

**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR**

CARSHALTON BY THE BAY

THIS DECLARATION, made on the date hereinafter set forth by **Skydale Enterprises, LLC**, a South Carolina Limited Liability Company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Spartanburg, State of South Carolina, which is more particularly described as follows:

All of those certain parcels of land shown on the plat prepared by Sinclair & Associates and entitled "Carshalton by the Bay" dated 11/7/2005, and recorded in Plat Book 158 at Page 875 in the RMC office for Spartanburg County, South Carolina.

WHEREAS, it is the intent of the Declarant hereby to cause the property of Carshalton by the Bay, as described on the above references plat to be subjected to this Declaration of Covenants, Conditions, Restrictions, and Easements.

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

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to Carshalton by the Bay Homeowners Association, Inc., its successors and assigns.

SECTION 2. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is all of that land designated as "Common Area" on the plat, entitled "Carshalton by the Bay" dated 11/7/2005 and prepared by Sinclair & Associates, recorded in the RMC office of Spartanburg County, South Carolina in Plat Book 158 at Page 875; provided, however that any land designated as "Open Space" which is dedicated to public use on such plat and/or land which is accepted for dedication by a public authority shall not be part of the Common

DEE-2005-65997
Recorded 25 Pages on 12/19/2005 1:50:08 PM
Recording Fee: \$31.00 Documentary Stamps: \$0.00
Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register



Area. Common Area shall also mean such property which, from time to time, is deeded to the Association in fee simple by Declarant. The term "Common Area" does not include any real property owned by SJWD.

SECTION 3. "Common Dock" shall mean and refer to any dock, pier or similar structure designated as such by Declarant and which has been placed on the Lake for the benefit of the Association.

SECTION 4. "Declarant" shall mean and refer to SKYDALE ENTERPRISES, LLC, as well as its successors and assigns, if Declarant shall make an express conveyance of its rights as developer hereunder to such successor or assign.

SECTION 5. "Declaration" shall mean this Declaration of Covenants, Conditions, Restriction and Easements for Carshalton by the Bay, as the same may be amended, renewed or extended from time to time in the manner herein provided.

SECTION 6. "Lake" shall mean Lake Lyman.

SECTION 7. "Lake Lot" shall mean any lot as shown on the Plat that touches Lake Lyman.

SECTION 8. "Lot" shall mean and refer to any separately numbered plat of land shown upon any recorded subdivision map of the Properties with the exception of Common Area.

SECTION 9. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 10. "Non-Member User" shall mean and refer to any person who is not a Member of the Association for the use of the Recreational Facilities as set out in the By-laws of the Association.

SECTION 11. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 12. "Plat" shall mean that certain plat, prepared by Sinclair & Associates and entitled "Carshalton by the Bay" dated March 24, 1995 recorded in Plat Book 158 at Page 875 in the RMC Office of Spartanburg County, South Carolina, as well as all future recorded plats, if any, describing those certain parcels of land annexed, as described thereon, and made subject to this Declaration by amendment hereto.

SECTION 13. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 14. "SJWD Policies and Procedures" shall mean the SJWD Water District Policies and Procedures Governing Water Supply Reservoirs (Edition revised 9-3-03), and any subsequent revisions thereof.

ARTICLE II

PROPERTY RIGHTS

SECTION 1. OWNERS' EASEMENTS OF ENJOYMENT.

Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to permit the use of, and to charge assessments to the Owners for the maintenance of, the Common Area and to impose reasonable limits upon the number of guests who may use the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use any Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members;
- (d) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;
- (e) the right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities thereon; and
- (f) the right of the Association to exchange portions of Common Area with the Declarant for substantially equal areas of the properties for the purpose of eliminating unintentional encroachments of improvements onto portions of the Common Areas;
- (g) the right of the Association to establish regulations regarding the operation, maintenance or storage of any boat or other kind of watercraft on the Property.

This easement is, however, restricted by the following:

- i) Only the owners of Lots 6, 7, 8, and 9 shall be entitled to the use and enjoyment of the dock extending into the lake from property adjacent to Lot No. 9. Each owner of Lots 6, 7, 8, and 9 shall not restrict the use of the dock by any other owner of those particular lots, but no other owner of any other lot within the

subdivision shall have the right to this easement.

- ii) Only the owners of lots 17, 18, 19, and 20 shall be entitled to the use and enjoyment of the dock extending into the lake from property adjacent to Lots 18 and 19. Each owner of lots 17, 18, 19, and 20 shall not restrict the use of the dock by any other owner of those particular lots, but no other owner of a lot within the subdivision shall have the right to this easement.
- iii) This easement is further subject to applicable restriction, covenants, or conditions promulgated by the SJWD.
- iv) The owners of Lots 6, 7, 8, and 9 and the owners of Lots 17, 18, 19, and 20 also own the dock described in this paragraph, and the ownership thereof shall not be borne by the Homeowner's Association or any of the owners of any other lots within the subdivision. The cost of the care, maintenance, or replacement of these two docks shall be equally borne by the Lot owners who have easement access to these docks, regardless of whether or not the Lot owner has a boat or uses the dock, and the cost or responsibility for such maintenance shall not be the responsibility of the Homeowner's Association.
- v) The owners of the lots described herein are subject to, and, by their acceptance of a deed to their lot(s), agree to be bound by the provisions of the shared use agreement which is of record in the ROD for Spartanburg County, regardless of whether or not a copy of the agreement is attached to the owner's recorded deed.
- vi) The provisions in Paragraphs i) through v), above, shall be included on the deed conveying title of any of these affected lots, provided, however, that the failure of any of the above-referenced lot owners to include those provisions in the deed conveying the property to a subsequent owner shall not make void those provisions.

SECTION 2. DELEGATION OF THE USE. Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Area to the members of his family, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 3. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's residence on its Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions, and Restrictions, the Articles of Incorporation and By-Laws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the Lease. All Leases of Lots shall be in writing. If the lease of a Lot does not contain the foregoing language, the lessee shall still be subject

to the terms of this declaration. Other than the foregoing there is no restriction on the right of any Owner to lease his Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

SECTION 2. The Association shall have two classes of voting membership:

CLASS A. So long as there is Class B membership, Class A Members shall be all Owners other than the Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote or votes for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

CLASS B. The Class B Member shall be the Declarant and, as long as there is Class B voting membership, the Declarant shall have sole voting power. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) the date on which the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;
- (b) on December 31, _____; or
- (c) when Declarant elects, by notice to the Association in writing, to terminate its Class B membership.

ARTICLE IV

COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. ASSOCIATION'S RESPONSIBILITIES, CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Association shall maintain and keep in good repair the Common Area. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping and improvements situated on the Common Area. The Association shall also maintain: (a) all entry features, including the expenses for water and electricity, if any, provided to all such entry features; (b) streetscapes located at other street intersections within the development; (c) all cul-de-sac islands located in the development; (d) landscaping originally installed by the Declarant whether or not such landscaping is on a Lot; (e) all

lakes, ponds and dams located within the Common Area; (f) all drainage and detention areas which were originally maintained by the Declarant, to the extent such areas are not maintained on an ongoing basis by a local governmental entity; and (g) all property outside of Lots located within the development which was originally maintained by Declarant, including those areas designated as landscape easements. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay (a) to the Association: (i) annual assessments or charges; (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) a *pro rata* share of *ad valorem* taxes levied against the Common Area; and (ii) a *pro rata* share of assessments for public improvements to or for the benefit of the Common Area if the Association shall default in the payment of either or both for a period of six (6) months as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area; the maintenance of water and sewer mains in and upon the Common Area; the maintenance of open spaces and streets which have not been accepted for dedication by a public authority, roadway medians and islands (including medians and islands located in dedicated rights-of-way), drives and parking areas within the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws; the maintenance of lakes, ponds, retention areas or other bodies of water located within the Common Area; the maintenance of dams and areas surrounding such water; the maintenance of any "sign easement" areas located on any Lot, as shown on a recorded plat; the maintenance of entranceways, landscaping and lighting of Common Area, road medians and islands and entranceways, the lighting of streets (whether public or private); the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area; the costs associated with the duties of the Architectural Control Committee; the employment of attorneys and other

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

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

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation, and the By-Laws of the Association. As monies for any assessment are paid to the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge, or in any manner transfer his membership interest therein, except as an appurtenance to his Lot. When a Lot Owner shall cease to be a member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Properties.

SECTION 3. MAXIMUM ANNUAL ASSESSMENT. Until modified by the homeowners' association, the maximum annual assessment shall be Two Hundred Fifty and No/100ths (\$250.00) Dollars per Lot.

(a) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed fifteen percent (15%) of the maximum annual assessment of the previous year.

(b) The maximum annual assessment for the calendar year immediately following the year in which conveyance of the first Lot to an Owner is made and for each calendar year thereafter may be increased without limit by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, subject to the provisions of Section 6 of this Article.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. So long as the total amount of special assessments allocable to each Lot does not exceed \$300.00 in any one fiscal year, the Board may impose the special assessment. All special assessments which exceeds the \$300.00 limitation shall be effective only if such assessment shall have the assent of 60% of Owner's entitled to vote who are voting in person or by proxy at a meeting duly called for this purpose. All special easements shall be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4.

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article IV shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, semiannual or annual basis.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS; DUE DATES.

The annual assessments provided for herein shall commence as to a Lot on happening of any of the following events, whichever occur earlier: (a) first day of the third month following the issuance of a certificate of occupancy for the residence constructed on that Lot; (b) the first day of the month that the residence constructed on that Lot is occupied; or (c) the first day of the month after title to a lot is conveyed by Declarant to subsequent owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment and promptly thereafter the Board of Directors shall cause written notice thereof to be sent to every Owner

subject thereto. In the event the Board of Directors shall fail to fix the amount of annual assessments as described above, the assessment fixed for the immediately preceding year shall continue in effect until a new assessment amount is fixed. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 8. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum or the highest rate allowed by law, whichever is lower. If the delinquency persists for an additional thirty (30) days, the Association shall be entitled to charge interest on all sums more than sixty (60) days past due at the rate of eighteen percent (18%) per annum or the highest rate allowed by law, whichever is lower. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of South Carolina for the foreclosures of Mortgage, and interest, costs, and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive, or otherwise escape, liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot, nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 9. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Area or assessments for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives, and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the lot of the Owner.

SECTION 10. SUBORDINATION OF THE LIEN TO MORTGAGES. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any lot shall not affect the assessment lien or liens provided for in the preceding section. However, the

sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or deed of trust.

SECTION 11. EXEMPT PROPERTY.

All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of South Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments, except for the docks constructed for Lots 6, 7, 8, 9, 17, 18, 19, and 20.

ARTICLE V

ARCHITECTURAL CONTROL

SECTION 1. IMPROVEMENTS.

No building, fence, wall or other structure or planting or landscaping shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein including, without limitation, any plantings or landscape, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the architectural committee (hereinafter referred to as the "Architectural Control Committee"). The Architectural Control Committee shall be the Declarant until all of the Lots in Carshalton by the Bay have been fully developed, permanent improvements constructed thereon, sold to permanent residents, or until such time as Declarant notifies the Board that Declarant's rights and obligations as Architectural Control Committee shall be terminated. Thereafter the Board shall have the right, power, authority, and obligation to establish a successor Architectural Control Committee as a committee of the Association and provide rules and regulations pursuant to which such committee shall act. It is acceptable for the Board to assign various functions of the architectural committee to an outside architect or some other individual (s) the Board deems appropriate. Such approval of all improvements shall be within the sole discretion of the Architectural Control Committee.

SECTION 2. PROCEDURES.

(a) Any person desiring to make any improvement, alteration or change described in Section 1 above shall submit the plans and specifications, showing the nature, kind, shape, height, materials, and location of the same, to the Board of Directors of the Association or the Architectural Control Committee

which shall evaluate such plans and specifications in light of the purpose of this Article. In addition to the rights of the Architectural Control Committee provided herein, the Architectural Control Committee, as appropriate, shall have the right at any time to adopt an architectural review program pursuant to which plans relating to all proposed Improvements on the Property shall be submitted for review by an independent architectural review consultant engaged by the Architectural Control Committee for this purpose. In the event such a program is adopted, for each review conducted by the architectural review consultant, a review fee not to exceed two hundred (\$200.00) dollars shall be paid by the Owner to the Architectural Control Committee at the time of submission of the plans for review. Such fee shall be subject to adjustment from time to time by the Architectural Control Committee based upon any increases in the charges of the architectural review consultant.

(b) Upon approval by the Architectural Control Committee of any plans and specifications submitted pursuant to this Declaration, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the Architectural Control Committee, and a copy of such plans and specifications bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the Architectural Control Committee's right, in its discretion, to disapprove similar plans and specification, or any of the features or elements included therein, if such plans, specifications, features, or elements are subsequently submitted for use in connection with any other Lot. Approval of such plans and specifications relating to any Lot, however, shall be final as to that Lot and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

(c) The Architectural Control Committee, in its sole discretion, may excuse compliance with such architectural requirements as are not necessary or appropriate in specific situations and may permit compliance with different or alternative requirements. Compliance with the design review process provided herein or in any guidelines of the Architectural Control Committee is not a substitute for compliance with building, zoning and subdivision regulations of Spartanburg County, South Carolina, and each Owner is responsible for obtaining all approvals, licenses and permits as may be required prior to commencing construction. Approval by the Architectural Control Committee does not necessarily assure approval by the appropriate governmental board or commission in Spartanburg County, South Carolina.

(d) Neither Declarant, nor any other member of the Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. FURTHER, NEITHER

DECLARANT, NOR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE, SHALL BE LIABLE IN DAMAGES TO ANYONE BY REASON OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE, OR NONFEASANCE ARISING OUT OF, OR IN CONNECTION WITH, THE APPROVAL OR DISAPPROVAL, OR FAILURE TO APPROVE OR DISAPPROVE, ANY SUCH PLANS OF SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURAL CONTROL COMMITTEE PROVIDED FOR IN THIS DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURAL CONTROL COMMITTEE FOR APPROVAL AGREES, BY SUBMISSIONS OF SUCH PLAN AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, ASSOCIATION, ITS BOARD MEMBERS OR OFFICERS, OR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE TO RECOVER ANY SUCH DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

ARTICLE VI

EXTERIOR MAINTENANCE

The Association shall maintain the Common Area. Each Owner shall be responsible for the exterior maintenance of his or her dwelling and Lot, as follows: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, driveways, walks and other exterior improvements. In the event that the Owner neglects or fails to maintain his or her Lot and/or the exterior of his or her dwelling in a manner consistent with other Lots and dwellings in Carshalton by the Bay, the Association shall provide such exterior maintenance as provided above. Provided, however, that the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance himself or herself. The determination as to whether an Owner has neglected or failed to maintain his or her Lot and/or dwelling in a manner consistent with other Lots and dwellings in Carshalton by the Bay shall be made by the Board of Directors of the Association, in its sole discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

In the event the Association performs such exterior maintenance, repair or replacement,

the cost of such maintenance, replacement or repairs shall be added to, and become a part of, the assessment to which such Lot is subject.

In the event that the Association determines that the need for maintenance, repair, or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of an Owner or the family, guests, lessees, or invitees of any Owner, and is not covered and paid for by insurance, in whole or in part, then the Association may perform such maintenance, repair, or replacement at such Owner's sole cost and expense, and all costs thereof shall be added to, and become a part of, the assessment to which such Owner is subject and shall become a lien against the Lot of such Owner.

ARTICLE VII

USE RESTRICTIONS

SECTION 1. RESIDENTIAL USE OF PROPERTY.

All Lots shall be used

for single-family, residential purposes only, and no business or business activity shall be carried on or upon any Lot at any time, except with the written approval of the Architectural Control Committee; provided, however, that nothing herein shall prevent Declarant or any builder of homes in Carshalton by the Bay approved by Declarant from using any Lot owned by Declarant or such builder of homes for the purpose of carrying on business related to the development, improvement, and sale of property in Carshalton by the Bay; and provided further that, to the extent allowed by applicable zoning laws, private offices may be maintained in dwellings located on any of the Lots, so long as such use is incidental to the primary residential use of the dwellings.

SECTION 2. SETBACKS AND BUILDING LINES.

Each dwelling which shall be

erected on any Lot shall be situated on such Lot in accordance with the building and setback lines approved for each lot in writing by the Architectural Control Committee, and which are shown on the recorded subdivision plat, before commencement of lot clearing preparatory to construction unless either a variance shall have been granted by Declarant or Declarant shall have amended the Plat. In no event shall any dwelling be erected and located upon any such Lot in a manner which violates the requirements and provisions of any applicable zoning ordinances and subdivision regulations. In addition to the provisions within this declaration, the placement of any dwelling or other construction on any lot that touches the Lake is also subject to the requirements and conditions of the SJWD Policies and Procedures.

SECTION 3. WALLS AND FENCES.

No fence or wall shall be erected,

placed, or altered on any Lot nearer to any street than said minimum building setback line unless the same be a retaining wall of masonry construction which does not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced, or stabilized, except that this restriction shall

not apply to fences or walls which have been approved by the Architectural Control Committee pursuant to Article V above. The exposed part of retaining walls shall be made of clay brick, natural stone, stucco, railroad ties, or veneered with brick or natural stone. Chain link fences and split rail fences with wire backing are prohibited except when the Architectural Control Committee gives written approval. Furthermore, to guarantee the preservation of a particular view for adjoining and nearby land owners, there shall not be erected or placed a fence, wall, tree, or shrub that may at present or in the future obstruct the view from any other Lot unless and except as approved by the Architectural Control Committee. All fencing constructed on Lots adjacent to the Lake must comply with the SJWD Water District Policies and Procedures fencing or retaining wall requirements as they exist from time to time. No fencing shall be allowed in the front yard, nor shall fencing be allowed past the rear house corner toward the front yard, except when the Architectural Control Committee gives written approval. In addition to any other remedies, either Developer or Architectural Control Committee shall have the right, but not the obligation, at any time, without liability to Owner for trespass to enter upon any Lot and remove any improvement, constructed or maintained in violation of this Declaration or trim any tree or shrub obstructing the view of any Lot.

SECTION 4. SUBDIVISION OF LOT. One or more Lots, or parts thereof, may be subdivided or combined to form one single building Lot when approved, in writing, by Declarant, and, in such event, the building line requirements provided herein shall apply to such Lots as re-subdivided or combined, and sideline easements as shown on the plat shall be moved to follow the new side line so that the easement would run along the newly established side line.

SECTION 5. TERRACES, EAVES AND DETACHED GARAGES. For the purpose of determining compliance or noncompliance with the foregoing building line requirements, terraces, stoops, eaves, wing-walls, and steps extending beyond the outside wall of a structure shall not be considered as a part of the structure. No side yard shall be required for any detached garage or accessory outbuilding which has been approved, in writing, by the Architectural Control Committee provided, all such detached structures must be to the rear of the main dwelling and must not encroach upon the Lot of an adjacent Owner.

SECTION 6. BUILDING REQUIREMENTS. The living areas of the main structure of each dwelling constructed on a lot, exclusive of open porches, *porte cocheres*, garages, carports, and breezeways, shall have a minimum of 1,700 square feet of heated space for each one-story dwelling. Each two-story dwelling shall have a minimum of 2,000 square feet of heated space, with a minimum of 1,400 square feet being on the first floor. All dwellings must have a crawl space or basement under all ground-level floor space, except for area covered by porches, decks, carports, breezeways, or garages.

SECTION 7. OBSTRUCTIONS TO VIEW AT INTERSECTIONS. No part of any

structure nor the lower branches of trees or other vegetation shall be permitted to obstruct the view at street intersections.

SECTION 8. DELIVERY RECEPTACLES AND PROPERTY IDENTIFICATION

MARKERS. The Architectural Control Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers.

SECTION 9. USE OF OUTBUILDINGS AND SIMILAR STRUCTURES. No structure of temporary nature (unless approved in writing by the Architectural Control Committee) shall be erected or allowed to remain on any Lot, and no trailer, camper, shack, tent, garage, barn, or other structure of a similar nature shall be used as a residence, either temporarily or permanently; provided, this Section shall not be construed to prevent the Declarant and those engaged in construction from using sheds or other temporary structures during construction.

SECTION 10. COMPLETION OF CONSTRUCTION. The Association shall have the right to take appropriate legal action, whether at law or in equity, to compel the immediate completion of any residence not completed within one (1) year from the date of commencement of construction.

SECTION 11. LIVESTOCK AND PETS. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other small household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions. No structure for the care, housing, or confinement of any pet shall be constructed or maintained on any part of the Common Areas. Pets shall be under leash at all times when walked or exercised in any portion of the Common Areas, and no pet shall be permitted to leave its excrement on any portion of the Common Areas, and the Owner of such pet shall immediately remove the same. Upon the written request of any Owner, the Board of Trustees may conclusively determine, in its sole and absolute discretion, whether, for purposes of this Section 11, a particular pet is a generally recognized house pet or such pet is a nuisance, and the Board shall have the right to require the owner of a particular pet to remove such pet from the Development if such pet is found to be a nuisance or to be in violation of these restrictions. The Board of Trustees shall have the further right, subject to Section 11 hereof, to fine any Owner (in any amount not to exceed \$50.00 per violation) for the violation of these pet restrictions by such Owner or an occupant of his Lot or Dwelling, and an Owner shall be liable to the Association for the cost of repair of any damage to the Common Areas caused by the pet of such Owner or of an occupant of such Owner's Lot or Dwelling. Any such fine or

cost of repair shall be added to and become a part of that portion of any assessment next coming due to which such Lot or Dwelling and its Owner are subject.

SECTION 12. OFFENSIVE ACTIVITIES.

No noxious, offensive, or illegal activities shall be carried on upon any Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to the owners of other Lots in Carshalton by the Bay. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells, or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development. Any Owner, or his family, tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of \$150.00, whichever is greater, and such sum shall be added to, and become a part of, that portion of any assessment next becoming due to which such Owners and his Lot or Dwelling are subject.

SECTION 13. SIGNS.

No advertising signs or billboard shall be erected on any Lot. This restriction shall not apply to signs used to identify and advertise the subdivision as a whole, nor to signs for selling Lots and/or houses, provided that such signs are approved by the Architectural Control Committee. Also the provisions of this Article shall not apply to notices posted in connection with judicial or foreclosure sales conducted with respect to first mortgages.

SECTION 14. AESTHETICS, NATURE GROWTH, SCREENING, UNDERGROUND UTILITY SERVICE.

Trees which have a diameter in excess of six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior approval, in writing, of the Architectural Control Committee. Clotheslines, garbage cans, and equipment shall be screened to conceal them from view of neighboring Lots and streets. All residential utility service and lines to residences shall be underground.

SECTION 15. ANTENNAE.

No radio or television transmission or reception towers or antennae shall be erected on any structure or within the property without the prior written approval of the Architectural Control Committee. In no event shall free standing transmission or receiving towers or satellite dishes or disks be permitted that exceed three (3') feet in diameter. All other satellite dishes and their location must be approved by the Architectural Control Committee.

SECTION 16. TRAILERS, TRUCKS, SCHOOL BUSES, BOATS, BOAT TRAILERS.

No house trailers or mobile homes, school buses, trucks, or commercial vehicles of one (1) ton capacity or more, boats or boat trailers, motor homes, motorcycles, campers, or vans shall be kept, stored or parked overnight either on any street or on any Lot, except within enclosed garages or screened from the streets. Notwithstanding the foregoing, passenger automobiles may be parked in the driveway if the number of vehicles owned by Owner exceed the capacity of the garage. The foregoing will not be

interpreted or construed or applied to prevent the temporary nor current parking of any vehicle boat or trailer for a period not to exceed 48 hours upon any Lot.

SECTION 17. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping group for rubbish. Trash, garbage, or other waste shall not be kept except in sanitary containers designed for that purpose. All incinerators or other equipment for the storage or disposal of such waste material shall be kept in a clean and sanitary condition. If such litter or other materials is found on any Lot, the same will be removed by the Lot Owner of such Lot, at the Lot Owner's expense, upon written request of the Association.

SECTION 18. CHANGING ELEVATIONS. No Lot Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots, unless approved in writing by the Architectural Control Committee.

SECTION 19. SEWAGE SYSTEM. Sewage disposal shall be through municipal system or type approved by appropriate State and local agencies.

SECTION 20. WATER SYSTEM. Water shall be supplied through municipal system or type approved by appropriate State and local agencies.

SECTION 21. UTILITY FACILITIES. Declarant reserves the right to approve the necessary construction, installation, and maintenance of utility facilities, including, but not limited to, water, telephone and sewage systems, within this proposed area which may be in variance with these restrictions.

SECTION 22. MODEL HOMES. Declarant, as well as any builder of homes in Carshalton by the Bay, shall have the right to construct and maintain model homes on any of the Lots. "Model Homes" shall be defined as those homes used for the purpose of inducing the sale of other homes within the Properties.

SECTION 23. DRIVEWAYS AND ENTRANCE TO GARAGE. All driveways and entrances to garages shall be concrete or other substance approved in writing by Declarant or by the Architectural Control Committee and of a uniform quality.

SECTION 24. WAIVER OF SETBACKS, BUILDING LINES AND BUILDING REQUIREMENTS. The Architectural Control Committee may, for good cause, waive violations of the setbacks and building lines provided for in Section 2 of this Article VII and the building requirements provided for in Section 6 of this Article VII. Such waiver shall be in writing and recorded in the Spartanburg County RMC Office. A document executed by the Architectural Control Committee shall be, when recorded, conclusive evidence that the requirements of Sections 2 and 6 of this Article VII have been complied with. The Architectural Control Committee may also handle violations of set back

and boundary line by amending the Plat. Nothing contained herein shall be deemed to allow the Architectural Control Committee to waive violations which must be waived by an appropriate governmental authority.

SECTION 25. MAINTENANCE.

The Owner of each numbered Lot, improved and unimproved, shall keep the same free of all tall grass, undergrowth, dead trees, dangerous and dead tree limbs, weeds, trash, and rubbish, which numbered Lot shall at all times be maintained in such a manner as to prevent the same from becoming unsightly, unsanitary, or a hazard to health. In the event the Owner of any numbered Lot fails to comply with the terms of this paragraph, the Declarant and/or the Association shall have the right (but not the obligation) to go upon such numbered Lot and to cut and remove tall grass, undergrowth, weeds, rubbish and other unsightly or undesirable things and objects therefrom and to do all other things and perform and furnish any labor necessary or desirable, in its judgment, to maintain the numbered Lot in a neat and attractive condition, all at the expense of the Owner of such numbered Lot, which expense shall become payable by the Owner to the Declarant and/or the Association on demand, and if not paid on demand by such Owner, the reasonable cost of such shall be added to, and become a part of, the annual assessments hereinafter provided, to which such numbered Lot is subject. Neither the Declarant nor the Association, as the case may be, nor any of its agents, employees or contractors shall be liable for any damages to any person which may result from the exercise of any of the rights conferred upon them as set forth in this paragraph.

SECTION 26. FIREARM AND WEAPON DISCHARGE.

Any firearm discharge, other than for defense or protection of one's life or property, is prohibited on all property shown on the Plat. Firearms shall include rifle, gun, pistol, shotgun, black powder gun, pellet or BB gun, bow and arrow, and other weapon from which any bullet, shot, or projectile may be discharged.

SECTION 27. SWIMMING POOLS.

No swimming pool shall be constructed, erected, or maintained upon any Lot without the prior written consent of the Architectural Control Committee, and, in no event, shall any above-ground swimming pool be permitted. Notwithstanding the foregoing, a temporary child's pool may be permitted which does not exceed more than eighteen (18") inches in height and twelve (12') feet in diameter.

SECTION 28. USE OF LAKE LYMAN.

Any and all use of Lake Lyman by all Owners is governed by the SJWD Policies and Procedures.

SECTION 29. DOCKS.

The construction and use of docks by Owners of lots with frontage on Lake Lyman is governed by the SJWD Policies and Procedures. There shall be only one dock constructed for the joint use by the owners of Lots 6, 7, 8, and 9 and one dock for the joint use by the owners of Lots 17, 18, 19, and 20. No application for additional dock construction permits may be submitted to the SJWD by the owners of any of those particular lots.

SECTION 30. LITIGATION.

No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Lot Owners. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IV hereof, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is made by the Declarant pursuant to Article X, Section 4 hereof, or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

SECTION 31. COMMON DOCK.

Declarant reserves the right to construct and maintain, or to permit to be constructed and maintained, a Common Dock to benefit the Association abutting the water of the Lake to the extent deemed by Declarant, in its sole discretion, to be necessary or appropriate. In the event that rights or interest in a Common Dock are created by Declarant for the benefit of the Association, the Association shall provide any and all consents of authorizations requested from time to time by the Declarant to facilitate the placement, construction and maintenance of such common dock. This reference to a common dock does not include the docks abutting lots 6, 7, 8, 9, 17, 18, 19, or 20.

SECTION 32. LAKE LEVEL.

Each Owner, by virtue of accepting a deed to any lot and for as long as his is an Owner, acknowledges and understands that the surface water level of Lake is subject to periodic fluctuations due to conditions or events which are beyond the control of the Declarant, and Declarant assumes no responsibility for any conditions which may be caused by such water level fluctuations, including, without limitation, any condition affecting the utilization of the Recreational Facilities or the placement or construction of any Improvements on any Lot.

SECTION 33. SJWD POLICIES AND PROCEDURES.

The SJWD Policies and Procedures (see Article I, Section 14, above) are incorporated into, and shall be apart of, these declarations, to the extent those policies and procedures affect these properties. In the event of a conflict with any of the provisions in this declaration, the provisions of the SJWD Policies and Procedures shall control.

ARTICLE VIII**EASEMENTS****SECTION 1. UTILITIES.**

Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on recorded plats. Within these easements no structures, planting or other material shall be placed or permitted to remain

which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of Spartanburg County (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over all Common Area as may be reasonable necessary for the setting, removal, and reading of water meters, and the maintenance and replacement of water, sewer, and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over, and across the Common Area such additional easements as are necessary or desirable for the providing of service or utilities to the Common Area or Lots.

SECTION 2. SIGN EASEMENTS.

Easements for the maintenance of subdivision signs and landscaping and lighting surrounding same are reserved as indicated on recorded plats. Declarant hereby grants, gives, and conveys to the Association a perpetual, non-exclusive easement over any portions of Lots designated as "sign easements" or "landscape easements" on the plats, to maintain, repair, and replace the subdivision signs, lighting fixtures, and any landscaping which may be located thereon. The costs of all such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. In addition to the easement granted above as to the portion of Lots designated "sign easements," or "landscaping easements," Declarant hereby gives, grants, and conveys to the Association the right of ingress and egress over other portions of such Lots as shall be reasonably necessary to effectuate the purposes stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon, and inure to the benefit of, all persons and entities now owning or subsequently acquiring all, or a part of, the Properties.

ARTICLE IX

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS.

"Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies, or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS.

So long as any Institutional Lender shall hold any first lien upon any lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the

Association prepared by a certified public accountant designated by the Board of Directors of the Association, such financial statement or report to be furnished by April 15 of each calendar year.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions or the Articles of Incorporation or By-Laws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self management by the Association.

(c) To receive notice of any condemnation or casualty loss affecting the Common Areas or any portion thereof.

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Areas, other than those specific rights vested in the Association under Article II hereof.

(f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing.

SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

ARTICLE X

GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation or By-Laws of the Association. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and

ordinances of any governmental authority. Should Declarant or the Association employ legal counsel to enforce any of the covenants, conditions, restrictions, easements or any other aspect of this Declaration, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees shall be paid by the violating Owner.

Subject to the provisions herein, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any assessments, the Board shall have the power (i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot or Dwelling, the Owners or Occupants of which are guilty of such violation, (ii) to suspend an Owner's right to vote in the Association, or (iii) to suspend an Owner's right (and the right of such Owner's family, guest's and tenants and of the co-Owners of such Owner and their respective families guests, and tenants) to use any of the recreational facilities located in the Common Area, and the Board shall have the power to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests, or tenants or by his co-Owners or the family, guests, or tenants of his co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days per violation.

SECTION 2. EXCUSED COMPLIANCE. Anything to the contrary contained herein notwithstanding, the Declarant may excuse compliance in whole or in part with any of the conditions, covenants, restrictions and reservations provided herein, in any Supplemental Covenants or in any amendment or supplement hereto, or a variance document, and may permit compliance with different or alternative requirements, if Declarant determines in the exercise of its good faith judgment that such action is warranted to promote orderly development and utilization of the property for the benefit of all Owners.

SECTION 3. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

SECTION 4. AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless during the last year of such initial or then current renewal term the Owners of seventy-five percent (75%) of the Lots agree in writing to terminate this Declaration at the end of such term. The Declaration, as amended, shall be rights and interests appurtenant to the realty owned by Declarant referred to hereinabove and shall run with the land at law. So long as Declarant owns a lot subject to this Declaration, Declarant may, in its sole discretion amend this Declaration, as long as such amendment

shall not adversely affect title to any Lot, without the consent of the affected Lot Owner. Any such amendment shall be rights and interest appurtenant to the realty owned by Declarant referred to hereinabove and shall run with the land at law. In addition to the foregoing, the Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, provided that (1) no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein, (2) no amendment shall adversely affect any rights or interest of Declarant as provided herein, unless agreed to in writing by Declarant, (3) no amendment shall have priority over any amendment made by Declarant in accordance with Section 4 of this Article X, as long as Declarant owns a Lot, and (4) no amendment shall alter, modify, or rescind any right, title, interest or privilege herein granted or accorded to any Mortgagee of a Lot affected thereby unless such holder shall consent in writing thereto, which consent shall be filed with such amendment. Any amendment must be properly recorded. Notwithstanding anything to the contrary, the Board of Directors of the Association may amend this Declaration without the consent of Owners to correct any obvious error or inconsistency in drafting, typing or reproduction.

SECTION 5. FEDERAL LENDING REQUIREMENTS. Declarant may (at Declarant's option) amend and modify this Declaration without obtaining the consent or approval of the Owners if such amendment or modification is necessary to cause this Declaration to comply with the requirements of the Federal Housing Administration, the Veterans Administration, Fannie Mae or other similar agency.

Any such amendment must be with the consent and approval of such agency and must be properly recorded.

SECTION 6. ANNEXATION. Additional land which is not already made subject to the Declaration, may be annexed by the Declarant without the consent of Members within seven (7) years of the date of this instrument. Provided, however, that should Declarant elect to improve and develop all or part of the Additional Land, Declarant shall have the right to (i) impose no covenants and restrictions whatsoever on all or part of the Additional Land, (ii) impose covenants and restrictions which are substantially different from those contained herein on all or part of the Additional Land or (iii) impose covenants and restrictions which are the same as or similar to those contained herein on all or part of the Additional Land. Should the Declarant create additional communities within the Additional Land and bring them within the scheme of this Declaration, each such additional community may be made up solely of residential lots, condominiums, cluster, multi-family rental units, commercial facilities, recreational facilities or any combination thereof as Declarant may determine to be appropriate. Notwithstanding

anything contained herein which might otherwise be interpreted to produce a contrary result, this Declaration does not create any charge, lien or other encumbrance or restriction on any part of the Additional Land, or affect in any way the title thereto or any part thereof, nor does this Declaration create an obligation upon Declarant to improve and develop all or any portion of the Additional Land.

SECTION 7. AMPLIFICATION.

The provisions of this declaration may be amplified by the Articles and By-Laws; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on the one hand, and the Articles and By-Laws on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything in the Articles or Bylaws to the contrary.

SECTION 8. TOTAL OR PARTIAL DESTRUCTION OF IMPROVEMENTS.

In the event of a total or partial destruction of any improvements on the Common Area, and if available proceeds of insurance carried pursuant to this Declaration are sufficient to cover 85% of the repair or reconstruction, the Common Area shall be promptly repaired and rebuilt unless within 120 days from the date of such destruction, 75% or more of the owners entitled to vote at a duly called meeting, determine that such reconstruction shall not take place. If the insurance proceeds are less than 85% of the cost of reconstruction, reconstruction may nevertheless take place if, within 120 days from the date of destruction, the Owners of 75% of the Lots elect to rebuild.

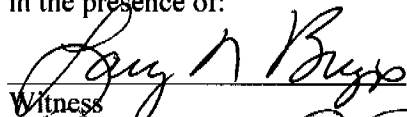
SECTION 9. INVALIDATION.

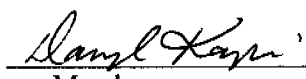
Invalidation of any one or more of these covenants by Judgment, or Court Order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, has caused these presents to be executed in its corporate name by its officers thereunto duly authorized and its corporate seal properly attested to be hereto affixed on this the 29 day of November, 2005.

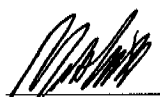
Executed and declared
in the presence of:

SKYDALE ENTERPRISES, LLC


Witness

By: 
Member


Witness

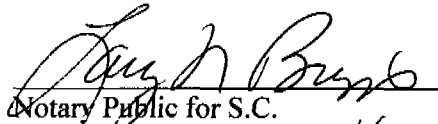
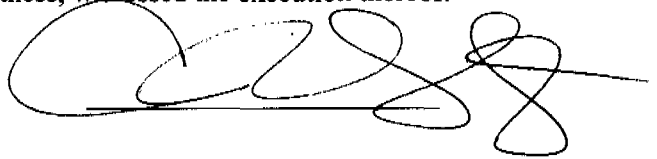
By: 
Member

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

PROBATE

Personally appeared before me the undersigned witness, who says on oath that (s)he saw the within named Corporation, by its duly authorized President and Secretary, sign, seal, and deliver the within written instrument and that (s) he with the other witness, witnessed the execution thereof.

Sworn to before me this
29 day of November 2005.



Notary Public for S.C.

My Commission Expires : 4-10-06