

**SECOND AMENDED DECLARATION OF PROTECTIVE COVENANTS  
AND CONDITIONS FOR  
PATRICK SQUARE**

THIS SECOND AMENDED DECLARATION OF PROTECTIVE COVENANTS AND CONDITIONS ("Declaration") is made as of the date set forth on the signature page hereof by Patrick Square, LLC, a South Carolina limited liability company (the "Declarant"). The Declarant is amending the Declaration of Protective Covenants and Conditions for Patrick Square, recorded on 11/18/2008, in Book 1222, starting with Page 222 of the Register of Deeds of Pickens County, South Carolina, pursuant to Article 14, Section 14.2(a) set forth therein, which was previously once amended on April 9, 2009 via an amendment recorded at Book 1246, starting with page 342 of the Register of Deeds of Pickens County, South Carolina, and to which additional property was added through subsequently- recorded supplemental declarations.

Declarant is the owner of the real property described on Exhibit "A", which is attached hereto and incorporated herein by reference (the "Property"). This Declaration imposes upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of the Owners of each portion of the Property and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Property. In furtherance of such plan, this Declaration provides for the creation of the Owner's Association to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, the By-Laws, and the Community-Wide Standard (capitalized terms are defined in Article 1 below).

Declarant hereby declares that all of the Property and any Additional Property subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Property, their heirs, successors, successors- in-title, and assigns, and shall inure to the benefit of each Owner of any portion of the Property. •

The Property is subject to a zoning ordinance enacted by the City of Clemson creating a planned development known as "Patrick Square" (the "Regulating Plan"). The Regulating Plan for Patrick Square is a comprehensive ordinance setting forth the development plan and the Community Wide Standard for all improvements to be located within Patrick Square. This Declaration is intended to supplement the Regulating Plan and wherever there is any conflict between the two, the more restrictive language shall control.

This document is intended to govern the single family residential portion of Patrick Square described in Exhibit "A" and any Additional Property hereafter subjected to this Declaration and does not and is not intended to encumber any portion of the commercial/mixed use portion of Patrick Square herein referred to as "Town Center". The improvements to the Town Center portion of Patrick Square are proposed and Declarant reserves the right (subject to amendment to the Regulating Plan if required by the City of Clemson) to alter the development plan for the Town Center, to construct all or any portion of the proposed improvements in the Town Center and to otherwise proceed with development of the Town Center as Declarant or its successors or assigns may determine to be appropriate in Declarant's sole discretion.

### **ARTICLE 1: DEFINITIONS**

The terms in this Declaration and in the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below:

1.1 "ARB." Architectural Review Board as described in Section 9.2.

1.2 "Additional Property." Any real property subjected to this Declaration by the Declarant, in its sole discretion, by a Supplemental Declaration.

1.3 "Architectural Review Consultant." The Architectural Review Consultant shall be appointed by and employed by the Declarant to encourage architectural harmony within the development and to ensure that all property Owners adhere to the standards set forth in the Regulating Plan. The Architectural Review Consultant shall work in conjunction with the Declarant and/or the Owners Association. Additionally, approval of site and/or structural improvements by the Architectural Review Consultant shall be forwarded to the Zoning Administrator for the City of Clemson as part of the permitting process.

1.4 "Attached Single-Family." An attached single-family residence is a two unit building that shares a common property line and common boundary wall between the two units. The other side of each unit has a side yard.

1.5 "Area of Common Responsibility." The Common Area together with any additional areas for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, or other applicable covenant, contract or agreement including, without limitation, the parkways and other areas within public rights of way not maintained by the City of Clemson or required to be maintained by Owners as hereafter provided.

1.6 "Articles of Incorporation or Articles." The Articles of

Incorporation of Patrick Square Owners Association, Inc. as filed with the Secretary of State of the State of South Carolina.

1.7 - "Board of Directors or Board." The body responsible for administration of the Owners Association as provided in the By-Laws and serving as the Board of Directors under South Carolina Law.

1.8 "Builder." Any person or entity who purchases one or more Lots for the purpose of constructing improvements thereon for sale to consumers or who purchase one or more parcels of land within the Property for further subdivision, development, and/or resale in the ordinary course of business. Any person or entity occupying or leasing a Lot for residential purposes shall cease to be considered a Builder with respect to such Lot immediately upon occupancy of the Lot for residential purposes, notwithstanding that such person or entity originally purchased the Lot for the purpose of constructing improvements for later sale to consumers.

1.9 "By-Laws." The By-Laws of Patrick Square Owners Association, Inc. attached hereto as Exhibit "B" and as may be amended.

1.10 "Common Area." All real and personal property, including easements and licenses which the Association owns, leases or holds possessory or use rights in for the common use and enjoyment of the Owners.

1.11 "Common Expenses." The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserves as the Board may find necessary and appropriate pursuant to the Governing Documents.

1.12 "Community-Wide Standard." The standard of conduct, maintenance, or other activity generally prevailing throughout the Property. The community wide standard shall include the standards established in the Regulating Plan, as it may be hereafter amended, the residential design guidelines adopted by the Architectural Review Consultant or ARB, and any rules and regulations of the Association or board resolutions, whichever is the highest standard. Such standards shall initially be established by the Declarant and the Architectural Review Consultant and may be more specifically determined by the Board of Directors and the ARB after the Class B Control Period.

1.13 "Cost Sharing Agreement." Any agreement, contract or covenant between the Owner's Association and an owner or operator of property adjacent to, in the vicinity of, or within the Property for the allocation of expenses for amenities and/or services that benefit both the Association and the owner or operator of such property, including but not limited to any cost sharing agreement with the owner's association for the Town Center, or a multifamily residential development within

the Town Center or right of way maintenance agreement with the City of Clemson.

1.14 "Declarant or Developer." Patrick Square, LLC, a South Carolina limited liability company and any successor or assign of Patrick Square, LLC that is designated by Patrick Square, LLC as successor declarant pursuant to a recorded assignment.

1.15 "Development Period." The period of time during which the Declarant owns any property which is subject to this Declaration or any adjoining property which may be subjected to this Declaration as Additional Property. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument in the public records.

1.16 "General Assessment." Assessments levied on all Lots subject to assessment under Article 8 to fund common expenses for the general benefit of all Lots, as more particularly described in Sections 8.2.

1.17 "Governing Documents." This Declaration, the By-Laws, the Articles of Incorporation, all Supplement Declarations, the rules of the Owners Association, and the provisions of the Regulating Plan for Patrick Square as enacted by the City of Clemson, South Carolina and all amendments to the foregoing.

1.18 "Guidelines." Recommendations that are not legally binding, but that enhance the quality of the overall design.

1.19 "Lot." A portion of the Property which may be independently owned and conveyed which is intended for development, use and occupancy as an attached or detached residence for a single family. The term shall refer to the land as well as any improvement thereon. In the case of an un-platted parcel of land, the parcel shall be deemed to be a single Lot, for the purposes of this Declaration and any supplemental or amendments only, until such time as a subdivision plat is filed with respect to all or a portion of the parcel.

1.20 "Neighborhood." A separately developed area within the Property in which the Owners of Lots may have common interests other than those common to all members of the Owner's Association. For example, and by way of illustration and not limitation, each single-family attached or detached housing development may constitute a separate Neighborhood.

1.21 "Neighborhood Assessments." Assessments levied against the Lots in a particular neighborhood to fund Neighborhood Expenses as described in Section 8.3.

1.22 "Neighborhood Expenses." The actual and estimated expenses incurred or anticipated to be incurred by the Owner's Association for the benefit of Owners of Lots within a particular Neighborhood.

1.23 "Open Space." Area that is intended to provide light, air, view and/or quality or general appearance of openness, and is designed for scenic, recreational, privacy or environmental purposes.

1.24 "Owner." One or more persons who own a record title to any residential Lot including the Declarant and any Builder, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is owned by more than one person, all such persons shall be jointly and severally obligated to perform the responsibilities of such owner.

1.25 "Owners Association." Patrick Square Owners Association, Inc., a South Carolina non-profit corporation, its successors or assigns.

1.26 "Property." The real property described on Exhibit "A" as such as exhibit may be amended or supplemented at any time to reflect any additions. The Property shall not include any portion of the Town Center without the written consent of the Declarant.

1.27 "Special Assessment." Assessments levied in accordance with Section 8.5.

1.28 "Specific Assessment." Assessments levied in accordance with Section 8.6.

1.29 "Storm Water Pond." Any area within the Property which is designated by Declarant as a "Storm Water Pond".

1.30 "Supplemental Declaration." An instrument filed in the public records which subjects Additional Property to this Declaration, and designates Neighborhoods or imposes additional restrictions and obligations on the land described in such instrument.

1.31 "Patrick Square." That certain mixed use development located in Clemson, Pickens County, South Carolina and commonly known as Patrick Square including the residential community and the adjacent commercial area known as the Town Center.

1.32 "Regulating Plan." The zoning ordinance for Patrick Square as same may be amended or supplemented in the future. Declarant reserves the right, in its sole discretion, to obtain amendments to the Regulating Plan as Declarant

may deem advisable.

1.33 "Town Center." The commercial/mixed use area comprising a portion of that certain mixed-used development known as Patrick Square. The specific boundaries of the Town Center shall be determined in the sole and absolute discretion of the Declarant and the Owner's Association shall have no role in determining such boundaries.

## ARTICLE 2: PROPERTY RIGHTS

2.1 Common Area. Every Owner shall have a right and non-exclusive easement of use, access, and enjoyment in and to the Common Area within the Property, which is appurtenant to and shall pass with the title to each Lot, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Owners Association;
- (c) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area;
- (d) The right of the Owners Association to rent, lease or reserve any portion of the Common Area to any Owner for the exclusive use of such Owner and his or her respective lessees, invitees, and guests upon such conditions as may be established by the Board;
- (e) The right of the Board to suspend the right of an Owner to use the Common Area pursuant to Section 8.1;
- (f) The right of the Board to impose reasonable requirements and charge reasonable admission or other use fees for the use of any facility situated upon the Common Area;
- (g) The right of the Board to permit use of any facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of reasonable use fees, if any, established by the Board;
- (h) The right of the Owners Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and
- (i) The right of the Owners Association, acting through the Board, to dedicate or transfer all or any portion of the Common Area, subject to any approval

requirements set forth in the Governing Documents.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot shall be deemed to have assigned all such use rights to the lessee of such Lot; provided however, the Owner shall remain ultimately responsible for payment of all assessments and other charges.

2.2 Ingress and Egress. Every Owner shall have an easement for ingress and egress over, through and across any streets, roads, lanes or alleys within the Property, whether or not they are located on Lots or Common Area for the purpose of ingress and egress. Subject to agreement by the City of Clemson to accept such dedication, all such streets, lanes, roads or alleys shall be conveyed to the City of Clemson prior to the end of the Development Period. Any streets, roads, lanes or alleys not accepted by the City of Clemson shall be conveyed by Declarant to the Owners Association prior to the end of the Development Period. Prior to the streets, roads, lanes or alleys being dedicated to the City of Clemson, the Declarant retains the right to adopt and amend rules regulating the use and enjoyment of the same; provided, however, that the Declarant shall not, by the adoption of any rule or regulation bar access of the Owners to their respective Lot.

2.3 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Section shall not prohibit the Board from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.4 Condemnation. The Owners Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney in fact for all Owners in such matters. Whenever any part of the Common Area shall be taken or conveyed under threat of condemnation to any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance. The Board may convey Common Area under threat of condemnation during the Development Period, only with the written consent of the Declarant. The award made for such taking or proceeds of such conveyance shall be payable to the Owners Association.

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Owners Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, provided that during the Development Period, the Declarant must agree consent if the improvements are not to be restored. Any such construction shall be in accordance with the plans approved by the Board and the

Architectural Review Consultant. The provisions of Section 6.1 (d) regarding funds for the repair of damage or destruction shall apply.

If the trucing or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Owners Association for such purposes as the Board shall determine.

2.5 View hnpairment. Neither the Declarant nor the Owners Association guarantees or represents that any view from Lots over and across the Common Area will be preserved without impairment. Neither the Declarant nor the Owners Association shall have the obligation to prune or thin trees or other landscaping, and shall have the right to add trees and other landscaping or to install improvements or barriers (both natural and artificial) to the Common Area from time to time.

2.6 Attached Single-Family Homes. Certain Lots within the single-family residential portion of Patrick Square may be improved pursuant to a plan for attached single-family homes. Owners of single-family attached homes shall have certain rights and obligations in connection with the common wall that exists between them as provided in Section 10.21 below.

### **ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS**

3.1 Membership. Every Owner shall be a Member of the Owners Association. There shall be only one (1) membership per Lot. If a Lot is owned by more than one (1) person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and restrictions on voting set forth in Section 3.2 (a) and in the By-Laws. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by any individual designated from time to time by the Owner in a written instrument provided to the Owners Association.

3.2 Voting. The Owners 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. Each Class "A" Member shall have one (1) equal vote for each Lot in which he or the holds the interest required for membership under Section 3.1; provided however, there shall be only one (1) vote per Lot and no vote shall be exercised for any property which is exempt from assessment under Section 8.10. All Class "A" votes shall be cast as provided in Section 3.2(d) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant.

Declarant shall have five votes for every Lot owned. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant Sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint all of the members of the Board of Directors during the Class "B" Control Period which shall commence on the date of execution of this Declaration and continue until the first to occur or the following:

- (i) when one hundred (100%) percent of the total number of Lots permitted by the Regulating Plan have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders;
- (ii) December 31, 2030; or
- (iii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

After termination of the Class "B" Control Period, the Class "B" Member shall have the right to disapprove actions of the Board and committees as provided in the By-Laws. The Class "B" membership shall terminate upon the earlier of:

- (i) five (5) years after expiration of the Class "B" Control Period;
- or
- (ii) when, in its discretion, the Declarant so determines and declares in recorded instrument,

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

(c) Additional Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the Owners of Lots within any Additional Property made subject to this Declaration pursuant to Article 7, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(d) Exercise of Voting Rights. If there is more than one (1) Owner of a Lot, the vote for such Lot shall be exercised as the co-Owners determine among themselves and notify the secretary of the Owners Associations in writing prior to the vote being taken. Absent such notice, the Lot's vote shall be suspended or invalidated if more than one (1) Person seeks to exercise it. No vote shall be exercised on behalf of any Lot if any assessment for such Lot is delinquent. If such vote is exercised, it will be deemed invalid.

3.3 Neighborhoods. Every Lot within the Property shall be located within a Neighborhood. A Neighborhood containing Lots to be improved with Detached Single-Family Residences is referred to as a "Detached Single Family Residence Neighborhood". A Neighborhood containing Lots to be improved with Attached Single-Family Residences is referred to as an "Attached Single Family Residence Neighborhood". All Owners are advised that within the Town Center the following uses are permitted:

- (a) retail sales involving the sale of merchandise on the premises;
- (b) eateries or restaurants excluding drive-in or drive through access;
- (c) professional offices, such as accounting, legal services, banking services, insurance, real estate, engineering, architecture, research and similar offices;
- (d) personal services, such as laundry (non-industrial) beauty salons, barber shop, tailor, shoe repair, photo studio, art gallery, day spa, wellness center and similar services;
- (e) medical and dental offices;
- (f) governmental buildings including a postal facility;
- (g) daycare facility;
- (h) assisted care living facility/skilled nursing facility;
- (i) multi-household dwelling;
- (i) lodging facility that may include residential suites incorporating full kitchens for long and short term stays and bed and breakfast inns;
- (k) Living quarters;
- (l) Recreational uses including passive and active;
- (m) temporary seasonal sales (such as pumpkins or Christmas tree stands);
- (n) farmers' and/or art market; and,
- (o) educational facility, such as continuing education, University programs and tutorial facilities.

The following uses are permitted within the Property:

- (a) detached single-family residences;
- (b) attached single-family residences;
- (c) community center with meeting rooms, great room and recreational areas;
- (d) recreational uses, including passive and active;
- (e) a separate living area located on a Lot improved with a detached single family residence not to exceed 700 square feet in area and one bedroom, and subject to section 210 (a)(15) of the Patrick Square Regulating Plan regarding maximum occupancy limits;

The natural qualities of the Open Space will be enhanced and maintained, featuring a man-made lake to serve as both a storm water management pond and a recreational feature. Other uses allowed in the Open Space are:

- (a) community gardens;
- (b) walking paths and bike trails;
- (c) boardwalks;
- (d) picnic pavilions; and
- (e) play fields.

During the Development Period, the Declarant may unilaterally amend this Declaration, any Supplemental Declaration or any plat from time to time to assign property to a specific Neighborhood, to re-designate Neighborhood boundaries or to remove property from a specific Neighborhood.

In the event that the Owners Association fails to properly perform its maintenance responsibilities hereunder during the Development Period or to comply with the Community-Wide Standards, the Declarant may, upon not less than ten (10) days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Owners Association for all costs incurred.

The Lots within a particular Neighborhood may be subject to additional covenants.

#### ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE OWNERS ASSOCIATION

4.1 Function of Owners Association. The Owners Association shall be the entity responsible for management, maintenance, operation and control of the Common Area and all improvements thereon. The Owners Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Property as the Board may adopt pursuant to Section 10.2. The Owners Association shall also be responsible for administering and enforcing the architectural standards and controls set forth in this Declaration and in the Regulating Plan for Patrick Square. The Owners Association shall perform its functions in accordance with the Governing Documents and the laws of the State of South Carolina. Nothing contained herein shall be construed as granting the Owners Association any rights with respect to the Town Center Area except as provided in an applicable Cost Sharing Agreement.

4.2 Personal Property and Real Property for Common Use. The Owners Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant may convey to the Owners Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibit "A" or Additional Property hereafter subjected to this Declaration or personal property and leasehold and other property interests. Such property shall be accepted by the Owners Association and thereafter shall be maintained by the Owners Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Owners Association. Declarant shall not be required to make any improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section. Upon written request of Declarant, the Owners Association shall re-convey to Declarant any portion of the Property originally conveyed by Declarant to the Owners Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3 Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in Article VII of the By-Laws. Such sanctions may include, without limitation:

- (a) imposing monetary fines which shall constitute a lien upon the Lot of the violator;
- (b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (c) suspending an Owner's right to vote; or

(d) suspending any Person's right to use the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to and from a Lot.

In the event that any occupant, guest or invitee of a Lot violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction such occupant, guest or invitee and/or the Owner of the Lot that the violator is occupying or visiting. If a fine is imposed, the fine will be assessed against the Owner of the Lot.

In addition, the Board, or any committee of the Board designated by it, may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules, or the entering upon any Lot for the correction of any maintenance, construction or other violation of the Governing Documents) without the necessity of compliance with the procedures set forth in the By-Laws. The Owners Association may levy Specific Assessments to cover all costs including attorney's fees incurred in bringing a Lot into compliance with the terms of the Governing Documents.

The Owners Association may also elect to enforce any provisions of the Governing Documents by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Owners Association to enforce the provisions of the Governing Documents, if the Owners Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys' fees and court costs, incurred in such action.

The Owners Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its judgment determines is, or is likely to be construed as inconsistent with applicable law, or in any case in which the Board reasonably determines that the Owners Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed as a waiver of the right of the Owners Association to enforce such provision under any circumstances or prevent the Owners Association from enforcing any other covenant, restriction or rule.

The Owners Association, by contract or other agreement, may enforce county, town, city, state and federal ordinances, if applicable, and permit local and

other governments to enforce ordinances on the Property for the benefit of the Owners Association and its Members.

4.4 Implied Rights: Board Authority. The Owners Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Owners Association may be exercised by the Board without a vote of the membership.

4.5 Indemnification. The Owners Association shall indemnify Declarant, the Architectural Review Consultant, every officer, and director of the Owners Association, , ARB members, and committee members against all damages, liabilities, and expenses, including reasonable attorneys fees, incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) so which he or they may be a party by reason of being or having been an officer, director, or member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and South Carolina law.

The Declarant, Architectural Review Consultant, officers, directors, ARB members and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The Architectural Review Consultant, officers, directors, ARB members, and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith, on behalf of the Owners Association (except to the extent that such officers, directors, ARB members or committee members may also be Members of the Owners Association). The Owners Association shall indemnify and forever hold each such Architectural Review Consultant, officer, director, ARB member and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former Architectural Review Consultant, officer, director, ARB member or committee member may be entitled, The Owners Association shall, as a Common Expense, maintain adequate general liability and directors and officers liability insurance to fund this obligation, if such insurance is available at reasonable cost.

4.6 Dedication of, or Grant of Easements on Common Area. The Declarant or Owners Association may dedicate or grant easements across portions of the Common Area to the City of Clemson, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity or to any private utility company or other private person or entity.

4.7 Security. Each Owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Property. The Owners Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than they otherwise might be. Neither the Owners Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness or security measures undertaken. No representation or warranty is made that any security system or measure cannot be compromised or circumvented, nor that any such security system or measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Additionally, no representation or warranty is made that the lighting facilities or systems (including the placement thereof) will adequately illuminate or attempt to adequately illuminate all of the Common Areas, or that such facilities or systems will be designed with, safety measures in mind. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Owners Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Property assumes all risks of personal injury and loss or damage to property, including Lots and the contents of the Lots, resulting from acts of third parties.

4.8 Provision of Services. The Owners Association may provide services and facilities for the Members of the Owners Association and their guests, tenants and invitees. The Owners Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Owners Association may be funded by the Owners Association as a Common Expense or a Neighborhood Expense, depending on whether the service or facility is provided to all Lots or only the Lots within a specified Neighborhood. In addition, the Board shall be authorized to charge use and consumption fees for services and facilities through Specific Assessments or by requiring payment at the time the service or facility is provided. As an alternative, the Owners Association may arrange for the costs of the services and facilities to be billed directly to Owners by the provider(s) of such services and facilities. By way of example, some services and facilities which may be provided include garbage collection, telephone, cable, digital, satellite or similar television service, internet, intranet, and further computer related services, security and similar services and facilities. Subject to the provisions of this Declaration as to the rights reserved to Declarant as the provision of telecommunication services, the Board, without the consent of the Class "A" Members of the Owners Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Owners Association.

In the event that the Owners Association does provide internet, intranet or other computer related services, each Owner, occupant, guest and invitee acknowledges that neither the Owners Association, the Board nor Declarant shall in any way be responsible for inappropriate use of any internet, intranet or other computer related services provided by the Owners Association ("Network"), nor can the Owners Association ensure prompt removal of any inappropriate communication after transmission or posting. Accordingly, the Owners Association makes no guarantee, nor assumes any liability to any Members or other users of the Network for any purpose whatsoever. Under no circumstances shall the Owners Association or the Declarant, their parents, subsidiaries, employees, officers, directors, members, managers, successors or assigns be responsible for any damages, losses or consequences resulting from a Member's use of such Network, if any. Nothing contained herein shall be construed as an obligation of the Declarant to provide internet, intranet or any other computer related services.

4.9 Trails. The Declarant reserves for itself, its successors and assigns, and the Owners Association, the right to designate certain areas within the Property, including the Common Area, to be used as recreational bike and pedestrian pathways and trails ("trail system"). Each Owner acknowledges, understands and covenants to inform the occupants of such Owner's Lot, that the Property may contain a trail system and that there may be certain inconveniences and loss of privacy associated with the ownership of Lots adjacent to such trail system resulting from the use of the trail system. Each Owner acknowledges that a non-exclusive, public access easement will exist over the Common Area that will permit public pedestrian use of a 6 foot walking path connecting Thomas Greene Boulevard and Nettles Park.

## **ARTICLE 5: MAINTENANCE**

### **5.1 Owners Association's Responsibility.**

(a) The Owners Association shall maintain and keep in good condition, order and repair the Common Area, which shall include, but need not be limited to:

(i) All Common Area, including any community mailbox delivery facilities and any clubhouse structure;

(ii) the streets, including all alleys located within the Property prior to their transfer to the City of Clemson;

(iii) any irrigation system situated upon the Common Area;

(iv) all landscaping and other flora, including street trees, and all structures and improvements, including but not limited to any entry features, gates

and sidewalks if they remain private, situated upon the Common Area;

(v) all furnishings, equipment and other personal property of the Owners Association;

(vi) any parks, bike and pedestrian pathways/trails, street lights, buffers, structures and improvements and landscaping within public rights-of-way or abutting the Property or upon such other public land adjacent to the Property as deemed necessary in the discretion of the Board;

(vii) any Storm Water Ponds including any water quality facilities and all storm water collection systems located outside of the public right-of-way.

(b) The Owners Association shall maintain the facilities and equipment within the Common Area in continuous operation, except for pool area closing during the winter and any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless during the Development Period, the Declarant agrees in writing to discontinue such operation.

(c) The Owners Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner; or (ii) such property is dedicated to any local, state, or federal government or quasi- governmental entity; provided however, that in connection with such, assumption, assignment or dedication, the Owners Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(d) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Common Area shall be a Common Expense to be allocated among all Lots as a part of the General Assessment.

(e) The Owners Association shall maintain, repair, and replace the landscaping and other flora within the yards of each Lot within any Attached Single-Family Neighborhoods designated by the Owner's Association as the "base landscaping". In the event the Owner or someone other than the Owner's Association makes upgrades or alterations are made to the base landscaping, the Owner of the Lot shall bear all expenses including irrigation and maintenance of such additional landscaping and all replacement costs. The Owner's Association shall also maintain, repair and replace the exteriors (excluding all windows and doors) and roofs of all residences in the Attached Single-Family Neighborhoods. Each Owner shall maintain, repair and replace heating and air conditioning equipment and other utility facilities and improvements serving their residence exclusively. All costs associated with such maintenance, repair and replacement

and borne by the Owner's Association shall be a Neighborhood Expense assessed as a Neighborhood Assessment against the Lots within the designated Neighborhood(s). The Owners Association's obligations pursuant to this subsection shall commence as to each Lot on the later of: (i) the date on which the Owners Association is notified in writing that a certificate of occupancy has been issued for a dwelling on such Lot; or (ii) the date on which such Lot has been conveyed to a Person other than a Builder. Owners of Lots in Attached Single-Family Neighborhoods shall carry property insurance on all insurable improvements on such Lots and the Owner's Association shall have no obligation as to repair or replacement of exterior or roof of residence or landscaping damaged by fire, flood, windstorm or other casualty loss.

(f) The Owner's Association shall maintain, repair, and replace the landscaping and other flora within the yards of each Lot within any Village Home Neighborhoods designated by Owner's Association as the "base landscaping". In the event any upgrades or alterations are made to the base landscaping, the Owner of the Lot shall bear all expenses including irrigation and maintenance of such additional landscaping and all replacement costs. All costs associated with such maintenance shall be a Neighborhood Expense assessed as a Neighborhood Assessment against the Lots within the designated Neighborhood(s). The Owner's association's obligations pursuant to this subsection shall commence as to each Lot on the later of: (i) the date on which the Owner's Association is notified in writing that a certificate of occupancy has been issued for a dwelling on such Lot; or (ii) the date on which such Lot has been conveyed to a person other than a Builder. Owners of Lots in Village Home Neighborhoods shall carry property insurance obligation as to repair of replacement of landscaping damaged by fire, flood, windstorm or other casualty loss. A "Village Home Neighborhood" is a Neighborhood containing Lots on an alley. The initial Village Home Neighborhood in Phase 1 of Patrick Square consists of Lots 1-24 and 55-65.

(g) In such event that the Owners Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community- Wide Standard, the Declarant may, upon not less than ten (10) days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Owners Association for all costs incurred.

5.2 Owner's Responsibility. Each Owner shall maintain his or her Lot, and all structures, parking areas, sprinkler and irrigation systems, fencing, landscaping and other flora, and other improvements on the Lot in a manner consistent with the Community-Wide Standard and all Governing Documents, unless such maintenance responsibility is otherwise assumed by or assigned to the Owners Association. In addition each Owner must submit any plans for improvement to the Architectural Review Board as outlined in these covenants. Each Owner shall also maintain the driveway, and mailbox, if any, serving his or her Lot and all

landscaping located in the right-of-way immediately adjacent to the Owner's Lot. In addition to any other enforcement rights, if an Owner fails to perform properly the Owner's maintenance responsibility, the Owners Association may perform such maintenance responsibilities and assess all costs incurred by the Owners Association plus a ten percent (10%) administration fee against the Lot and the Owner in accordance with Section 8.6. The Owners Association shall afford the Owner reasonable notice of no fewer than fifteen (15) days and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation. Entry by the Owners Association or its designee under this Section shall not constitute a trespass.

5.3 Neighborhood's Responsibility. Upon resolution of the Board of Directors, the Owners of Lots within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Common Area within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and green space between the Neighborhood and adjacent public roads, private streets within the Neighborhood; provided however, all Neighborhoods which are similarly situated shall be treated the same.

5.4 Standard of Performance. Unless otherwise specifically provided herein or in other governing documents, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents.

## **ARTICLE 6: INSURANCE AND CASUALTY LOSSES**

### **6.1 Owners Association Insurance.**

(a) Required Coverages. The Owners Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The Owners Association shall have the authority to and interest in insuring any property for which it has maintenance or repair responsibility regardless of ownership. All property insurance policies obtained by the Owners Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements;

(ii) Commercial general liability insurance insuring the Owners Association and its Members for damage or injury caused by the negligence of the Owners Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, the commercial general liability coverage (including primary and any umbrella coverage) shall have a limit of at least one million dollars (\$1,000,000.00) per occurrence with respect to bodily injury, personal injury, and property damage, provided should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Owners Association shall obtain such additional coverages or limits;

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law;

(iv) Directors and officers liability coverage;

(v) Such additional insurance as the Board, in its best business judgment, determines advisable, which may include, without limitation, flood insurance, in the event that any portion of the Common Area is or shall become located in an area identified by the Federal Emergency Management Agency ("FEMA"), or its successor entity as an area having special flood hazards, a "blanket" policy of flood insurance on the Common Area must be maintained in the amount of one hundred percent (100%) of current "replacement cost" of all effected improvements and other Insurable property or the maximum limit of coverage available, whichever is less. Premiums for all insurance taken out by the Owners Association shall be Common Expenses and shall be included in the General Assessment. In the event of an insured loss, the deductible shall be treated as a Common Expense and assessed in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice of no fewer than fifteen (15) days and an opportunity to be heard in accordance with the By-Laws, that the loss resulted from the negligence or willful misconduct of one (1) or more Owners, their guests, invitees, or lessees, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Lots pursuant to Section 8.6.

(b) Policy Requirements. The Owners Association shall arrange for periodic reviews of the sufficiency of insurance coverage by one (1) or more qualified Persons, at least one (1) of whom must be familiar with insurable replacement costs in the Upstate of South Carolina.

All Owners Association policies shall provide for a certificate of insurance to be furnished to the Owners Association and to each Member upon request. The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy

limits satisfy the requirements of Section 6.1(a).

(c) All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in the State of South Carolina and must satisfy the requirements of the Federal National Mortgage Owners Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate;

(ii) be written in the name of the Owners Association as trustee for the benefited parties. Policies on the Common Areas shall be for the benefit of the Owners Association and its Members. Policies secured on behalf of a Neighborhood shall be for the benefit of the Owners of Lots within the Neighborhood;

(d) Damage and Destruction. In the event of any insured loss covered by insurance held by the Owners Association, only the Board or its duly authorized agent may file and adjust insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this subsection, means repairing or restoring the property to substantially the condition existing prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Owners Association vote to the contrary and, during the Development Period, the Declarant decides within sixty (60) days after the loss either (i) not to repair or reconstruct or (ii) to construct alternative improvements. If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Owners Association within such sixty (60) day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed sixty (60) additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If determined in the manner described above that the damage or destruction to the Common Area shall not be repaired or reconstructed and alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Owners Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be

retained by and for the benefit of the Owners Association or, if the repair or reconstruction was for a Neighborhood, for the benefit of the Neighborhood, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board of Directors may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Owners responsible for the costs of repair or reconstruction.

6.2 Owners' Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all other Owners and with the Owners Association to carry property insurance for the full replacement cost of all insurable improvements on the Owner's Lot, less a reasonable deductible.

Each Owner further covenants and agrees that in the event of damage to or destruction of structures or landscaping on or comprising the Owner's Lot, the Owner shall proceed within ninety (90) days to repair or to reconstruct the damaged structure or landscaping consistent with the original construction or such other plans and specifications as are approved in accordance with Article 9. The Owner shall pay any costs that are not covered by insurance proceeds. If more than ninety (90) days is required then the Owner must first obtain a written extension from the Board of Directors.

6.3 Limitation of Liability. Notwithstanding the duty of the Owners Association to maintain and repair portions of the Common Area, neither the Owners Association, its Board of Directors, its successors or assigns, nor any officer or director or committee member, employee, agent, contractor (including the management company, if any) of any of them shall be liable to any Member or any member of a Member's immediate household for any injury or damage sustained in the Common Area or other area maintained by the Owners Association, or for any injury or damage caused by the negligence or misconduct of any Members or their family members, guests, invitees, agents, servants, contractors or lessees, whether such loss occurs in the Common Area or in individual Lots.

Each Owner, by virtue of the acceptance of title to his or her Lot, and each other Person having an interest in or right to use any portion of the Property, by virtue of accepting such interest or right to use, shall be bound by this Section and shall be deemed to have automatically waived any and all rights, claims, demands, and causes of action against the Owners Association arising from or connected with any matter for which the liability of the Owners Association has been disclaimed under this Section.

## **ARTICLE 7: WITHDRAWAL OF PROPERTY**

7.1 Withdrawal of Property. The Declarant reserves the right to amend this Declaration during the Development Period, for the purpose of removing any portion of the Property from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the owner of the property to be withdrawn, if not the Declarant.

7.2 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Property to additional covenants and easements, including covenants obligating the Owners Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Owners Association through Neighborhood or Specific Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property for such purposes as deemed appropriate in the Declarant's sole discretion, including but not limited to modifications to reflect the different character and intended use of such property.

7.3 Amendment. This Article shall not be amended during the Development Period without the prior written consent of Declarant.

## **ARTICLE 8: ASSESSMENTS**

8.1 Creation of Assessments. There are hereby created assessments for Owners Association expenses as the Board may specifically authorize from time to time. There shall be four (4) types of assessments:

(a) General Assessments as described in Section 8.2 to fund Common Expenses for the general benefit of all Lots; (b) Neighborhood Assessments for Neighborhood Expenses benefiting only Lots within a particular Neighborhood or Neighborhoods as described in Section 8.3; (c) Special Assessments as described in Section 8.5 and (d) Specific Assessments as described in Section 8.6. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Property is deemed to covenant and agree to pay these assessments.

All assessments and other charges, together with interest, late charges, costs of collection, and reasonable attorney's fees, shall be a charge and continuing lien upon each Lot against which the assessment or charge is made until paid, as more particularly provided in Section 8.7. Each such assessment or charge, together with interest, late charges, costs, and reasonable attorney's fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable for any assessments and the charges due at the time of conveyance.

However, no first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

The Owners Association shall, upon request, furnish to any Owner liable for any type of assessment a written statement signed by an Owners Association officer or designee setting forth whether such assessment has been paid. Such statement shall be conclusive evidence of payment. The Owners Association may require the advance payment of a reasonable processing fee for the issuance of such statement.

Assessments shall be paid in such manner and on such dates, including monthly, as the Board may establish which may include discounts for early payment or similar time/price differentials. The Board may require advance payment of assessments at closing of the transfer of title to a Lot and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two (2) or more installments. Unless the Board otherwise provides, the General Assessment and any Neighborhood Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately and may suspend the right of an Owner to use the Common Area until payment in full is made. Any assessment or installment thereof shall be considered delinquent on the fifteenth (15th) day following the due date unless otherwise specified by Board resolution.

No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, non-use of any service provided through assessment, abandonment of his or her Lot, 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 Owners Association or Board 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 taken by the Owners Association or Board.

8.2 Computation of General Assessments. At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a budget covering the estimated Common Expenses during the coming year, which may include a contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 8.4. Notwithstanding the fact that the Town Center is not located within the Property and, therefore, is not subject to this Declaration, the Common Expenses of the Owners Association may include costs related to the maintenance of certain portions of the Town Center pursuant to a Cost Sharing Agreement.

The General Assessments may only be increased if such increase is fifteen percent (15) % or less of the previous year's amount and is approved by a majority vote of the Board of Directors. If such increase is more than fifteen percent (15%) of the previous year's amount, such increase must be approved by Members entitled to no fewer than two-thirds of all the votes of each Class of membership. Such voting must be done in person or by proxy at a meeting duly called for such purpose and in accordance with the Owners Association Bylaws.

The General Assessments shall include the base price for a bundle of cable, digital, satellite or similar television service, internet, intranet and other computer related services ("Fiber Services"). All Owners are required to install at their expense the wiring and equipment on the Lot and within their residence necessary for the basic services. Monthly General Assessments will commence as to each Lot upon acquisition of title to the Lot by anyone other than Declarant or a Builder except that portion of General Assessments attributable to the cost of Fiber Services shall not commence until the certificate of occupancy is issued for the residence.

General Assessments shall be levied equally against all Lots subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Owners Association equal to the total budgeted Common Expenses, including any reserves. In determining the level of General Assessments, the Board, in its discretion, may consider other sources of funds available to the Owners Association, including any surplus from prior years, and any assessment income expected to be generated from any additional Lots reasonably anticipated to become subject to assessment during the fiscal year and any income expected to be generated from any Cost Sharing Agreement.

During the Development Period, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of the subsidy and/or contributions of services and materials, which may be treated as either a contribution or a loan, in the Declarant's discretion. Any such anticipated payment or contribution by the Declarant shall be disclosed as a line item in the Common Expense Budget. Payments by the Declarant in any year shall under no circumstances obligate the Declarant to continue such payments in future years, unless otherwise provided in a written agreement between the Owners Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least thirty (30) days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Owners Association and, during the Development Period, by the Declarant.

There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Article IV of the By-Laws, which petition must be presented to the Board within twenty (20) days after the date of the notice of assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediate preceding year plus an additional ten percent (10%) shall continue for the current year. In such event or if the budget proves inadequate for any reason, the Board may prepare a revised budget for the remainder of the fiscal year. The Board shall send a copy of the revised budget to each Owner at least thirty (30) days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.3 Computation of Neighborhood Assessments. At least thirty (30) days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood Expenses for each Neighborhood on whose behalf Neighborhood Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration or the By-Laws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment. Such budget may include a contribution establishing a reserve fund for repair and replacement of capital items maintained as a Neighborhood Expense, if any, within the Neighborhood. Neighborhood Expenses shall be allocated equally among all Lots within the Neighborhood(s) benefited thereby and levied as a Neighborhood Assessment; provided however, if so specified in the Supplemental Declaration applicable to such Neighborhood or if so directed by petition signed by a Majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of structures, insurance on structures or replacement reserves which pertain to particular structures shall be levied on each of the benefited Lots in proportion to the benefit received.

The Board shall cause a copy of such budget and notice of the amount of the Neighborhood Assessment for the coming year to be delivered to each Owner of a Lot in the Neighborhood at least thirty (30) days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by Owners of a Majority of the Lots in the Neighborhood to which the Neighborhood Assessment applies and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of Owners (in good standing) of at least ten percent (10%) of the

Lots in such Neighborhood. This right to disapprove shall apply only to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

All amounts which the Owners Association collects as Neighborhood Assessments shall be expended solely for the benefit of the Neighborhood for which they were collected and shall be accounted for separately from the Owners Association's general funds.

**8.4 Reserve Budget.** The Board may, in its sole discretion, annually prepare reserve budgets for both general and Neighborhood purposes which take into account the number and nature of replaceable assets within the Common Area, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the general and Neighborhood budgets reserve amounts sufficient to meet the projected needs of the Owners Association. Notwithstanding any provision in this Declaration to the contrary, Declarant reserves the right to defer collection of reserves until the Development Period expires.

**8.5 Special Assessments.** In addition to other authorized assessments, the Owners Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against all Lots, if such Special Assessment is for Common Expenses or against the Lots within any Neighborhood if such Special Assessment is for Neighborhood Expenses. Special Assessments shall be allocated equally among all Lots subject to Special Assessment. Any Special Assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes allocated to Lots which will be subject to such Special Assessment and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within twenty (20) days after the date of the notice of such Special Assessment. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which such Special Assessment is approved.

**8.6 Specific Assessments.** The Owners Association shall have the power to levy Specific Assessments against a particular Lot or Lots as follows:

- (a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot(s) or occupants thereof upon

request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners and occupants (which might include, without limitation, landscape maintenance, pest control services, security, caretaker, and other similar services and facilities), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner;

(b) to cover the costs associated with maintenance, repair, replacement and insurance of any Common Area reserved by one (1) or more Lots as set forth in Section 10.8 below; and to cover all costs incurred in bringing the Lot(s) into compliance with the terms of the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their agents, contractors, employees, licensees, invitees, or guests.

In addition, fines levied by the Owners Association pursuant to Section 4.3 shall constitute Specific Assessments.

The Owners Association may also levy a Specific Assessment against the Lots within any Neighborhood to reimburse the Owners Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, and rules; provided however, the Board shall give prior written notice to the Owners of Lots in the neighborhood and an opportunity for such Owners to be heard before levying any such assessment.

8.7 Lien for Assessments. The Owners Association shall have a lien against each Lot to secure payment of assessments and other charges, as well as interest at a rate of the lesser of 18% per annum or the maximum interest rate limitations of South Carolina law, and late fees up to 15% of the delinquent monthly assessments, costs of collection and reasonable attorneys fees. Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien maybe enforced by suit, judgment, and foreclosure. The Owners Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. A Mortgagee or other purchaser of a Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title.

8.8 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the date which the Lot is conveyed

to a Person other than a Builder or Declarant. Except that with respect to any Lot owned by a Builder or Declarant, assessments shall commence upon the actual occupancy of a dwelling on such Lot, excluding any period that such Lot is being used exclusively as a model home. The first annual General Assessment, if any, levied on each Lot shall be adjusted according to the number of days remaining in the fiscal year at the time assessments commence on the Lot.

8.9 Failure to Assess. Failure of the Board to establish assessment amounts or to deliver or mail 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 General Assessments and Neighborhood Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied.

8.10. Exempt Property. The following property shall be exempt from payment of General Assessments, Neighborhood Assessments, and Special Assessments:

- (a) All property owned by the Declarant;
- (b) All Common Area and such portions of the property owned by the Declarant as are included in the Common Area pursuant to Section 5.3;
- (c) Any property dedicated or otherwise conveyed to and accepted by any governmental authority or public utility; and
- (d) Any property that is owned by a charitable nonprofit corporation or public agency whose primary purposes include the acquisition and preservation of open space for public benefit and held by such agency or organization for such recreational and open space purposes.

8.11 Capitalization of Owners Association. Upon acquisition of record title to a Lot by the first Owner thereof other than the Declarant or a Builder or upon occupancy of a Lot by a Person other than the Declarant or a Builder and upon each subsequent transfer of title to Lots, an initiation fee shall be paid by or on behalf of the purchaser or occupant to the working capital of Owners Association in an amount equal to 1/6 of the amount of the annual General Assessment for such Lot; provided, however, that the initiation fee may be increased at any time and from time to time in the sole and absolute discretion of the Board of Directors. Any change in the amount of the initiation fee shall become effective unless disapproved at a meeting by Members in good standing holding at least sixty-seven percent (67%) of the total Class "A" votes and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering any change in the amount of the initiation fee except on petition of the Members as provided for special meetings in Section 2.4 of the By-Laws, which

petition must be presented to the Board within twenty (20) days after the date of the notice of such change in the amount of the capital contribution. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Owners Association at closing of the purchase and sale of the Lot to the first Owner other than the Declarant or a Builder and subsequent Owners, or if the obligation to pay the initiation fee arises by virtue of occupancy of a Lot by a Person other than the Declarant or a Builder, the initiation fee shall be paid immediately upon demand by the Owners Association. Initiation fees shall be utilized for the working capital of the Owners Association to cover operating expenses and other expenses incurred by the Owners Association pursuant to the Governing Documents.

8.12 Over the Air Reception Devices. The Association and its individual members enjoy certain federally mandated rights as defined by the Federal Communications Commission (FCC) regarding the use of Over the Air Reception Devices (OTARD). These FCC rights pre-empt all other rules and regulations addressing the use of OTARD. Declarant has included within the utility infrastructure a fiber optic distribution network which is capable of delivering any over the air signals that could be accessed by OTARD. The Association and its individual members voluntarily waive their rights under the FCC OTARD rules in light of the fact that over the air signals can be distributed to all members via the fiber optic infrastructure.

(a) The same waiver of OTARD rights as defined in this section shall be imposed upon lessees who may from time to time lease premises from individual members of the Association.

(b) Declarant reserves the right to itself and its successors and assigns to own the fiber optic infrastructure within the Property and any Additional Property hereafter subjected to this Declaration, for the purpose of delivering telecommunication services to the Members of the Association. The Declarant, through a System Operator, will offer telecommunications services (internet, voice and video content), and access to technology that is competitive with and comparably equal to or better than the video services offered by the major, dominant video providers in the geographic area immediately surrounding Patrick Square (such as Comcast, Charter, AT&T/Bellsouth and/or successors), as measured in terms of service quality, downtime, responsiveness to customers, retail rates, bulk rates and range of content offered. When and if it is determined by a mutually agreeable third party arbitrator that the video services are no longer competitive based upon value and content then the service agreement can be terminated if the services remain uncompetitive without cure for ninety (90) days. In the event of any termination the Declarant shall have the right to be compensated for fair market value of the fiber optic infrastructure.

(c) There shall be no restrictions limiting access to this community by other telecommunications vendors. However, any distribution infrastructure deployed by telecommunications vendors accessing the community shall utilize a fiber to the home point to point architecture whereby there are at least two dedicated fibers originating from a common point located in the community and reaching each individual unit. Furthermore, the deployment of any and all telecommunications distribution architecture must be deployed underground.

8.13 Default Interest Rate: NSF Checks: Late Fees. Except as otherwise provided in the Governing Documents, any assessment levied upon an Owner which is not paid within fifteen (15) days after the date upon which it is due shall bear interest at the lesser of (a) the rate of 18% per annum or (b) the maximum rate of interest permissible under the laws of the State of South Carolina. In addition, if any Owner pays any assessment (General, Neighborhood, Special or Specific) with a check on an account that has insufficient funds ("NSF"), the Board may, in its sole discretion, demand that all future payments be made by certified check or money order along with imposing a reasonable processing charge. Finally, the Owners Association will charge to delinquent Owners an administrative fee not to exceed fifty dollars (\$50.00) for each NSF check. Any payment received by the Owners Association shall be applied first to any attorneys fees and other costs of collection, then to any interest accrued on the late installment, then to any late fee, then to any administrative, and then to the delinquent assessment.

8.14 Contributions by Declarant. In accordance with Section 8.2, the Declarant may support the Owners Association by funding operating deficits during the Development Period. At the sole election of Declarant, Declarant may recoup from the Owners Association all such payments, which amounts may be paid from the operating account of the Owners Association, or from the initiation fees collected at the sale of Lots, but not from capital reserves. Regardless of whether the Declarant recoups any other deficit amounts, it is not the intention of the Declarant to forfeit refundable reserves or deposits paid by Declarant, nor to pay for deficits created by the nonpayment of assessments by other Owners. It is also not the intention of Declarant to pay for expenses which are otherwise covered in the annual budget of the Owners Association, but which, due to the requirement of an advance payment, create temporary or seasonal deficits. Accordingly, Declarant shall be reimbursed for all amounts paid by Declarant in the funding of deficits caused by the nonpayment of assessments by Owners which, if not sooner paid, shall be paid to Declarant at the time the unpaid assessment is collected. In addition, if not sooner paid, Declarant shall be reimbursed for any refundable deposit upon the Owners Association's receipt of the same.

All deficits shall be collectible by Declarant at any time from the initiation fees contributions or from excess funds not designated for capital reserves. The Declarant shall have the right to pursue the collection of any unpaid assessments on behalf of the Owners Association, as well as the right to act on behalf of the

Owners Association (if necessary) in obtaining refunds of all deposits paid for by Declarant, The Board of Directors, specifically including members of the Board appointed by the Declarant, shall be authorized to execute a promissory note or notes on behalf of the Owners Association to evidence the repayment obligation of the Owners Association; provided however, the failure to execute such a note shall in no way diminish such obligation.

## **ARTICLE 9: ARCHITECTURAL STANDARDS**

9.1 General. No exterior structure or improvement, as described in Section 9.4 shall be placed, erected, installed or made upon any Lot or adjacent to any Lot where the purpose of the structure is to service such Lot except in compliance with this Article, and with the prior written approval of the Architectural Review Consultant or the ARB, as the case may be, under Section 9.2, unless exempted from the application and approval requirements pursuant to Section 9.3.

9.2 Architectural Review. Each Owner, by accepting a deed or other instrument conveying any interest in any portion of the Property acknowledges that, as the developer of the Property, Declarant has a substantial interest in ensuring that all structures and improvements within the Property enhance Declarant's reputation as a community developer and do not impair Declarant's ability to market, sell or lease any portion of the Property. Therefore, the Declarant shall retain an Architectural Review Consultant to be responsible for administration of the Community-Wide Standard and review of all applications for construction and modifications under this Article until such Architectural Review Consultant is replaced by an Architectural Review Board at the end of the Class "B" Control Period. The Architectural Review Consultant shall charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Once the Architectural Review Board has been established, all of the responsibilities of the Architectural Review Consultant shall be the responsibilities of the ARB.

At the end of the Class "B" Control Period, the Owners Association shall appoint an Architectural Review Board. The members of the ARB need not be Members of the Owners Association or representatives of Members, and may, but need not, include architects, landscape architects, engineers or similar professionals, whose compensation, if any, shall be established from time to time by the Owners Association. The ARB shall include one (1) member designated as the "Environmental Coordinator" responsible for the administration of the EarthCraft Communities Program and for evaluating applications for compliance with the EarthCraft Communities Program. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred

in having any application reviewed by architects, engineers or other professionals.

The ARB shall consist of one (1) to five (5) persons and shall have exclusive jurisdiction over all construction on any portion of the Property after the Class B Control Period expires.

### 9.3 Guidelines and Procedures.

(a) Community Wide Standard. The initial Community-Wide Standard for the Property shall be the Regulating Plan. The Community-Wide Standard may contain general provisions applicable to all of the Property, as well as specific provisions which vary according to land use and from one. Neighborhood to another depending upon the Neighborhood's location, unique characteristics, and intended use. The Community-Wide Standard shall include the EarthCraft Communities certification worksheet and criteria for certification. The Community-Wide Standard is intended to provide guidance to Owners and Builders regarding matters of particular concern to the Architectural Review Consultant and the ARB in considering applications hereunder. The Community-Wide Standard is not the exclusive basis for decisions of the Architectural Review Consultant or of the ARB and compliance with the Community Wide-Standard does not guarantee approval of any application.

During the Class B Control Period, the Declarant shall have sole and full authority to amend the Community-Wide Standard. When the ARB is formed, the ARB shall thereafter have sole and full authority to amend the Community-Wide Standard. Any amendments to the Community-Wide Standard shall be prospective only. There shall be no limitation to the scope of amendments to the Community-Wide Standard except that no amendment shall require the modification or removal of any structure previously approved once the approved construction or modification has commenced. The ARB is expressly authorized to amend the Community-Wide Standard to remove requirements previously imposed or otherwise to make the Community-Wide Standard less restrictive.

The Architectural Review Consultant or the ARB, shall make the Community-Wide Standard available to Owners and Builders who seek to engage in development or construction within the Property.

(b) Procedures. Plans and specifications showing the nature, kind, shape, color, size, materials, and location of all proposed structures and improvements shall be submitted to the Architectural Review Consultant or the ARB as the case may be, for review and approval or disapproval. In addition, information concerning irrigation systems, drainage, lighting, grading, landscaping and other features of proposed construction shall be submitted as applicable and as required by the Community-Wide Standard. In reviewing each submission, the Architectural Review Consultant or the ARB may consider the quality of

workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, and finished grade elevation, among other considerations. Decisions may be based solely on aesthetic considerations.

Each application to the Architectural Review Consultant or the ARB shall contain a representation and warranty by the Owner that use of the plans submitted does not violate any copyright associated with the plans. Neither the submission of the plans to the Architectural Review Consultant or the ARB, nor the distribution and review of the plans by the Architectural Review Consultant or the ARB shall be construed as publication in violation of the designer's copyright, if any. Each Owner submitting plans to the Architectural Review Consultant or the ARB shall hold Architectural Review Consultant, members of the ARB, the Owners Association and the Declarant harmless and shall indemnify said parties against any and all damages, liabilities, and expenses incurred in connection with the review process of this Declaration.

In reviewing and acting upon any request for approval, the Architectural Review Consultant shall be acting solely in Declarant's interest and shall owe no duty to any other Person. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary over time. The Architectural Review Consultant or the ARB shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment and whether proposed improvements are consistent with the Community-Wide Standard.

The Architectural Review Consultant or the ARB shall approve or to disapprove any application within forty-five (45) days after submission of all information and materials reasonably requested.

Any Owner may remodel, paint or redecorate the interior of structures on his or her Lot without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to approval. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

(c) Delinquent Assessments and Other Charges. Notwithstanding the provisions of subsection (b) above, any application for the approval of plans and specifications as set forth in this Article shall be deemed to be disapproved unless and until any and all delinquent assessments and other charges permitted by this Declaration have been paid in full by the Owner submitting such plans and specifications for approval.

Subsequent to the approval of plans and specifications pursuant to this Article, if the Owner shall become delinquent in the payment of assessments or

other charges pennitted by this Declaration at any time during the prosecution of the approved work, the Owner shall be deemed to be in violation of such approval and shall be subject to any means of enforcement set forth in Section 9.10 and Section 4.3.

#### 9.4 Specific Requirements and Restrictions.

(a) Exterior Structures and Improvements. Exterior structures and improvements shall include, but shall not be limited to, staking, clearing, excavation, grading and other site work; initial construction of any dwelling or accessory building; exterior alteration of existing improvements; installation or replacement of hardscape, such as driveways, walkways, patios, or parking areas; enclosures of Courtyards; mailboxes; basketball hoops, swing sets, and similar sports and play equipment; clotheslines; garbage cans; wood . piles; swimming pools; docks, piers, or boathouses gazebos or playhouses; window air-conditioning units or fans; hot tubs; wells; solar panels; antennas; satellite dishes or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; hedges, walls, dog runs, animal pens, or fences of any kind, including invisible fences; artificial vegetation or sculpture; and planting or removal of landscaping materials. Notwithstanding the foregoing, the Declarant and the Owners Association shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind only in strict compliance with all federal laws and regulations.

(b) In addition to the foregoing activities requiring prior approval, the following items are strictly regulated, and the Architectural Review Consultant or the ARB shall have the right, in its sole discretion, to prohibit or restrict these items within the Property. Each Owner must strictly comply with the tenns of this Section unless approval or waiver in writing is obtained from the Architectural Review Consultant or the ARB. The ARB may, but is not required to, adopt additional specific guidelines as part of the Community-Wide Standard.

(i) Signs. No sign of any kind shall be erected by an Owner or occupant without the prior written consent of the Architectural Review Consultant or the ARB, except (1) such signs as may be-required by legal proceedings; (2) not more than one (1) professional security sign of such size and location deemed reasonable by the Architectural Review Consultant or the ARB in its sole discretion; (3) one non-illuminated construction sign per Lot to be displayed only during the time a valid building pennit is in force; and (4) one non-illuminated real estate sign per lot, facing the street. Unless in compliance with this Section, no signs shall be posted or erected by any Owner or occupant within any portion of the Property, including the Common Area, any Lot, any structure or dwelling located on the Common Area or any Lot if such sign would be visible from the exterior of such structure or dwelling as detennined in the Architectural Review Consultant or

the ARB in its sole discretion. Any Owner or occupant wishing to erect a sign within the Property shall be responsible for all costs associated with ensuring that the sign complies with the Community-Wide Standard and this Section. In addition, political signs are permitted expressing support of or opposition to political candidates or other issued which will appear on the ballot of a primary, general, or special election, provided that such political sign shall not be placed on a Lot earlier than sixty (60) days before such election and shall be removed within two (2) days after such election. Only one political sign not exceeding 36" by 24" will be permitted per Lot.

The Declarant and the Architectural Review Consultant and the ARB r\_erve the right to prohibit signs and to restrict the size, content, color, lettering, design and location of any approved signs within the Property. All signs shall conform to the design(s) established by the Declarant and the Architectural Review Consultant and the ARB and must be professionally prepared. This provision shall not apply to entry, directional, or other signs installed by the Declarant, Builder or their duly authorized agents as may be necessary or convenient for the marketing and development of the Property. In addition, this provision shall not apply to any signs installed within the Town Center or any signs installed by the Declarant or its duly authorized agent as may be necessary or convenient for the marketing, development, and ongoing management of the Town Center.

(ii) Tree Removal. No trees that are more than four (4) inches in diameter at a point two (2) feet above the ground shall be removed without the prior written consent of the Architectural Review Consultant or the ARB; provided however, any trees, regardless of their trunk diameter, that are located within five (5) feet of a drainage area, a sidewalk, a residence, or a driveway, or any diseased or dead trees requiring removal for safety reasons may be removed without the written consent of the Architectural Review Consultant or the ARB. The Architectural Review Consultant and the ARB may adopt or impose requirements for, or condition approval of, tree removal upon the replacement of any tree removed. The above requirements shall be in addition to, and not in lieu of, any requirements with respect to the removal imposed by any governmental authority.

(iii) Lighting. Exterior lighting visible from the street shall not be permitted except for: (1) approved lighting as originally installed on a Lot; (2) approved decorative post lights; (3) approved pathway lighting; (4) street lights in conformity with any established street lighting program for the Property; (5) a reasonable number of seasonal decorative lights during the usual and common season as determined in sole discretion of the Architectural Review Consultant or the ARB; (6) front house illumination of Builder's model homes; or (7) any additional lighting as may be approved by the Architectural Review Consultant or the ARB.

(iv) Temporary or Detached Structures. Exc(?pt as may be permitted

by the Architectural Review Consultant or the ARB, no temporary house, dwelling garage or outbuilding shall be placed or erected on any Lot. Except as provided in Section 10.7(b), no mobile home, trailer home, travel trailer, camper or recreational vehicle shall be stored, parked or otherwise allowed to be placed on a Lot as a temporary or permanent dwelling.

Any trailer, including any utility trailers or boat trailers, travel trailer, camper or recreational vehicle shall be stored or parked in an enclosed garage when not in use.

(v) Accessory Structures. With the approval of the Architectural Review Consultant or the ARB, detached accessory structures may be placed on a Lot to be used for a playhouse, tool shed, dog house, garage or other approved use. A garage may also be an attached accessory structure. Such accessory structures shall conform in exterior design and quality to the dwelling on the Lot. With the exception of a garage that is attached to a dwelling and except as may be provided otherwise by the Architectural Review Consultant or the ARB, an accessory structure placed on a Lot shall be located only behind the dwelling as such dwelling fronts on the street abutting such Lot or in a location approved by the Architectural Review Consultant or the ARB. All accessory structures shall be located within side and rear setback lines as may be required by the Architectural Review Consultant or the ARB or by applicable zoning law.

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

(vii) Swimming Pools. No above-ground swimming pools may be erected or constructed on any Lot. Children's wading pools are permitted provided they are placed to the rear of the residence. Any swimming pool must be located to the rear of any dwelling on the Lot and have at least a four-foot security fence around its immediate apron perimeter that remains locked at all times except when in use by the Owner, in addition to any other fencing that may be permitted by this Declaration.

(viii) Fences. All fencing and fencing materials shall be approved by the Architectural Review Consultant or the ARB in writing prior to the installation or construction and, once approved, shall be erected in accordance with the Community-Wide Standard.

(ix) Utility Lines. Overhead utility lines, including lines for cable television, are not permitted except for temporary lines as required during construction and lines installed by or at the request of Declarant.

(x) Standard Mailboxes. All mailboxes within the Property shall conform to postal regulations and the Community-Wide Standard. The Community-Wide Standard may include requirements for standard mailboxes within the Property, for all of the Lots in a particular Neighborhood, or a portion of the Lots in a particular Neighborhood. In addition, the Community-Wide Standard may include a provision for a community mailbox delivery facility for certain Lots within the Property. Plans submitted to the Architectural Review Consultant or the ARB for review shall comply with the mailbox provisions in the Community-Wide Standard applicable to the Lot. Installation of non-conforming mailboxes shall not be permitted, and shall be removed by the Owner at the Owner's expense. Failure to remove a nonconforming mailbox shall subject the Owner to removal of the non-conforming mailbox and replacement with a conforming mailbox pursuant to Section 9.10 herein.

9.5 Construction Period. After commencement of construction, each Owner shall diligently continue construction to complete such construction in a timely manner. The initial construction of all structures must be completed within eighteen (18) months after commencement of construction, unless extended by the Architectural Review Consultant or the ARB in its sole discretion. All other construction shall be completed within the time limits established by the Architectural Review Consultant or the ARB at the time the project is approved.

For the purposes of this Section, commencement of construction shall mean that (a) all plans for such construction have been approved by the Architectural Review Consultant or the ARB; (b) a building permit has been issued for the Lot by the appropriate jurisdiction; and (c) construction of a structure has physically commenced beyond site preparation. Completion of a structure shall mean that a certificate of occupancy has been issued by the appropriate jurisdiction for the dwelling on the Lot.

9.6 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as in any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.7 Variance. The Architectural Review Consultant or the ARB may 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, but only in accordance with duly adopted

rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) prevent the Architectural Review Consultant or the ARB 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.

9.8 Architect, Builder and General Contractor Approval. In order to ensure that appropriate standards of construction are maintained throughout the Property, all architects, Builders and general contractors must be approved by the Declarant during the Class B Control Period or thereafter by the ARB prior to engaging in any construction activities within the Property. The Declarant or the ARB may implement an approval process utilizing established criteria and requiring the submission of a written application for approval. Approval of any plans may be withheld until such time as the Owner's architect, Builder or contractor has been approved by the Declarant or the ARB. Approval of an architect, Builder or general contractor may be conditioned upon an agreement with the ARB to maintain certain insurance coverage required by the Declarant or the ARB, pay construction deposits to ensure completion of a project without damage to the Property, and pay fees determined by the Declarant or the ARB from time to time. Both the criteria and the application form are subject to change in the sole discretion of the Declarant or the ARB. Approval of architects, Builders and contractors may be construed neither as a recommendation of a specific architect, Builder or contractor by the Declarant or the ARB, nor as a guarantee or endorsement of the work of such architect, Builder or contractor. The criteria and requirements established by the Declarant or the ARB for approval of architects, Builders and contractors are solely for the Declarant's protection and benefit and are not intended to provide the Owner with any form of guarantee with respect to any approved architect, Builder, or contractor. Owner's selection of an architect, Builder, or contractor shall be conclusive evidence that the Owner is independently satisfied with any and all concerns Owner may have about the qualifications of such architect, Builder or contractor. Furthermore, Owner waives any and all claims and rights that Owner has or may have now or in the future, against the Architectural Review Consultant or the ARB or the Declarant. Once approved (unless such approval is withdrawn by the Declarant or the ARB), an approved architect, Builder or contractor shall not be required to re-submit in the approval process.

9.9 Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Property only, and shall not create any duty to any Person. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only, and the Declarant, the Owners Association, the Board, the Architectural Review Consultant and the ARB shall not bear any responsibility for ensuring the structural integrity or soundness of

approved construction or modifications, time adequacy of soils or drainage, for ensuring compliance with building codes and other governmental requirements, for ensuring that all dwellings are comparable quality, value or size, of similar design, or aesthetically pleasing or otherwise acceptable to neighboring property Owners. The Declarant, the Owners Association, the Board, the Architectural Review Consultant, the ARB, and any committee, including any member of any of the foregoing shall not be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot. In all matters, the committees and their members shall be defended and indemnified by the Owners Association as provided in Section 4.6.

9.10 Enforcement. The Declarant, the Architectural Review Consultant, any member of the ARB or the Board, or the representatives of each shall have the right, during reasonable hours and after reasonable notice of no fewer than forty-eight (48) hours, to enter upon any Lot to inspect for the purpose of ascertaining whether any structure or improvement is in violation of this Article. Any structure, improvement or landscaping placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Architectural Review Consultant or the ARB, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the non-conforming work. Should an Owner fail to remove and restore the property as required, any authorized agent of Declarant, the Architectural Review Consultant, the ARB or the Board shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. Entry for such purposes and in compliance with this Section shall not constitute a trespass. In addition, the Board may enforce the decisions of the Declarant, the Architectural Review Consultant and the ARB by any means of enforcement described in Section 4.3, all costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefited Lot and collected as a Specific Assessment.

Unless otherwise specified in writing by the Architectural Review Consultant or the ARB, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. If, after commencement, any Person fails to diligently pursue to completion all approved work, the Owners Association shall be authorized, after notice of no fewer than forty-eight (48) hours to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Specific Assessment.

The Architectural Review Consultant, the ARB, any member thereof, the Owners Association, the Declarant, or their members, officers or directors shall not

be held liable to any Person for exercising the rights granted by this Article. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article or the Community-Wide Standard may be excluded by the Architectural Review Consultant or the ARB from the Property, subject to the notice and hearing procedures contained in the By-Laws.

In addition to the foregoing, the Owners Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Architectural Review Consultant or the ARB.

#### **ARTICLE 10: USE RESTRICTIONS**

10.1 General. This Article sets out certain use restrictions which must be complied with by all Owners and occupants of any Lot. The Property shall be used only for residential, recreational, and related purposes (which may include, without limitation, model homes, sales offices for Declarant and/or Builders, an information center and/or a sales office for any real estate broker retained by the Declarant to assist in the sale of property described on Exhibits "A," offices for any property manager retained by the Owners Association, business offices for the Declarant or the Owners Association and related parking facilities) consistent with this Declaration and any Supplemental Declaration.

10.2 Rules and Regulations. In addition to the use restrictions set forth in this Article, the Board may, from time to time, without consent of the Members, promulgate, modify, or delete rules and regulations applicable to the Property, provided such rules are not inconsistent with this declaration. Such rules shall be distributed to all Owners and occupants thirty days prior to the date that they are to become effective and shall thereafter be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting by Members holding a Majority of the total Class "A" votes in the Owners Association, and, during the Development Period, the written consent of the Declarant.

10.3 Occupants Bound. All provisions of the Declaration, By-Laws, and of any rules and regulations, use restrictions or Community-Wide Standard governing the conduct of Owners and establishing sanctions against Owners shall also apply to all occupants even though occupants are not specifically mentioned.

10.4 Leasing. Lots may be leased for residential purposes only and for a minimum term of one (1) year. All leases shall require, without limitation, that the tenant acknowledge receipt of a copy of the Declaration, By-Laws, use restrictions, and rules and regulations of the Owners Association. The lease shall also obligate the tenant to comply with the governing documents. The Board may require notice

of any lease together with such additional information deemed necessary by the Board. Copy of lease must be provided to the Owner's Association upon execution and include the following provision:

"Tenant shall obey, adhere to and be bound by all provisions of the Declaration of Protective Covenants and Conditions for Patrick Square as recorded in the Office of the Register of Deeds of Pickens County, South Carolina. Tenant acknowledges that he/she has received a copy of said Declaration and the rules and regulations of the Property Owners Association and is familiar with the provisions of same."

If an Owner fails to include said provision in any lease or sublease, it shall be conclusively deemed to be included and part of said lease or sublease.

10.5 Residential Use. Lots may be used only for residential purposes of a single family and for ancillary business or home office use. A "single family" is defined herein as no more than two (2) unrelated persons living on one (1) Lot. A business or home office use shall be considered ancillary so long as: (a) the existence or operation of the activity is not apparent or detectable by sight, sound, or smell from outside the Lot; (b) the activity conforms to all zoning requirements for the Property; (c) the activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other invitees or door-to-door solicitation of residents of the Property; (d) the activity does not increase traffic or include frequent deliveries within the Property; and (e) the activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

No other business, trade, or similar activity shall be conducted upon a Lot without the prior written consent of the Board. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

The leasing of a Lot shall not be considered a business or trade within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or a Builder approved by the Declarant with respect to its development and sale of the Property or its use of any Lots which it owns within the Property.

No garage sale, moving sale, rummage sale, auction, or similar activity shall

be conducted upon a Lot without the prior written consent of the Board and compliance with any rules adopted by the Board.

10.6 Occupancy of Unfinished Dwelling. No dwelling erected upon any Lot shall be occupied in any manner before commencement of construction or while in the course of construction, or at any time prior to the issuance of a certificate of occupancy.

10.7 Vehicles.

(a) Automobiles and non-commercial trucks and vans shall be parked only in garages or in the driveways serving the Lots unless otherwise approved by the Architectural Review Consultant or the ARB; provided however, the Declarant and/or the Owners Association may designate certain on-street parking lanes subject to reasonable rules and approval of the appropriate governmental authority. With the exception of any on-street parking designated by the Declarant or City of Clemson and/or the Owners Association, no automobile shall be parked upon any street, alley or thoroughfare. Commercial vehicles, vehicles primarily used or designed for commercial purposes and vehicles with commercial writings on the exterior shall be parked only in garages except during actual use. No motor vehicle may be left upon any portion of the Property, except in a garage, if it is unlicensed or if it is in a condition such that it is incapable of being operated upon the public highways. Such vehicle shall be considered a nuisance and may be removed from the Property. No motorized vehicles shall be permitted on sidewalks, pathway, trails or unpaved Common Area except for public safety vehicles authorized by the Board.

(b) Recreational vehicles shall be parked only in the garages serving the Lots or other hard-surfaced areas which are not visible from the street, any portion of the Common Area or any other Lot; provided however, guests of an Owner or occupant may park a recreational vehicle on the driveway serving such Owner's or occupant's Lot for a period not to exceed seven (7) days each calendar year, not exceeding more than twenty-four (24) hours at one time. "Visibility" shall be determined by the Architectural Review Consultant or the ARB in its sole discretion. The term "recreational vehicles," as used herein, shall include, without limitation, boats, "jet skis" or other watercraft, trailers, other towed vehicles, motorcycles, mini-bikes, scooters, go-carts, golf cars, and campers. Any recreational vehicle parked or stored in violation of this provision in excess of seven (7) days shall be considered a nuisance and may be removed from the Property.

(c) Service and delivery vehicles may be parked in the Property during daylight hours for such periods of time as are reasonably necessary to provide service or to make a delivery within the Property.

(d) All vehicles shall be subject to such reasonable rules and regulations as the Board of Directors may adopt. Nothing contained herein shall be construed as granting the Owners, their occupants, guests, or family members a right to utilize any parking facilities located within the Town Center.

10.8 Use of Common Area. There shall be no obstruction of the Common Area, nor shall anything be kept, parked or stored on any part of the Common Area without the prior written consent of the Owners Association; provided, however, that this shall not preclude Owners, their family, guests, tenants or occupants from parking vehicles on the shoulders of any alleys located on the Property in accordance with rules and regulations established by the Board of Directors. With the prior written approval of the Board of Directors or a committee appointed by the Board, and subject to any restrictions imposed by the Board, an Owner or Owners may reserve portions of the Common Area for use for a period of time as set by the Board. Any such Owner or Owners who reserve a portion of the Common Area as provided herein shall assume, on behalf of himself/herself/themselves and his/her/their guests, occupants and family, all risks associated with the use of the Common Area and all liability for any damage or injury to any person or thing as a result of such use. The Owners Association shall not be liable for any damage or injury resulting from such use unless such damage or injury is caused solely by the willful acts or gross negligence of the Owners Association, its agents or employees.

10.9 Animals and Pet. No animals, livestock, exotic pets, poultry, or other fowl of any kind (whether domestic or exotic) shall be raised, bred or kept on any Lot, except that a reasonable number of dogs or cats, or other small in-door household pets (ex. parakeets, fish, hamsters, gerbils) may be kept; provided, however that they are not kept, bred or maintained for any commercial purposes. No aggressive breeds of dogs will be permitted, specifically Pit-bulls, Dobermans, and Rottweilers. "Reasonable number" shall mean not exceeding two (2) dogs or cats at any time per Lot. All pets shall be securely fenced upon the Owner's Lot so as to prevent them from trespassing upon other Lots in the Development. All applicable local laws or regulations, including leash laws, shall be observed. The Owners of the pet shall be responsible for all of the pet's actions and Owners will be responsible to pick up their pet's waste and dispose of it properly. When outside the residence or fenced area on a Lot, all dogs must be walked on a leash unless within a designated "dog park" area established by the Board. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Property or to nearby property or destructive of wildlife, such animal shall be removed from the Property. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3. This provision shall not be construed to interfere with any provision under the Americans with Disabilities Act, the Fair Housing Amendments Act, or any similar applicable federal, state or local law, ordinance or regulation. Service animals in active use shall be permitted on the Property.

10.10 Nuisance. It shall be the responsibility of each Owner and occupant to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her property. No property within the Property shall be used, in whole or in part, for the storage of any item or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might, in the sole discretion of the Board, disturb use peace, quiet, safety, comfort, or serenity of the occupants of surrounding property.

No noxious or offensive activity shall be carried on within the Property, nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any Person using any property within the Property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. Without limiting the generality of the foregoing, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes or as approved by the Architectural Review Consultant or the ARB, shall be located, installed or maintained upon the exterior of any structure or the Lot unless required by law. Any siren or device for security purposes shall contain a device or system which causes it to shut off automatically.

The reasonable and normal development, construction and sales activities conducted or permitted by the Declarant shall not be considered a nuisance or a disturbance of the quiet enjoyment of any Owner or occupant.

10.11 Storage of Materials, Garbage, Dumping, Etc. All garbage cans and recycling bins shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash, garbage and recycling shall be placed in appropriate containers at a designated location as directed by the Board from time to time and regularly removed and shall not be allowed to accumulate. Garbage containers must be removed from the street within 24 hours of scheduled collection.

There shall be no dumping of grass clippings, leaves or other debris; rubbish, trash or garbage; petroleum products, fertilizers, or other potentially hazardous or toxic substances in any Common Area, including any walking trail or path, drainage ditch, flood plane, wetland, lake or other portion of the Property located outside of a Lot, except that fertilizers may be applied to landscaping on Lots provided the fertilizers comply with the zoning conditions set forth by the City of Clemson and further provided that care is taken to minimize runoff. Owners are permitted to spread grass clippings upon these Lots so long as the grass clippings are maintained in a neat and attractive manner in accordance with

the Community-Wide Standard.

Each Owner shall maintain his Lot in a neat and orderly condition throughout initial construction of a residential dwelling and not allow trash or debris from his activities to be carried by the wind or otherwise scattered within the Property. Storage of construction materials on the Lot shall be subject to such conditions, rules, and regulations as may be set forth in the Community-Wide Standard. Each Owner shall keep roadways, easements, swales, and other portions of the Property clear of silt, construction materials and trash from his activities at all times. Trash and debris during initial construction of a residential dwelling shall be contained in standard size dumpsters or other appropriate receptacles and removed regularly from Lots and shall not be buried or covered on the Lot. Any Lot on which construction is in progress shall be inspected by the Owner thereof prior to each weekend, and during the weekend all materials shall be neatly stacked or placed and any trash or waste materials shall be removed. In addition, all trash and debris shall be removed from the Lot upon reasonable notice by Declarant in preparation for special events.

The Town Center is not located within the Property and, therefore, is not subject to this Declaration, the provisions of this Section shall not apply to the Property located within the Town Center.

10.12 Combustible Liquid. There shall be no storage of gasoline, heating or other fuels, except for a reasonable amount of fuel that may be stored in containers appropriate for such purpose on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment and outdoor grills and except as may be approved in writing by the Architectural Review Consultant or ARB. Propane tanks used for heating or generators shall be underground. The Owners Association shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

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

10.14 Subdivision of Lots. No Lot shall be subdivided or its boundary lines changed after a subdivision plat including such Lot has been approved and filed in the Public Records without the Declarant's prior written consent during the Development Period and the prior written consent of the Architectural Review Consultant or the ARB thereafter. In addition, no dwelling shall be subdivided or partitioned to create housing for more than a single family. Declarant, however, hereby expressly reserves the right to replat any Lot or Lots which it owns. Any

such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations, if any.

10.15 Sight Distance at Intersections. All property located at street intersections or driveways shall be landscaped and improved so as to permit safe sight across such areas as may be set forth in the Community-Wide Standard or otherwise approved by the Architectural Review Consultant or the ARB. No fence, wall, hedge or shrub shall be placed or permitted to remain where it would cause a traffic or sight problem.

10.16 Drainage and Grading.

(a) Catch basins and drainage areas are for the purpose of natural flow of water only. No improvements, obstructions or debris shall be placed in these areas. No Owner or occupant may obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains.

(b) Each Owner shall be responsible for maintaining all drainage areas located on his Lot. Required maintenance shall include, but not be limited to, maintaining ground cover in drainage areas and removing any accumulated debris from catch basins and drainage areas.

(c) Each Owner shall be responsible for controlling the natural and man-made water flow from his Lot. No Owner shall be entitled to overburden the drainage areas or drainage system within any portion of the Property with excessive water flow from his Lot. Owners shall be responsible for all remedial acts necessary to cure any unreasonable drainage flows from Lots. Neither the Owners Association nor the Declarant bears any responsibility for remedial actions to any Lot.

(d) Use of any areas designated as "drainage easement areas" on any recorded subdivision plat of the Property, shall be subject to strict prohibitions against encroachment of structures into, over or across the drainage easement areas, and the right of the Declarant to enter upon and maintain the drainage easement areas.

(e) •No Person shall alter the grading of any Lot without prior approval of the Architectural Review Consultant or the ARB. The Declarant hereby reserves for itself and the Owners Association a perpetual easement across the Property for the purpose of altering drainage and water flow. The exercise of such an easement shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent.

(f) All Persons shall comply with any and all applicable federal, state, county, city and soil erosion control ordinances and regulations in construction of

improvements on any Lot and, where required, shall maintain silt fencing and vegetative and structural sediment control and collection devices.

10.17 Irrigation. Owners shall not install sprinkler or irrigation systems which draw upon ground or surface waters nor from any Storm Water Pond, pond, water quality facility or any other body of water within the Property. However, the Declarant and the Owners Association shall have the right to draw water from such sources for the purpose of irrigating the Area of Common Responsibility.

10.18 Lakes and Other Bodies of Water. All lakes, ponds, streams, and other bodies of water within the Property, if any, shall be used only in accordance with such rules and regulations as may be adopted and published by the Board. Use of any motorized or gasoline powered boats on any of the lakes or other bodies of water within the Property shall be prohibited. The Owners Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams, and other bodies of water within the Property. In addition, the Owners Association shall not be responsible for maintaining, increasing or decreasing the water level within any lake or other body of water or removing vegetation from any lake or other body of water. Except as designated by the Declarant, no trails or pathways shall be established along the perimeter of any lake, pond, or other body of water. With the exception of any community dock constructed on behalf of the Owners Association, no docks, piers, or gazebos shall be constructed attached or floated upon or adjacent to any lake, pond, or other body of water.

10.19 Wetlands. All areas designated on a recorded plat as "wetlands" shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any restrictions or covenants encumbering such property and be approved by all appropriate regulatory bodies. Prior to any alteration of a Lot, the Owner shall determine if any portion thereof meets the requirements for designation as a regulatory wetland. Notwithstanding anything contained in this Section, the Declarant, the Owners Association, and the successors, assigns, affiliates and designees of each may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands.

10.20 State Waters and Buffer Areas. All areas identified on the Master Plan or any plat of the Property as state waters or buffer area or qualifying as such shall remain undisturbed and be left in their natural vegetative state. No areas delineated as state waters or a buffer area shall be disturbed unless approved in writing by the Board of Directors and the appropriate governing authority.

10.21 Party Walls. For Attached Single-Family Residences, each wall which is built as a part of the original construction, and placed on the dividing line between attached Single-Family Residences shall constitute a party wall, and, to

the extent not inconsistent with the provisions of this Article, the general rule of law regarding party walls and liability for property damage due to negligent or willful acts or omissions shall apply thereto. The cost of repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it; and the other Owner who has used the party wall shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Each Owner shall have an easement and right of entry, upon notice to the other Owner of no fewer than forty-eight (48) hours, upon the Attached Single-Family Residence lot of any other Owner to the extent reasonably necessary to perform repair, maintenance or reconstruction of a party wall. Such repair, maintenance or reconstruction of a party wall shall be done expeditiously and upon completion of the work, the Owner shall restore the adjoining property to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practical.

If an Owner desires to sell his attached Single-Family Residence, he may, in order to assure a prospective purchaser that no adjoining Owner has a right of contribution as provided in this Article, request the adjoining Owner to make such certification immediately upon request and without charge. If the adjoining Owner claims the right of contribution, the certification shall contain a recital of the amount claimed and the basis therefor. Failure of an Owner to make a certification within ten (10) days after receipt of a written request shall be deemed a waiver of his rights to contribution.

10.22 Sidewalks. All Lots are required to have a five foot (5') or four foot (4') (depending upon the street the lot fronts onto as defined in the Regulating Plan) wide concrete sidewalk four inches (4") deep constructed in the right of way adjoining the Lot at the location and in compliance with Declarant's construction drawings for the subdivision. Prior to the earlier of (i) issuance of Certificate of Occupancy for the first structure built on each Lot, or (ii) thirty (30) months from the date of closing on the purchase of a Lot from Declarant or a Builder, the Lot Owner shall construct the sidewalk for the entire length of the Lot in the manner as set forth above.

## **ARTICLE 11: EASEMENTS**

Declarant reserves, creates, establishes, promulgates, and declares the non-exclusive, perpetual easements set forth herein for the enjoyment of the Declarant, the Owners Association, the Members, the Owners Association, and their successors-in-title.

11.1 Easements of Encroachment. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between adjacent Lots and between each Lot and any adjacent Common Area 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) to a distance of not more than five (5) feet, as measured from any point on the common boundary along a line perpendicular to such boundary. 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.

11.2 Easements for Utilities, Etc.

(a) Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements, for itself during the Development Period, for the Owners Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity, any data network company and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Property (but not through a structure, existing or proposed) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining, operating and removing cable, digital or similar television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, pathways and trails; ponds, wetlands, irrigation, and drainage systems; street lights and signage; and all utilities, including, but not limited to, water, sewer, television, internet, security, data, telephone, gas, and electricity, and utility meters; and an easement for access of vehicular and pedestrian traffic over, across, and through the Property, as necessary, to exercise the easements described above.

Declarant may assign to any utility sub-metering company, local water supplier, sewer service provider, electric company, telephone company, internet provider, cable provider and/or natural gas supplier the easements set forth herein across the Property for ingress, egress, installation, reading, replacing, inspecting, repairing, and maintaining utility lines, poles, wires, transformers, service

pedestals, meters, boxes and other necessary apparatus, fixtures, and appliances as applicable. In addition, Declarant may assign to any garbage collection company, including any municipally-operated garbage collection service, the easements set forth herein across the Property, for ingress, egress, and collection of garbage from Lots.

(b) Declarant reserves, creates, establishes, promulgates and declares for itself during the Development Period and its designees non-exclusive, perpetual, reciprocal, appurtenant easements, and the non-exclusive right and power to grant such specific easements as may be necessary, to the sole discretion of Declarant, in connection with the orderly development of any property within Patrick Square or any adjoining real property.

(c) Any damage to a Lot resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. Nothing contained herein shall obligate the Declarant, the Owners Association or the Board to pursue legal recourse against any Person damaging a Lot or any portion thereof as a result of the exercise of this easement.

(d) Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Property, or at any other time, (i) to release all or any portion of the Property from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (ii) to define the limits of any such easements.

11.3 Easement for Entry. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, appurtenant easements for the Owners Association to enter upon any Lot for emergency, security, and safety reasons. Such right may be exercised by any member of the Board, the Owners Association's officers, committee members, agents, employees and managers of the Owners Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice of no fewer than forty-eight (48) hours to the Owner. This easement includes the right to enter any Lot to cure any condition which may increase the possibility of fire, slope erosion, immediate risk of personal injury, or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but shall not authorize entry into any dwelling without permission of the Owner, except by emergency personnel acting in their official capacities. Entry under this Section shall not constitute a trespass.

11.4 Easements for Maintenance and Enforcement.

(a) Declarant reserves, creates, establishes, promulgates and declares

non-exclusive, perpetual, appurtenant rights and easements for the Owners Association to enter all portions of the Property, including each Lot, but excluding the interior of any residential dwelling located thereon, to (i) perform its maintenance responsibilities under Article 5, and (ii) make inspections to ensure compliance with the Governing Documents. Except in emergencies, entry onto a Lot shall be only during reasonable hours and upon no fewer than forty-eight (48) hours notice. This easement shall be exercised with a minimum of interference in the quiet enjoyment to Owners' property, and any damage shall be repaired by the Owners Association at its expense.

(b) The Declarant also reserves, creates, establishes, promulgates and declares non-exclusive perpetual, appurtenant rights and easements for each Owner, occupant, or authorized agent of an Owner or occupant to enter those portions of the Property, including each Lot, but excluding the interior of any residential dwelling located thereon, as reasonably necessary due to the close proximity of the dwellings located thereon, to perform its maintenance responsibilities under Article 5. Except in emergencies, entry onto a Lot shall be only after providing the Owner or occupant of the Lot at least forty-eight (48) hours advance notice and shall occur during reasonable hours. This easement shall be exercised with a minimum of interference to the quiet enjoyment to the burdened property. The Owner, occupant, or authorized agent of an Owner or occupant using this easement shall indemnify the Owner of the burdened property against all claims or damage resulting from use of this easement, including without limitation any damage to improvements, which damage shall be repaired by the Owner, occupant, or authorized agent of an Owner or occupant responsible for the damage at his or her expense. Each Owner and/or occupant shall cooperate with each and every other Owner and/or occupant for purposes of this easement.

(c) The Owners Association also may enter a Lot, excluding the interior of any residential dwelling, to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents. All costs incurred, including reasonable attorneys' fees, may be assessed against the violator as a Specific Assessment.

(d) Entry under this Section shall not constitute a trespass, and prior notice to the Owner shall not be required except as provided in Section 5.2.

11.5 Easements for Storm Water Pond and Water Quality Facilities Maintenance and Flood Water. Declarant reserves, creates, establishes, promulgates and declares for itself and its successors, assigns, and designees and the Owners Associations the nonexclusive, perpetual, appurtenant right and easement, but not the obligation, to enter upon any portion of the Property upon which a water quality facility is located or upon any Storm Water Pond located within the Common Area to (a) install, keep, maintain, and replace water quality facilities, pumps, and irrigation systems in order to provide water for the irrigation

of any of the Common Area; (b) draw water from such sources for purposes of irrigation; (c) construct, maintain, and repair any water quality facility, bulkhead, wall, dam, or other structure retaining water, and (d) remove trash and other debris therefrom and fulfill maintenance responsibilities as provided in this Declaration. The Declarant, the Owners Association, and their designees shall have an access easement over and across any of the Property abutting or containing any portion of any detention pond to the extent reasonably necessary to exercise their rights under this Section.

Declarant further reserves, creates, establishes, promulgates and declares for itself and its successors, assigns and designees, and the Owners Association the non-exclusive, perpetual, appurtenant right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within twenty (20) feet of any Storm Water Pond in order to (a) temporarily flood and back water upon and maintain water over such portions of the Property; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain, including, but not limited to the reasonable removal of trees, vegetation, grass and weeds, as needed, the detention ponds within the Common Area; (c) maintain and landscape the slopes and banks pertaining to such ponds; (d) disturb existing landscaping; and (e) pile dirt and plant materials. All persons entitled to exercise these easements shall use reasonable care and repair any damage resulting from the intentional exercise of such easements. All affected areas shall be restored to a neat and attractive condition to the extent practical, as soon as reasonably possible after completion of any construction or maintenance activities authorized in this Declaration. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall or other natural disasters.

Declarant reserves unto itself the right, in the exercise of its sole discretion, upon the request of any Person holding, or intending to hold, an interest in the Property, or at any other time, (a) to release all or any portion of the Property from the burden, effect, and encumbrance of any of the easements granted or reserved under this Section, or (b) to define the limits of any such easements.

11.6 Easement for Drainage. Declarant reserves, creates, establishes, promulgates and declares for itself and its successors, assigns, and designees and the Owners Association the right and easement to create and maintain satisfactory drainage across each Lot; provided however such easement area shall not include any portion of a Lot upon which the foundation of a dwelling is located. This easement shall include the right to construct and maintain catch basins, a storm water pond, drainage swales, storm sewers, storm drains, sloping banks, cut or fill. Neither the Declarant, the Owners Association or any Owner constructing according to plans and specifications approved under Article 9 hereof and by the appropriate governmental authority shall have any liability to Owner due to the increased flow or increased velocity of surface water resulting from approved

construction on a Lot.

11.7 Easement for Walking Trail Access.

(a) Declarant hereby grants to the Owners a perpetual, non-exclusive easement over and across any areas designated as "walking trails" or "paths" on any recorded subdivision plat of the Property. Use of such walking trails or paths shall be governed by reasonable rules and regulations promulgated by the Owners Association.

(b) At such time as there is a bridge allowing pedestrian access across 18-Mile Creek to Nettle's Park from Patrick Square Common Area, then a single non-exclusive pedestrian easement shall be made available to the City of Clemson that leads from a City of Clemson road across Common Area to the bridge across 18-Mile Creek over said bridge and to the City of Clemson's Nettles Park.

11.8 Lateral Support. Declarant reserves, creates, establishes, promulgates and declares non-exclusive, perpetual, reciprocal, appurtenant easements over every portion of the Common Area, every Lot, and any improvement which contributes to the lateral support of another portion of the Common Area or of another Lot for lateral support, and each shall also have the right to lateral support which shall be appurtenant to and pass with title to such property.

11.9 Easement for Use of the Streets. Declarant reserves, creates, establishes, promulgates and declares for itself, the Owners Association, the Members, and the Owners, their family members, lessees, social invitees, and licensees, a perpetual, non-exclusive easement of-use, access and enjoyment in and to, over and across the Streets and alleys prior to the conveyance of the same to the City of Clemson.

11.10 Easement for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, non-exclusive appurtenant easement over the Common Area for the purpose of conducting or allowing its designees to conduct educational, cultural, entertainment, promotional or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a deed or other instrument conveying any interest in a Lot, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the occupants of his Lot to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

11.11 Cost Sharing Agreement/Easements. Declarant reserves the right

to grant easements over the Common Areas including clubhouse/pool authorizing use of those areas by residents within any multi-family residential development hereafter located in the Town Center provided such easement agreement shall include a Cost Sharing Agreement obligating the grantee of such easement to pay a proportionate share (based on the total Lots/units authorized to utilize such facilities from time to time) of all costs of operating, maintaining and replacing the facilities on the Common Area covered by the easements.

11.12 Liability for Use of Easements. No Owner shall have a claim or cause of action against the Declarant, the Owners Association, their successors or assigns, arising out of the exercise or non-exercise of any easement reserved hereunder or shown on any subdivision plat for the Property, except in cases of willful or wanton misconduct.

11.13 Future Easements. The Declarant reserves the right to grant future easements in connection with the development of the Property, the Town Center or for the development of adjacent properties so long as such easements do not unreasonably affect the Owners use of the Lots for residential purposes.

## **ARTICLE 12: MORTGAGEE PROVISIONS**

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Property. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

12.1 Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides a written request to the Owners Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Property or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Subject to the permission of the Lot Owner to be submitted with the written request of the institutional holder, insurer, or guarantor of a first Mortgage,, any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days, or any other violation of Use Declaration or By-Laws relating to such Lot or the Owner or occupant which is not cured within sixty (60) days;

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Owners Association; or

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders pursuant to Federal Home Loan Mortgage Corporation requirements.

12.2 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a talcing of the Common Area.

12.3 Notice to Owners Association. Upon request, each Owner shall be obligated to furnish to the Owners Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

12.4 Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Owners Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Owners Association's request, provided such request is delivered to the Mortgagee by certified or registered mail, return receipt requested.

12.5 Construction of Article 12. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, By-Laws, or South Carolina law for any of the acts set out in this Article.

### **ARTICLE 13: DECLARANT'S RIGHTS.**

13.1 Transfer or Assignment. Any or all of the special rights and obligations of the Declarant set forth in the Governing Documents may be transferred or assigned in whole or in part so the Owners Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. Upon any such transfer, the Declarant shall be automatically released from any and all liability arising with respect to such transferred rights and obligations. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Register of Deeds Office of the county in which the property is located.

13.2 Development and Sales. The Declarant and Builders authorized by Declarant may maintain and carry on the Property such activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to

the development of the Property and/or the construction or sale of Lots, such as sales activities, tournaments, charitable events, and promotional events, and restrict Members from using the Common Area during such activities. Such activities shall be conducted in a manner to minimize (to the extent reasonably possible) any substantial interference with the Members' use and enjoyment of the Common Area. In the event that any such activity necessitates exclusion of Owners from Common Areas, such activities shall not exceed seven (7) consecutive days. The Declarant and authorized Builders shall have easements over the Property for access, ingress and conducting such activities.

In addition, the Declarant and Builders authorized by Declarant may establish within the Property including any clubhouse, such facilities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the development of the Property and/or the construction or sale of homes, including, but not limited to, business offices, signs, model homes, tents, sales offices, sales centers and related parking facilities. During the Development Period, Owners may be excluded from use of all or a portion of such facilities in the Declarant's sole discretion. The Declarant and authorized Builders shall have easements over the Property for access, ingress; and egress and use of such facilities.

Declarant may permit the use of the Common Area by Persons other than Owners without the payment of any use fees provided that the covenants and community rules and regulations are adhered to

13.3 Improvements to Common Areas. The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

13.4 Additional Covenants. No Person shall record any declaration of covenants, conditions and restrictions, declaration of condominium, easements, or similar instrument affecting any portion of the Property without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records. No such instrument recorded by any Person, other than the Declarant pursuant to Section 7.2 may conflict with the Declaration, By-Laws or Articles.

13.5 Right of Class "B" Member to Disapprove Actions. For so long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove any action, policy or program of the Owners Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant or Builders under the Governing Documents, or interfere with development of, construction on, or marketing of any portion of the Property, or diminish the level of services being provided by the Owners

Association. This right to disapprove is in addition to, and not in lieu of, any right to approve or disapprove specific actions of the Owners Association, the Board or any committee as maybe granted to the Class "B" Member or the Declarant in the Governing Documents.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved as meetings (or by written consent in lieu of a meeting) of the Owners Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Class "B" Member has registered with the secretary of the Owners Association, which notice complies with the By-Laws and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting. The Class "B" Member may waive its right to receive notice in the same manner as provided in the By-Laws.

(b) The Class "B" Member shall be given the opportunity to any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee.

(c) No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met and the time period set forth in subsection (d) below has expired.

(d) The Class "B" Member, acting through any authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, is the cause of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Class "B" Member exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Owners Association. The Class "B" Member shall not use its right to disapprove the reduction of the level of services which the Owners Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

13.6 Amendments. Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any use restrictions and/or rule contained in Article 10, the Community-Wide Standard or the provisions contained within Article 10 shall be effective without prior notice to and the written consent

of the Declarant, during the Development Period. This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) thirty (30) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

#### **ARTICLE 14: GENERAL PROVISIONS**

##### **14.1 Duration.**

Unless terminated as provided in Section 14.1(b), the provisions of this Declaration shall run with, bind the Property and remain in effect permitted to the extent pertained by law.

(b) Unless otherwise provided by South Carolina law, this Declaration may be terminated by an instrument signed by Owners of at least ninety percent (90%) of the total Lots within the Property, which instrument is recorded in the Public Records; provided however, regardless of the provisions of South Carolina law, this Declaration may not be terminated during the Development Period without the prior written consent of the Declarant. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

##### **14.2 Amendment.**

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

(b) By the Board. The Board shall be authorized to amend this

Declaration without the consent of the Members (i) to correct scrivener's errors and other mistakes of fact, provided that amendments under this provision have no material adverse effect on the rights of the Owners; and (ii) for the purpose of bringing any provision contained herein into compliance with the Fair Housing Amendments Act of 1988, as more fully set forth in Section 14.4. During the Development Period, any such amendment shall require the written consent of the Declarant.

(c) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members in good standing holding sixty-seven percent (67%) of the total Class "A" votes in the Owners Association, and, during the Development Period, the written consent of the Declarant.

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

(d) Validity and Effective Date. Any amendment to the Declaration shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant, the Class "B" Member, or the assignee or such right or privilege.

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

14.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

14.4 Fair Housing Amendments Act. The provisions of the Governing Documents shall be subordinate to the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq., (hereinafter referred to as "FHAA"), and shall be applied so as to comply with the FHAA in the event that there is a conflict between or among the Governing Documents and the FHAA, the FHAA shall prevail. Notwithstanding anything to the contrary contained herein, in the event that any provision of this Declaration conflicts with the FHAA, the Board of Directors,

without the consent of the Members or of the Declarant, shall have the unilateral right to amend this Declaration for the purpose of bringing this Declaration into compliance with the FHAA.

14.5 Dispute Resolution. It is the intention of the Owners Association, and the Declarant to encourage the amicable resolution of disputes involving the Property and to avoid the emotional and financial costs of litigation if at all possible. Accordingly, the Owners Association, the Declarant and each Owner covenants and agrees that it shall attempt to resolve all claims, grievances or disputes involving the Property, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents through alternative dispute resolution methods, such as mediation and arbitration. To foster the amicable resolution of disputes, the Board may adopt alternative dispute resolution procedures.

Participation in alternative dispute resolution procedures shall be voluntary and confidential. Should either party conclude that such discussions have become unproductive or unwarranted, then the parties may proceed with litigation.

14.6 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Owners Association unless approved by a vote of Members in good standing holding eighty percent (80%) of the total Class "A" votes in the Owners Association. This Section shall not apply, however, to (a) actions brought by the Owners Association to enforce the provisions of the Governing Documents (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article 8; (c) proceedings involving challenges to the valorem taxation; (d) counter-claims brought by the Owners Association in proceedings instituted against it; or (e) actions brought by the Owners Association against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies to the Owners Association. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

14.7 Non-Merger. Notwithstanding the fact that Declarant is the current owner of the Property, it is the express intention of Declarant that the easements established in the Declaration for the benefit of the Property and Owners shall not merge into the fee simple estate of individual lots conveyed by Declarant or its successor, but that the estates of the Declarant and individual lot Owners shall remain as separate and distinct estates. Any conveyance of all or a portion of the Property shall be subject to the terms and provisions of this Declaration, regardless of whether the instrument of conveyance refers to this Declaration.

14.8 Grants. The parties hereby declare that this Declaration, and the easements created herein shall be and constitute covenants running with the fee

simple estate of the Property. The grants and reservations of easements in this Declaration are independent of any covenants and contractual agreements undertaken by the parties in this Declaration and a breach by either party of any such covenants or contractual agreements shall not cause or result in a forfeiture or reversion of the easements granted or reserved in this Declaration.

14.9 Cumulative Effect: Conflict. The provisions of this Declaration shall be cumulative with any additional recorded covenants, restrictions, and declarations applicable to any portion of the Property; provided however, in the event of a conflict between or among this Declaration and such covenants, restrictions or declarations and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration shall prevail. Nothing in this Section shall preclude any Supplemental Declaration or other recorded covenants, restrictions and declarations applicable to any portion of the Property from containing additional covenants, restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Owners Association shall have the standing and authority to enforce the same.

14.10 Use of the "Patrick Square" Name and Logo. No Person shall use the words "Patrick Square" or the logo for Patrick Square, if any, or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the word "Patrick Square" in printed or promotional master where such term is used solely to specify that a particular property is located within Patrick Square. At no time may the words "Patrick Square" or the logo, if any, be used for commercial purposes, other than an Owner who is selling a home within the Patrick Square community.

14.11 Compliance. Every Owner and occupant of any Lot shall comply with the Governing Documents. Failure to comply shall be grounds for an action by the Owners Association, the Declarant, or by any aggrieved Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Owners Association in Section 4.3.

14.12 Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to a Lot shall give the Board at least seven (7) days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. After the transfer of title, the transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title,

14.13 Exhibits. Exhibits "A" and "B" attached to this Declaration are incorporated by the reference. Amendment of this Declaration shall be governed by

the provisions of Section 14.2. Exhibit "B" is attached for informational purposes and may be amended as provided therein.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration **this** day of ~~-Au.Gtusr-~~ 2017.

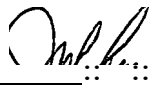
Signed, sealed and delivered  
In the presence of

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

PATRICK SQUARE, LLC,  
a South Carolina limited liability company

By: Digital Holdings, L.P.,  
a South Carolina limited partnership,  
its sole member

By: Digital of South Carolina, Inc.,  
a South Carolina corporation,  
its general partner

By:  \_\_\_\_\_  
Name: . Michael Cheezem  
Title: President

**Exhibit "A"**

Patrick Square as recorded in Plat Book 592, Page 286, Register of Deeds, Pickens County, South Carolina.

NOTE: Lots 40 - 47 and Lots 50 - 53 may be combined into larger lots by Declarant.

**Exhibit "B"**

**BYLAWS OF THE  
PATRICK SQUARE OWNERS ASSOCIATION, INC.**

**ARTICLE I  
NAME AND LOCATION**

The name of the corporation is PATRICK SQUARE OWNERS ASSOCIATION, INC. (hereinafter the "Association"). The principal office of the Association shall be located in either Pickens or Greenville County. The location of the principal office of the Association may be changed by the Board of Directors. Meetings of Members and directors may be held in such places within Pickens or Greenville County, South Carolina, as may be designated by the Board of Directors.

**ARTICLE II  
DEFINITIONS**

All terms defined in the Declaration of Covenants, Conditions and Restrictions for the Patrick Square Community, to be recorded in office of the Register of Deeds of Pickens County, South Carolina, (the "Declaration"), shall have the same meanings when used herein.

**ARTICLE III  
MEMBERSHIP AND VOTING RIGHTS**

Membership and voting rights shall be as provided for in the Declaration.

**ARTICLE IV  
MEETINGS OF MEMBERS**

Section 1. Annual Meetings. The regular annual meeting of the Members shall be held in the last quarter of the fiscal year at the hour and place specified in the notice to the Members of the meeting, except no annual meetings are required be held during the Class "B" Control Period.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or a majority of the members of the Board of Directors. After Class B Lots cease to exist, special meetings of the Members may also be called upon the written request of the Members entitled to at least ten percent (10%) of the votes of the entire membership.

Section 3. Place of Meetings. Meetings of the Members shall be held at such place within Pickens County, South Carolina, as may be determined by the Board of Directors.

Section 4. Notice of Meetings. Except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws, written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, to

each Member entitled to vote at such meeting, by hand delivery or by mailing a copy of such notice, postage prepaid, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Notice shall be sent by first class mail or hand delivered not less than 30 days or more than 60 days before the date of the meeting. Such notice shall specify the place, day and hour of the meeting, and, in case of a special meeting, the exact purpose of the meeting, including the text of any proposals to be voted on at such special meeting. Waiver by a Member in writing of the notice required herein signed by him before or after such meeting, shall be equivalent to the giving of such notice.

Section 5. Quorum. Except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws, the presence at a meeting of Members or their proxies entitled to cast twenty-five percent (25%) of the votes of the entire membership shall constitute a quorum for any action. If, however, a quorum is not present or represented at any meeting, the Members or their proxies present and entitled to vote thereat shall have power to adjourn the meeting and reschedule a meeting where then ten percent (10%) would constitute a quorum. The adjourned meeting must meet the notice requires set forth in Section 4 above.

Section 6. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot. A proxy is valid for eleven months unless a different period is expressly provided in the proxy. No proxy is valid for more than three years after execution.

Section 7. Informal Action by Members. Any action which may be taken at a meeting of the Members may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by Members holding at least 80% of the voting power of the Association and filed with the Secretary of the Association to be kept in the minute book of the Association.

Section 8. Ratification of the Budget by the Members. The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least thirty (30) days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Owners Association and, during the Development Period, by the Declarant. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Members as provided for special meetings in Article N of the By-Laws, which petition must be presented to the Board within twenty (20) days after the date of the notice of assessments. If a meeting is requested, assessments pursuant to such proposed budget shall not become effective until after such meeting is held, provided such assessments shall be retroactive to the original effective date of the budget if the budget is not disapproved at such meeting.

**ARTICLE V**  
**BOARD OF DIRECTORS**

Section 1. General Powers. The business and affairs of the Association shall be managed by a Board of Directors.

Section 2. Number, Term and Qualification. The number of directors of the Association shall be five, with one director to serve for a term of one year, two directors to serve for a term of two years, and two directors to serve for a term of three years.

At each annual meeting, the Members shall elect the number of directors needed to fill the vacancy or vacancies created by the director or directors whose term(s) is (are) expiring.

Section 3. Nomination. Nomination for election to the Board of Directors may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting of the Members. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4. Election. Except as provided in Section 6 of this Article, the directors shall be elected at the annual meeting of the Members by secret written ballot. In such election, the Members or their proxies may cast, with respect to each vacancy, as many votes as they are entitled under the provisions of Article III of these Bylaws. The person(s) receiving the highest number of votes shall be elected. Neither cumulative voting nor fractional voting is permitted.

Section 5. Removal. Any director may be removed from the Board of Directors, with justified reasons, by a majority vote of a quorum of 25% of Members entitled to vote either at the annual meeting or a special meeting called for the purpose of removal.

Section 6. Vacancies. A vacancy occurring in the Board of Directors may be filled by the selection by the remaining directors of a successor who shall serve for the unexpired term of his predecessor. The Members may elect a director at any time to fill any vacancy not filled by the directors.

Section 8. Compensation. No director shall receive compensation for any service he may render to the Association in the capacity of director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

## **ARTICLE VI MEETINGS OF DIRECTORS**

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held at least quarterly and at such place and hour as may be fixed from time to time by resolution of the Board of Directors, except no such meetings are required be held during the Class "B" Control Period. Should the date of such meeting fall on a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association or by any two directors, after not less than three (3) days' notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly-held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 4. Informal Action by Directors. Any action which may be taken at a meeting of the Board of Directors may be taken without a meeting if written consent to the action so taken is signed by all the directors and filed with the minutes of the proceedings of the Board of Directors, whether done before or after the action so taken.

Section 5. Chairman. A Chairman of the Board of Directors of Directors shall be elected by the directors and shall preside over all Board of Directors meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the President, a Chairman shall be elected by the Board of Directors to serve until a new President is elected,.

## **ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

### Section 1. Powers.

The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and the personal conduct of the Members and their guests thereon and establishing penalties for infractions thereof, and adopt and publish rules and regulations interpreting and/or supplementing the restrictions and covenants applicable to the Properties, and take any and all actions deemed by the Board of Directors to be necessary or appropriate to enforce such rules and regulations;

(b) suspend a Member's voting rights during any period in which he shall be in default in the payment of any assessment levied by the Association. Such rights may also be

suspended after such notice and hearing as the Board of Directors, in its sole discretion, shall establish, for a period not to exceed 60 days, for infraction of the published rules and regulations of the Association;

(c) exercise for the Association all powers, duties and authority vested in or delegated to the Association by the Articles of Incorporation, these Bylaws, the Declaration, the South Carolina Nonprofit Corporation Act of 1994;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors after notice and without good cause;

(e) employ a manager (including the Declarant, as provided in the Declaration) and such other employees or independent contractors as it deems necessary and prescribe their duties, and contract with a management company to manage the operation of the Association. In the event that a contract is entered into with a management company, such contract must be terminable by the Board of Directors without cause or penalty on not more than ninety (90) days' notice and any management contract made with the Declarant shall be for a period not to exceed three years and such contracts cannot be automatically renewed but must be reviewed by the Board;

(f) employ attorneys, accountants and other persons or firms to represent the Association when deemed necessary;

(g) grant easements for the installation and maintenance of sewage, utility or drainage facilities upon, over, under and across the property owned by the Association without the assent of the Members when such easements are necessary for the convenient use and enjoyment of the Properties; and

(h) appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient.

The Board of Directors may, in its discretion, delegate any of its powers to a subcommittee of the Board of Directors, an officer of the Association, or a manager, agent or attorney employed by the Association, provided, however, that such delegation shall not relieve the Board of Directors of its obligation to ensure that the duties set forth in this Article VII are faithfully carried out or that the powers so delegated are appropriately exercised by such delegate.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs within the limits set forth by the South Carolina Nonprofit Corporation Act of 1994 and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing at least five (5) working days before such

meeting called by Members entitled to at least one-fourth (1/4) of the votes appurtenant to the Class A Lots;

(b) supervise all officers, agents and employees of the Association and see that their duties are properly performed;

(c) as provided in Section 8 of Article IV of these Bylaws, adopt annual budgets and obtain Member ratification thereof, and establish and enforce procedures for collection of assessments and for filing and enforcement of liens for unpaid dues as provided in the Act;

(d) issue, or cause an appropriate officer of the Association to issue, upon demand by any person and with the consent of the respective Lot owner, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be established by the Board of Directors for the issuance of such certificate. If a certificate states that an assessment has been paid, such certificate shall be conclusive evidence of payment;

(e) procure and maintain: (i) adequate liability insurance covering the Association; (ii) officers' and directors' errors and omissions insurance; and (iii) full replacement value hazard insurance on the real and personal property owned by the Association;

(f) cause the Common Area and all facilities erected thereon and any portions of any Lot or Unit for which the Association has maintenance responsibility to be maintained;

(g) establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of the improvements constructed on the Common Area;

(h) provide such notices to and obtain such consents from the owners and holders of first mortgages on Lots within the Properties as is required by the Declaration or these Bylaws;

(i) pay all ad valorem taxes and public assessments levied against the real and personal property owned in fee by the Association; and

G) hold annual and special meetings and elections for the Board of Directors.

Section 3. Enforcement. In addition to such other rights as are specifically granted in the Articles of Incorporation, the Declaration or these Bylaws, the Board of Directors shall have the power, pursuant to the procedures set forth in this Section, to impose sanctions for violations by a Owner, a member of his family, or any occupant, tenant, employee, guest or invitee of the Owner, of the Declaration, these Bylaws, rules and regulations adopted Association or the Restrictive Covenants applicable to the Properties (hereinafter individually and collectively referred to as the "Rules"), which sanctions may include, but are not limited to, reasonable monetary fines, not to exceed the greater of the costs actually incurred by the Association in abating such violation including, without limitation, attorney's fees, or \$10.00 per day, or part thereof, in which the violation continues to exist for a first violation, \$25.00 per day for a second violation of the same rules or regulations, and \$100.00 per day for a third or subsequent

violation, and which fines shall constitute a lien upon the Lot of the Owner, and suspension of the right to vote and the right to use any recreational amenities within the Common Area. In the event that a deadline is not met, any and all fines will be retroactive. In addition, the Board of Directors may suspend any services provided by the Association to an Owner or the Owner's Lot if the Owner is delinquent in paying any assessment or other charges owed to the Association. The failure of the Board of Directors to enforce any of the Rules shall not be deemed a waiver of the right to do so thereafter.

(a) Notice. Before imposition of any sanction, the Board of Directors or its delegate shall give the Owner written notice describing: (i) the nature of the alleged violation; (ii) the proposed sanction to be imposed; (iii) a period of not less than 15 days within which the Owner may present a written request for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received by the Board of Directors before the end of the period set forth in such notice (the "Notice Period"). Such notice will be sent by certified mail, return receipt requested. Notice sent by certified mail shall be deemed received on the third business day after same is deposited in the United States Mail. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting, unless the appearance is made to protest the lack of notice.

If a request for a hearing is not received before the end of the Notice Period, the sanction stated in the notice shall be imposed; provided, however, that the Board of Directors may waive any proposed sanction if the violation is cured before the end of the Notice Period and the violator gives notice of such cure to the Board of Directors. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any person.

(b) Hearing. If a hearing is timely requested, the hearing shall be held by the Board of Directors in executive session. The Owner shall be afforded a reasonable opportunity to be heard. A written statement of the results of the hearing and the sanction, if any, imposed, shall be placed in the minutes of the Board of Directors.

(c) Additional Enforcement Rights. Notwithstanding anything to the contrary in this Article, the Board of Directors may elect to enforce any provision of the Rules, without the necessity of compliance with the notice and hearing procedures set forth herein, by self-help methods (specifically including, but not limited to, the towing of Owner and tenant vehicles parked in violation of parking rules) or by action at law or in equity to enjoin any violation or to recover monetary damages or both. In any such action, to the maximum extent permissible, the Association shall be entitled to recover all costs of such action, including reasonable attorney's fees incurred. Any entry onto any Lot for purposes of exercising this power of self-help shall not be deemed as trespass.

## ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of the Association shall be a President, who shall at all times be a member of the Board of Directors, a Secretary, a Treasurer, and such

Vice President(s) and other officers as the Board of Directors may from time to time by resolution appoint.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of the Association shall be elected annually by the Board of Directors and each shall hold office for one (1) year unless they shall sooner resign, be removed, or be otherwise disqualified to serve.

Section 4. Special Appointments. The Board of Directors may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board of Directors may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office, with or without cause, by a majority vote of the Board of Directors. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by the Board of Directors. The person appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article. Notwithstanding the foregoing, the offices of Secretary and Treasurer may be held by the same person.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall: preside at all meetings of the Board of Directors and of the Members; see that orders and resolutions of the Board of Directors are carried out; sign all leases, promissory notes, mortgages, deeds and other written instruments; and, in the absence of the Treasurer, sign all checks.

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

(c) Secretary. The Secretary shall: record the votes and keep the minutes of all meetings and proceedings of the Board of Directors and of the Members; keep the corporate seal of the Association and affix it on all papers requiring a seal; serve notice of meetings of the Board of Directors and of the Members; keep appropriate current records showing the Members

of the Association and their addresses; and perform such other duties as required by the Board of Directors.

(d). Treasurer. The Treasurer shall: receive and deposit in appropriate bank accounts all funds of the Association and disburse such funds as directed by resolution of the Board of Directors; review financial statements if an outside manager is keeping the Association books; keep proper books of account or review books if these are maintained by an outside management company; with the Lot owner consent, issue, or cause to be issued, all requested certificates setting forth whether the assessments applicable to a specific Lot have been paid; at the Declarant's discretion during the Class "B" Control Period and otherwise upon the vote of a majority of the Board of Directors or a majority of all Members present (either in person or by proxy) at a special meeting called under Article IV, Section 2, above, where a 25% quorum is met, cause an annual audit of the Association books to be made by an independent public accountant at the completion of each fiscal year; prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the Members; review any and all contracts for the Association; and, if directed by resolution of the Board of Directors, sign all checks of the Association.

#### **ARTICLE IX COMMITTEES**

The Board of Directors of the Association shall appoint a Nominating Committee as provided in Section 3 of Article V of these Bylaws. The Board of Directors shall appoint an architectural committee and such other committees as it deems necessary to carry out the affairs of the Association.

#### **ARTICLE X BOOKS AND RECORDS**

Section 1. Inspection by Members. The membership register (including names, mailing addresses, telephone numbers and voting rights), books of account and minutes of meetings of the Members, of the Board of Directors (including drafts and summaries), and of committees shall be made available for inspection and copying by any Member of the Association, or by his duly appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the principal office of the Association, subject to the limitations the South Carolina Nonprofit Corporation Act of 1994. The Board of Directors minutes shall be available to Members within thirty days of the meeting, and shall be distributed to any Member upon request and upon reimbursement of the costs in making that distribution.

Section 2. Rules for Inspection. The Board of Directors shall establish reasonable rules with respect to:

(a) Notice to be given to the custodian of the records by the Member desiring to make the inspection;

- (b) Hours and days of the week when such an inspection may be made; and
- (c) Payment of the cost of reproducing copies of documents requested by a Member.

**Section 3. Inspection by Directors.** Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents, at the expense of the Association.

## **ARTICLE XI MISCELLANEOUS**

**Section 1. Amendments.** These Bylaws may be amended by a majority of the directors holding office, provided, however, that such amendment may not be in contravention of any provision of the South Carolina Nonprofit Corporation Act of 1994.

Subject to the provisions of South Carolina Nonprofit Corporation Act of 1994, these Bylaws may be amended if such amendment is approved by: (i) the Board of Directors; (ii) Members entitled to cast at least fifty-one percent (51%) of the votes of the Association; and (iii) so long as Declarant owns any Lots within the Subdivision, by the Declarant, provided, however, that such amendment may not be in contravention of any provision of the South Carolina Nonprofit Corporation Act of 1994.

**Section 2. Conflicts.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**Section 3. Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

**Section 4. Gender.** Any use of the masculine gender in these Bylaws shall be construed to include the feminine gender. Any use of the singular shall be construed, as appropriate, to include the plural, and vice versa.

**Section 5. Severability.** If any provision of these Bylaws or the application thereof to any person or circumstances shall be held invalid or unenforceable to any extent by a court of competent jurisdiction, such provision shall be complied with or enforced to the greatest extent permitted by law as determined by such court, and the remainder of these Bylaws and the application of such provision to other persons or circumstances shall not be affected thereby and shall continue to be complied with and enforced to the greatest extent permitted by law.

**Section 6. Declaration.** The Declaration is incorporated into these Bylaws by reference.


**CERTIFICATION**

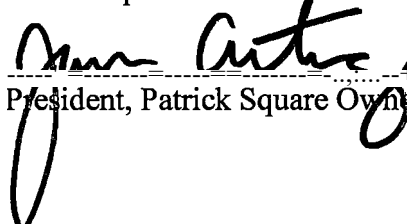
I, the undersigned, do hereby certify:

That I am the President of Patrick Square Owners Association, Inc., a South Carolina non-profit corporation, and

That the foregoing Bylaws constitute the original Bylaws of the Association, and have been duly adopted.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, this 11th day of August, 2017.

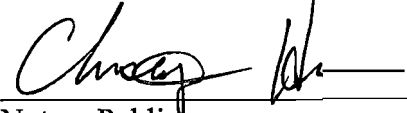
  
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Witness

Patrick Square Owners' Association, Inc.  
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President, Patrick Square Owners Association

**UNIFORM ACKNOWLEDGEMENT**

STATE OF SOUTH CAROLINA  
COUNTY OF PICKENS

The foregoing instrument was acknowledged before me this 11 day of August, 2017, by Christopher Hodge, President of the Patrick Square Owners Association, Inc.

  
\_\_\_\_\_  
Notary Public

**CHRISTOPHER HODGE**  
Notary Public, State of South Carolina  
My Commission Expires 6/11/2023

My Commission Expires: