly recorded in the land records of Horry County, South Carolina. All other persons acquiring liens or encumbrances on any Residence after this Declaration shall have been recorded shall be deemed to

acknowledge that their liens shall be inferior to the lien of the assessments in existence at that time or which arise in the future.

(a) The Association may bid for the Residence at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Residence. While a Residence is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; and (b) no assessment shall be levied on it. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

(b) The sale or transfer of any Residence shall not affect the assessment lien or relieve such Residence from the lien for any subsequent assessments. However, the sale or transfer of any Residence pursuant to foreclosure of the Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner to the foreclosed Residence shall not be personally liable for assessments on such Residence due prior to such acquisition of title. Such unpaid assessments shall be deemed to be common expenses collectible from Owners of all Residence subject to assessment under Section 8, including such acquirer, its successors and assigns.

8.13 Application of Payment. All payments shall be applied first to the current assessment(s), then to late charges, then to interest and then to delinquent assessment(s).

8.14 Negligence. Any Owner shall be liable to the Association, its successors and assigns, for the expense of any maintenance, repair or replacement of property rendered necessary by his act, negligent or carelessness or by that of his family or his guests, employees, agents, or other invitees. This expense shall become part of a specific assessment for such Residence. As such, it shall be a lien upon such Residence and obligation of the Owner and shall become due and payable in all respects as provided herein.

8.15 No Set Off or Deduction. No Owner may waive or otherwise exempt itself from liability for the assessments provided for in this Declaration. No setoff, diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action, for inconvenience or discomfort arising from making of repairs or improvements which are the responsibility of the Declarant, or from any action taken by the Declarant to, comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.

9. ADMINISTRATION AND BY-LAWS.

9.1 Association. Declarant has caused to be incorporated under the laws of the State of South Carolina a corporation known as Riverwalk Townhomes at Arrowhead

Property Owners Association, Inc. ("Association"), which shall serve as the body by which the Owners will manage the affairs of the Property. Each Owner shall have equal voting rights in said association.

9.2 Automatic Membership in Association. Each Owner shall automatically become and be a member of the Association so long as he/she continues to be a Residence Owner. In the event that a Residence is owned by more than one person, the person entitled to cast the vote for the Residence shall be designated by a certificate signed by all the record owners of the said Residence and filed with the Secretary of the Association. Further, should such Residence owner be a corporation, the person entitled to cast the vote for the Residence shall be designated by a certificate signed by the President or Vice President of the corporation and attested by the Secretary or Assistant Secretary of the corporation and filed with the Secretary of the Association. All such certificates shall be valid until revoked, superseded by a subsequent certificate, or until there has been a change in ownership of the Residence concerned.

9.3 Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B."

- (a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one (1) equal vote for each Lot or Residence in which they hold the interest required for membership under Section 9.2, except that there shall be only one (1) vote per Residence. All Class "A" votes shall be cast as provided in Section 9.3(c).
- (b) Class "B". The sole Class "B" Member shall be the Declarant. The Class "B" Member may appoint all of the members of the Board of Directors. Additional rights of the Class "B" Member are specified in the relevant sections of these Covenants and other related documents.

The Class "B" membership shall terminate upon the later of:

- (i) December 31, 2030; or
- (ii) When, in its discretion, Declarant so determines and declares in a recorded instrument; or
- (iii) When ninety nine percent (99%) of the Lots planned and permitted for the Project, including the Future Phase Property, has been conveyed to Class "A" Members.

Upon termination of the Class "B" membership, Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot or Residence which it owns. Prior to the termination of the membership held by the Class "B" Member, the

Class "B" Member shall have one vote plus that number of votes held by the Class "A" Members as a group.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws, the vote for each Residence owned by a Class "A" Member shall be exercised by the Member. In any situation where a Member is entitled personally to exercise the vote for his or her Residence, and there is more than one (1) Owner of such Residence, the vote for such Lot shall be exercised as the Co-Owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Association's vote shall be suspended if more than one (1) person seeks to exercise it.

9.4 By-Laws. The By-Laws of the Association have been drawn and approved by Declarant to govern meetings, duties, etc. of the Association. Declarant shall cause them to be recorded in the Land Records for Horry County, South Carolina as Exhibit "B" to this Declaration. Recordation is intended to be notice to the Association and all Members thereof and is for informational purposes only. The By-Laws stand on their own, are not to be considered part of these Covenants, and may be amended as provided therein.

9.5 Powers and Duties of Declarant/Association. After activation of the Association by Declarant, Declarant shall possess all powers and rights described herein until specifically assigned to Association. In general, Declarant may assign, in whole or in part, any of its reserved rights set forth in these Covenants to the Association by a specific document which shall be recorded in the Land Records for Horry County, South Carolina. Declarant may also delegate some of its reserved rights to the Association for specific periods of time.

9.6 Association. The Association, its successors and assigns, shall be considered: (a) an assignee of Declarant; (b) the authorized and ratified agent of the Owners with respect to the functions specified herein; (c) a third party beneficiary under these Covenants; and (d) as an Owner of Property subject to these Covenants. The Association and its successors and assigns shall have the standing and authority at law or in equity to carry out and enforce these Covenants.

9.7 Limitation on Duties and Obligations. The Association shall strive to carry out and put into effect the functions and services specified or reasonably implied in this Declaration; however, the functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board with due consideration given to the amount of reserves and revenues available to the Association, and the relative demands upon the resources which the Association can utilize to maintain Common Areas and to increase the use and enjoyment of the Property as a whole. The Association shall not be obligated to incur debt or deficits of expenditures over revenues in order to carry out its monetary function.

(a) The Association and its Officers and Directors shall not be liable to any Owner, their lessees or guests, for any damage or injury which results from any action taken, or from rule or regulation promulgated, pursuant to these Covenants in good faith and reasonable care.

9.8 Powers of the Association. The Association shall have and may exercise any right or privilege given to it expressly in these Covenants or, except to the extent limited by the terms and provisions of these Covenants, given to it by law, and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations under these Covenants, including the right to engage necessary labor and acquire use of, or purchase necessary property, equipment or facilities; employ personnel necessary to manage the affairs of the Association; obtain and pay for legal, accounting and other professional services as may be necessary or desirable; and to perform any function by, through, or under contractual arrangements, licenses or other arrangements with any governmental or private entity as may be necessary or desirable.

9.9 Ownership and Maintenance of Common Areas. The Association shall be authorized to own and/or maintain Common Areas, equipment, furnishings, and improvements devoted to the following uses:

(a) for all roads, rights-of-way, and parking areas located within or adjacent to the Project (except those dedicated to government authorities as public) and all landscaped or natural areas within the Project;

(b) for providing any of the services which the Association is authorized to offer hereunder;

(c) for exercise of the landscaping and exterior maintenance responsibilities as set forth above in Section 5.

9.10 Authorized Services. The Association shall also provide the following services:

(a) exterior maintenance and repair of all Residences to the extent that it is necessary or desirable in the judgment of the Board consistent with the terms set forth in Article 5 and any additional maintenance services taken on by Association in its discretion.

(b) landscaping of Common Areas and of the Lots per the terms set forth in Article 5, including management of any wetland areas on the Project;

(c) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board;

(d) to administer the insurance functions as described in Section 10 below;

(e) the services necessary or desirable in the judgment of the Board to carry out the Association's obligations and business under the terms of this document;

(f) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Project;

(g) to administer the architectural review function in the event that the Association is designated by the Declarant as the agent of the Declarant for such purpose;

(h) to maintain the water and sewer lines located within the Common Areas and to pay for the provision of such services to the Residences; and

(i) to provide administrative services including but not limited to: legal; accounting and financial; communication services informing Owners of activities, and notice of meetings, referendums, etc., incident to the above-listed services.

9.11 Borrow and Pledge. The Board shall have the power and authority to borrow money for use by the Association and to pledge the revenues of the Association as security for such loans made to the Association, which loans shall be used by the Association in performing its authorized functions. The Declarant may, but shall not be obligated to, make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the method by which such loans will be repaid and subject to a maximum of loan amount approved by the Declarant, at interest rates acceptable to the Declarant. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the base assessment at any time there is outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

9.12 Information. It shall be the responsibility of the Association to make available to Owners and mortgage lenders making loans to Owners, and to holders, insurers or guarantors of any first mortgage on a Lot within the Property, current copies of the Declaration, By-Laws, other rules and regulations relating to the Property, and the books, records and financial statements of the Association. "Available" shall mean available for inspection, upon request, during normal working hours or under other reasonable circumstances.

10. INSURANCE.

Declarant's intention of this Section 10 of the Declaration is to allow flexibility as it relates to insurance coverage in light of the possibility that insurance markets may change in the future. While the Residences are separate dwelling units on separate Lots, because they are attached, from an insurance perspective either individual insurance coverage can be obtained by Co-owners, or, it is also possible that a common "master" policy could be obtained by the Association to cover all of the Buildings within the Project. Such master coverage could be obtained through the Association. As of the filing of this Declaration, the basic insurance requirements set forth herein would mandate that each owner obtain his or her own insurance coverage for his or her Residence, and all improvements therein. On the other hand, this section also provides the power and authority to the Association to obtain insurance coverage if an Owner fails to adhere to the process described herein, and also empowers the Association to obtain a common "master" policy for all Buildings within the Project as provided for in Section 10.3 below.

10.1 Owner's Insurance. Owners shall obtain insurance coverage at their own expense upon their own individual Residences and personal property and for their personal liability not covered by the master liability policy obtained by the Board. Each Owner shall be required to provide proof of insurance coverage to the Association by delivering, on an annual basis, on or before January 15th of each calendar year, a certificate of insurance in which the Residence is depicted, the insurance carrier named, and the limits of coverages noted. All such insurance coverage shall require notice to the Association prior to cancellation. It is also a requirement that the insurance underwriter be financially stable and that the coverages of such individual policy be consistent with the coverages throughout the project. For that reason the minimum coverage equal to 100% replacement value shall be required.

The insurance carrier must be licensed to do business in the State of South Carolina holding a rating of XI or better in the Financial Category as established by A.M. Best Company, Inc., if available, or, if not available, the most nearly equivalent rating. If the Owner of any Residence, other than the Declarant, fails to obtain an insurance policy covering his or her Residence, which failure may be presumed by the Association if no notice of such coverage is received by the Association as set forth herein, the Board may acquire such minimum coverage in the name of the Owner, naming the Association as its interest may appear, and may levy a specific assessment against the Owner for the costs of an insurance policy for flood, fire, hazard, and liability for the Owner's Residence, pursuant to the provisions of Sections 8 herein. The Board shall use any such assessment for the purchase of such an insurance policy which shall be issued in the Owner's name on the Owner's Residence.

10.2 Common Area Insurance. The Board of Directors of the Association shall obtain public liability insurance in such amounts and with such coverage as shall be required by the Board of Directors of the Association and casualty and liability insurance, as needed, on the Common Areas, together with such other insurance as the Association deems necessary in and for the interest of the Association, the Declarant, all Owners and

their institutional mortgagees, as their respective interests may appear. The premiums for such coverage and other expenses in connection with said insurance shall be assessed against the Owners as part of the Common Expenses.

The named insured shall be the Board, individually and as agent for the Owners, without naming them, and as agent for their institutional mortgagees. Provisions may be made for the issuance of institutional mortgagee endorsements and memoranda of insurance to the institutional mortgagees of Owners. Such policies shall provide that payments for losses thereunder by the insurer shall be made to the insurance trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the insurance trustee.

10.3 Additional Association Coverage. In addition to the coverages required above, the Board of Directors shall obtain:

- (a) Worker's Compensation. Worker's Compensation insurance to meet the requirements of law.
- (b) Other Insurance. Such other insurance as the Board of Directors of the Association shall determine from time to time desirable.

In addition, if the Board determines that a master insurance policy on all Buildings would provide better and/or more economical coverage than individual policies obtained by Owners, then, the Association, with the consent of the Declarant, so long as Declarant is a Class "B" Member, shall be authorized to purchase such "master" policy and to include the cost of such policy as part of the base assessment.

10.4 Premiums. Premiums upon common insurance policies purchased by the Association shall be paid by the Association as a Common Expense of the Association. The base assessment levied upon each Lot shall include the portion of the costs of such premiums, and the duty and obligation of each Owner to pay such costs of the premiums shall be the same as the duty to pay Assessments as set forth in Section 8 herein. Premiums upon individual owners insurance policies purchased by the Association pursuant to Section 10.1 shall be paid by the Association on behalf of the individual Owner and will be back-billed to the individual Owner as a Section 8.7 specific insurance assessment.

10.5 Insurance Trustee and Share of Proceeds. All insurance policies purchased by the Board for Common Areas shall be for the benefit of the Association, the Owners, and their institutional mortgagees, as their interests may appear, and shall provide that all proceeds covering Property losses shall be paid to the Board of Directors as Insurance Trustee. Those insurance policies purchased by the Board of Directors shall also provide that the insurance carriers where possible must provide the Board with thirty (30) days prior written notice of any cancellation of such insurance policies, and the Board shall then, as Insurance Trustee, promptly notify the Owners and their institutional mortgagees of such a cancellation.

The Board, as Insurance Trustee, shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies, nor for the failure to collect any insurance proceeds. The duty of the Board as Insurance Trustee shall be to receive such proceeds as are paid and to hold an undivided equal share for each Owner in trust for the purposes elsewhere stated herein and for the benefit of the Owners and their institutional mortgagees. The undivided equal shares need not be set forth on the records of the Board as Insurance Trustee.

10.6 Inspection of Insurance Policy. A copy of each insurance policy obtained by the Association shall be made available for inspection by Owners and their institutional mortgagees at reasonable times at the offices of the Association.

10.7 Reconstruction. In the event of casualty, loss or damage to a Residence, each Owner shall be responsible for applying the proceeds of all his or her casualty insurance to the repair or reconstruction of his or her Residence in accordance with the provisions of this Section. Reconstruction or repair shall be mandatory unless both of the following conditions are satisfied: (a) Seventy Five percent (75%) or more of the Residences within a Building are destroyed or substantially damaged to such an extent that in the opinion of the Board of Directors of the Association such Residences are not tenantable; and (b) a minimum of Seventy Five percent (75%) of the Owners of such damaged or destroyed Residences identified by the Board of Directors of the Association as being destroyed and untenable and their institutional mortgagees, if such damage or destroyed Residences are encumbered by the interests of the institutional mortgagees, must agree and consent in writing not to reconstruct or restore their damaged or destroyed Residences.

However, if Declarant owns a Residence damaged or destroyed in the above-described manner which has been declared untenable by the Board of Directors of the Association, the Declarant may compel the reconstruction or repair of all such damaged Residences regardless of the actions taken according to this Section 10.7 herein by the Board of Directors of the Association, Owners of such damaged Residences or the institutional mortgagees possessing an interest therein. If Seventy Five percent (75%) or more of the Residences within a Building are destroyed or substantially damaged to the extent described above and the same are not to be repaired or reconstructed, any insurance indemnity received by the Board for the Common Property shall be distributed as provided in this Section 10.7.

If the above-referenced damaged or destroyed Residences are to be repaired or reconstructed, repairs shall be conducted in the following manner:

(a) Original Plans. Any reconstruction or repair must follow substantially the original plans and specifications of the Property unless the Declarant (for so long as Declarant owns a Residence) and at least Seventy Five percent (75%) of the Members present, in person or by proxy, and entitled to vote at a duly called meeting of the Association and their institutional mortgagees, if

any, vote to adopt different plans and specifications and all Owners whose Residences are affected by the alterations unanimously consent.

(b) Insufficient Proceeds and Special Assessments for Residence Reconstruction. If the insurance proceeds paid to the Owner(s) are insufficient to cover the cost of reconstruction and/or complete any mandatory reconstruction or repair work on a Residence, the deficiency shall be paid by the Owners whose Residences are directly affected by the damage. If the Owner fails to pay such deficiency, the Board may do so and levy a Special Assessment upon such Owner to collect the deficiency paid by the Association.

(c) Construction Fund. Any insurance proceeds received by the Board for Common Property or any Special Assessments collected to cover a deficiency in Residence insurance and repair costs shall constitute a construction fund from which the Board shall disburse payment of the costs of reconstruction and repair. Regarding Special Assessments for Residence repair cost deficiency, if there is a balance in the fund after payment of all costs of reconstruction and repair, it shall be distributed back to the Owners who paid Special Assessments.

(d) Supervision of Repair. All repair, restoration or rebuilding pursuant to the provisions of this Article shall be carried out under the supervision and direction as the Board shall deem appropriate, with the consent of the institutional mortgagees of the Owners of the damaged Residences in order to assure the expeditious and correct completion of the work concerned. The Owner of each Residence which has been damaged or destroyed shall fully cooperate with the Association in connection therewith.

(e) Architects and Contractors. The Board is hereby given and shall have the right to approve the architects, contractors and subcontractors to be employed in connection with Common Property repair. The Board is further empowered to select the contractor, or contractors, to perform all of the various parts of the work to be done upon the various Residences which have been damaged or destroyed by such casualty or other happening, and which have failed to be re-built by the Owners and are subject to the Special Assessment set forth above.

11. DECLARANT RESERVED RIGHTS.

11.1 Declarant Use as Sales Model. Declarant, and its successors and assigns, shall be entitled to use one or more of the Residences as models for purposes of a sales model and/or office until the entire project as well as the Future Phase Property described above and to be developed by Declarant has been sold, it being the intent of Declarant that said reserved rights do not conflict with the residential use restriction described hereinabove.

11.2 Specific Reservation/Construction Purposes. This Declaration is being filed at a time where construction has not yet been fully completed on certain Residences within the Project and on certain Common Areas within the Project. Accordingly, Declarant specifically reserves the continuing right for access to, on, and over the Common Areas of the Project for purposes of completion of construction of the Residences and any improvements within the Common Areas including the initial construction of the patio to be located to the rear of each Residence. In addition, Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Areas for the purposes of enjoyment, use, access, and development of the Future Phases which is subject to be added to these Covenants by Declarant pursuant to Article 2, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Areas for construction of walks, roads, parking areas and for connection and installing utilities on such property.

11.3 Other Rights and Reservations. The omission of any right or reservation in this Article shall not limit any other right of or reservation by Declarant which is expressly stated in or implied from any other provision in these Covenants.

11.4 No Affirmative Obligation Unless Stated. Any reservation or right of Declarant which is stated in or implied from these Covenants shall not give rise to any affirmative obligation or duty on the part of Declarant unless expressly stated in these Covenants through use of the imperative "shall" in regard to the duty or obligation.

11.5 Certain Easements. Declarant reserves an easement on, over and under the Property to allow the installation of various utility and drainage lines and also to dispose on the landscaped areas of any individual Future Phase, Lot or Residence reclaimed water pursuant to an established irrigation system, which system is subject to state and local regulatory approvals except, provided, however, that:

(a) No utility easement shall run across any portion of the land which is covered by an existing building nor across any land for which written approvals to construct building improvements thereon have been obtained within the past year from Declarant, but shall be limited to those portions of the Property used for roads, parking, walks, natural and man-made landscaped areas, outdoor recreation areas and similar minor land improvements;

(b) Such easement or installation of utilities therein or thereon shall be maintained in as attractive a state as is commercially and technologically feasible;

(c) Declarant, without obligation, reserves the right to transfer such utility and easements, in whole or in part, to utility companies whether public or private, any Public Service District and any other public or private agency which shall undertake to provide such utility service.

11.6 Easement for Maintenance Purposes. Declarant reserves for itself, its successors and assigns, their agents and employees, an easement, in, on, over and upon each Lot within the Property as may be reasonably necessary for the purpose of the landscaping maintenance referenced above in Article 5. Declarant and its successors and assigns also retain an easement and license to enter upon any part of the Property, after reasonable notice, to engage in such repair, maintenance, upkeep or reconstruction as may be necessary to enforce compliance with this Declaration, and the full cost of such maintenance, repair, upkeep or reconstruction shall constitute a lien upon the Property and shall be a personal obligation of the Owner.

11.7 Easement of Encroachments. Declarant reserves the right to grant reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions). However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the person claiming the benefit of such easement.

11.8 Easement for Utilities etc.

(a) Installation and Maintenance. Declarant reserves for itself, so long as Declarant owns any property described on Exhibit "A" of this Declaration or has the right to add the Future Phase Property per Section 4, and grants to the Association and all utility providers (which may include governmental or quasi-governmental entities and/or any utility company), perpetual non-exclusive reciprocal and appurtenant easements throughout the Project (but not through a structure) to the extent reasonably necessary for the purpose of:

(i) Installing, constructing, maintaining and replacing utilities and infrastructure to serve the Project, including cable and other telecommunication systems for sending and receiving data and/or other electronic signals, security and similar systems, walkways, pathways and trails, drainage systems, street lights, and signage on property which Declarant owns or within the Project or easements reserved for such purpose on recorded plats or within ten (10) feet of any boundary of a Lot;

(ii) inspecting, monitoring, maintaining, repairing, and replacing the utilities, infrastructure, and other improvements described in Section 11.5; and

(iii) access to read utility meters.

(b) Specific Easements. Declarant also reserves for itself the non-exclusive right and power to grant and record such specific easements as may be necessary, in Declarant's sole discretion, in connection with the orderly

development of any property within the Project. The Owner of any property to be burdened by any easement granted pursuant to this subsection shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not be unreasonably withheld, delayed, or conditioned.

(c) Minimal Interference. All work associated with the exercise of the easements described in subsections (a) and (b) of this Section shall be performed in such a manner as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Lot, nor shall it unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

11.9 Easements for Maintenance, Emergency, and Enforcement. Declarant reserves for itself, the Association, and their successors and assigns, easements over the Lots, Residences, Common Area and Project necessary to enable it and the Association to fulfill the maintenance responsibilities under Sections 5.4, 5.5 and 5.6. The Association shall also have the right, but not the obligation, to enter upon any Lot for emergency, security, and safety reasons, to perform maintenance and to inspect for the purpose of ensuring compliance with and enforce this Declaration. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to Owner.

11.10 Rights, Easements Retained by Declarant.

(a) These reserved easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance.

(b) In addition, the Association reserves unto itself, its successors, assigns and licensees, a perpetual, alienable and releasable easement and right on and over and under the Property to dispense pesticides and take other action which in the opinion of the Declarant is necessary or desirable to control insects and pests.

(c) All such reserved rights and easements may be exercised by any licensee of Declarant or may be delegated to the Association, but this reservation shall impose no responsibility upon Declarant to construct or maintain any such utility or service. Declarant expressly reserves the right to transfer said

utilities and utility easements, in whole or in part, to another entity, whether public or private, which undertakes to provide such utility service.

12. GENERAL CONDITIONS.

12.1 Nonuse Not Exemption of Liability For Common Expenses. No Owner of a Residence may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common easements or by the abandonment of his Residence.

12.2 All Users Of Property Subject To Declaration. All present or future Owner, tenants, future tenants, or any other person that might use the facilities of the Property in any manner, including those who may lease from the Declarant, are subject to the provisions of this Declaration and any authorized amendments thereto, and that the mere acquisition or rental of any of the Residences shall signify that the provisions of this Declaration and any authorized amendment thereto are accepted and ratified.

12.3 Assessments Subordinate To Mortgagee Taking Title. Where a mortgagee or other purchaser of a Residence obtains title by reason of foreclosure or deed in lieu of foreclosure of a mortgage covering a Residence, such acquirer of title, his or its heirs, successors, assigns or grantees, shall not be liable for assessments by the Association which became due prior to the acquisition of title by such acquirer, it being understood, however, that the above shall not be construed to prevent the Association from filing and claiming liens for such assessments and enforcing same as provided by law.

12.4 Other Common Easements. Each Residence Owner shall have an easement in common with the owners of all other Residences to use all pipes, wires, ducts, flues, cables, conduits, public utility lines located in any of the other Residences and serving his Residence. Each Residence shall be subject to an easement in favor of the owners of all other Residences to use the pipes, wires, ducts, flues, cables, conduits, public utility lines and other Common Areas serving such other Residences and located in such Residence. The Board shall have the right of access to each Residence to inspect the same to remove violations therefrom and to maintain, repair or replace Common Areas contained therein or elsewhere in the building.

12.5 Severability. The provisions thereof shall be deemed independent and severable and the invalidity in whole or in part of any section, sub-section, sentence, clause, phrase or word, or other provision of the Declaration and the By-Laws or any authorized amendment thereto shall not impair or affect in any manner the validity or enforceability of the remaining portions thereof and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included therein.

12.6 Non-Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

12.7 Gender And Number. The use of the masculine gender in this Declaration shall be deemed to refer to the feminine and neuter gender, and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

12.8 Applicable Law & Interpretation. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best effect consummation of the general plan of land use restrictions and affirmative obligations of the Property, which will carry out the intent of the Declarant as expressed herein, and which will preserve the Property as a situs for an attractive, well maintained, residential community.

Contrary to the restrictive common law rule of construction, this Declaration shall by this covenant be interpreted broadly to touch and concern the Property with recognition of modern economic, land use planning and real estate finance and development principles, theories and practices. It is the Declarant's intent, and all Owners who take subject to the Declaration, to covenant and agree, and are thereby estopped to deny, that any reserved right or function of the Declarant and/or Association, and any other covenant condition, restriction or obligation within these Covenants is intended to promote the use and enjoyment of the Property, is intended to foster the creation, preservation or enhancement of economic or intangible values associated with the Property, and does touch and concern, benefit and burden and run with the Property.

12.9 Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Declaration or the intent of any provisions hereof.

12.10 Enforcement. Without limiting any specific enforcement remedies contained herein, it is generally noted that each Owner shall comply strictly with this Declaration and with the covenants, conditions and restrictions set forth in any deed or other instrument of conveyance to his/her Residence, if any. Failure to comply with any of the same shall be grounds for imposing fines or for instituting an action to recover sums due for damages and/or injunctive relief. Such actions may be maintained by Declarant. Should the Declarant employ legal counsel or enforce any of the foregoing, all costs incurred of such enforcement, including court costs and reasonable attorney's fees shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration are essential for the effectuation of the general plan of development contemplated hereby, it is hereby declared that any breach thereof may not be adequately compensated by recovery of damages and that the Declarant, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No delay, failure or omission on the part of the Declarant in exercising any right, power or remedy, thereafter, as the same violation or breach or as to a violation or breach occurring prior or subsequent thereto shall be considered a waiver on the part of Declarant and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Declarant for or on account of any

failure to bring any action. Notwithstanding anything contained herein to the contrary, nothing set forth in these Covenants shall create any obligation on the part of the Declarant, or its successors or assigns to enforce the Covenants contained in Article 5.

12.11 Additional Covenants. Declarant expressly reserves the right to impose additional restrictive covenants upon the said Property provided that the same are not inconsistent with the restrictions as herein provided. Said additional covenants, if any, shall be effective only upon Property transferred by Declarant simultaneously with or subsequent to the imposition of said covenants and shall be made effective upon said Property by reference to said additional or amended provisions in the deed transferring said Property. It shall be the responsibility of each Owner within the Property to comply with any restrictions contained herein or any additional restrictions which may be imposed by governmental authorities.

12.12 Duration of Covenants. All covenants, restrictions and affirmative obligations set forth herein shall run with the land and shall be binding on all parties and persons claiming under them to specifically include, but not be limited to, the successors and assigns, if any, of Declarant for a period of twenty-one (21) years from the execution of this Declaration, subject to the right reserved unto Declarant, its successors and assigns, to add additional restrictive covenants in respect to the Property subject to this Declaration and the further right to limit or amend the application of the Covenants herein contained. After the initial twenty-one (21) year period of duration, all said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a seventy-five percent (75%) of the then Owners of Lots substantially affected by such change of Covenants, has been recorded, agreeing to change said Covenants in whole or part or to terminate the Declaration.

12.13 Remedies in the Event of Violation or Breach. In the event of a violation or breach of any of the restrictions contained herein by grantee, its agents, successors or assigns, Declarant shall have the right, but shall not be obligated, to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event, and Declarant shall have the right to recover all costs and expenses of suit in such action, including reasonable attorneys' fees. In addition to the foregoing, Declarant, its successors and assigns shall have the right, but not the obligation, whenever there shall have been built on said Property any structure which is in violation of these restrictions, to enter upon said Property where such violation exists and summarily abate or remove the same at the expense of the Owner if after thirty (30) days' written notice of such violation, it shall not have been corrected by the Owner. Any such entry or abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions or conditions contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement.

12.15 Declarant Approval. Whenever any matter shall require the approval or consent of Declarant hereunder, or any other action or decision on behalf of Declarant, the vote of Declarant shall control in the event of any dispute.

12.16 Right to Transfer or Assign Declarant Rights. The rights and powers of Declarant under this Section may be assigned to and vest concurrently in the Association, and Declarant. Declarant and Association shall have concurrent and independent rights of enforcement as provided herein upon the execution and recording of an assignment document by Declarant. In addition, any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws (including, but not limited to, Declarant's Class "B" Membership) may be transferred in whole or in part to other third parties; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument Declarant signs and records. The foregoing sentence shall not preclude Declarant from permitting other persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

12.17 Notice of Ownership Change. It shall be the affirmative obligation of each Owner to notify Declarant and Association of any intended change of ownership, at least seven (7) days prior to the intended date of transfer. The Association may establish a procedure and administrative fee to cover costs, and prescribe certain forms, to be utilized by the transferring Owner to provide such notice which would set forth any information as the Association may reasonably require.

13. AMENDMENT TO COVENANTS. Declarant reserves the right to amend this Declaration during the time period for which Declarant is the Class B Member.

As to proposed amendments after Declarant's Class B vote is terminated, the procedure for amendment shall be as follows: all proposed amendments shall be submitted to the vote of the Members at a duly called meeting of the Association for which notice of the proposed amendment has been given to the Members in the notice for the meeting, subject to the quorum requirements set forth above, and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. Notwithstanding the above, if a proposed amendment shall remove, revoke, modify, or affect in any way powers or rights of the Declarant, then such amendment shall require the consent of Declarant prior to becoming effective. Said amendments requiring the consent of Declarant shall include, but not be limited to, amendments which would increase the amounts of assessments paid by such properties or owners, or any other amendment which would otherwise affect the operation and development rights of Declarant.

If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an addendum to this Declaration which shall set forth the amendment, the effective date of the amendment, the date of the meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, and the total number of votes cast against the amendment.

14. MISCELLANEOUS PROVISIONS.

14.1 Dispute Resolution. Any Owner must give written notice to the Board requesting a hearing with the Board and attend such hearing to discuss amicable resolution of any dispute as a condition precedent to that Owner filing any lawsuit against Association, the Board, and director, or any agent of the Association. The Owner shall in such notice, and at the hearing, make a good faith effort to explain the grievance to the Board and resolve the dispute in an amicable fashion, and shall give the Board a reasonable opportunity to address the Owner's grievance before filing suit. Upon receiving a request for a hearing, the Board shall give notice of the date, time, and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing not more than thirty (30) days from the date of receipt of notice of hearing by the person requesting the hearing.

14.2 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the votes eligible to be cast by the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. In the event any claim is made against Declarant or any litigation is instituted against Declarant, then the Association shall assess all Members, other than the Declarant, for the costs of claim or litigation, including, without limitation, attorneys' fees incurred, and funds from regular assessments shall not be used for any such claim or litigation.

14.3 Rule Against Perpetuities. If any provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions contained herein and imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law or until twenty-one (21) years after the death of the last survivor of the now living descendants of the President of the United States and the original Owners of Lots in the Property.

14.4 Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

14.5 No Implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT OR ASSOCIATION PURSUANT TO THESE COVENANTS SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY OWNER.

14.6 Arbitration. If a dispute, controversy or claim (whether based upon contract, tort, statute common law or otherwise) (collectively a "Dispute") arises from or relates directly or indirectly to any of the subject matter hereof, and if the Dispute cannot be settled through direct discussions, the parties shall first endeavor to resolve the Dispute participating in a mediation administered by the American Arbitration Association (the "AAA") under the South Carolina Arbitration Act, Section 15-48-10, et seq., as amended, before resorting to arbitration. Thereafter, any unresolved Dispute shall be settled by binding arbitration administered by the AAA, pursuant to the South Carolina Arbitration Act, Section 15-48-10, et seq., as amended in accordance with the AAA Commercial Arbitration Rules and judgment on the award rendered by the arbitrator, after review rights set forth below have been exhausted, may be entered in any court having jurisdiction. The arbitration proceedings shall be conducted in Horry County, South Carolina on an expedited basis before a neutral arbitrator who is a member of the Bar of the State of South Carolina, and has been actively engaged in the practice of law for at least fifteen (15) years, specializing in real estate or commercial transactions with substantial experience in the subject matter hereof. Any attorney who serves as an arbitrator shall be compensated at a rate equal to his or her current regular hourly billing rate unless the AAA is able to arrange with the parties and the arbitrator to agree otherwise. Upon the request of either party, the arbitrator's award shall include findings of fact and conclusions of law provided that such findings may be in summary form. Either party may seek review of the arbitrator's award before an arbitration review panel comprise of three arbitrators qualified in the same manner as the initial arbitrator (as set forth above) by submitting a written request to the AAA. The right of review shall be deemed waived unless requested in writing within ten (10) days of the delivery of the initial arbitrator's award. The arbitration review panel shall be entitled to review all findings of fact and conclusions of law in whatever manner it deems appropriate and may modify the award of the initial arbitrator in its discretion. Notwithstanding the foregoing agreement to submit a Dispute to mediation and arbitration in accordance with the above described terms, an Owner of a condominium unit shall not be prevented from seeking temporary injunctive relief before a court of competent jurisdiction in any emergency situation, but responsibility for resolution of the Dispute shall be appropriately transferred to the arbitrator upon appointment in accordance with the provisions hereof. The agreement to arbitrate a Dispute shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

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SIGNATURE PAGE TO FOLLOW

Exhibit "A"
Description of Property

All and Singular, those certain pieces, parcels or tracts of land, situate, lying and being in the County of Horry, State of South Carolina as shown on that certain plat entitled "Final Subdivision Plat Riverwalk Townhouses at Arrowhead, Laterns Rest Road, Myrtle Beach, SC" dated October 27, 2016, prepared by Solan Associates, P.C. and recorded January 26, 2017 in Plat Book 273 at Page 299, in the Office of the Register of Deeds for Georgetown County, South Carolina.