



STATE OF SOUTH CAROLINA ) AFFIDAVIT  
COUNTY OF OCONEE ) ATTESTATION AND CERTIFICATION

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE

MOONLIGHT BAY ON LAKE KEOWEE PROPERTY OWNERS ASSOCIATION, INC.

PERSONALLY APPEARED, Drake Sears, the Affiant before the undersigned Notary Public, and attested and certified as follows:

My name is Drake Sears, I am over the age of eighteen years old and am in all respects legally competent to execute this affidavit.

I attest that all facts herein are based on my personal knowledge.

I am the Secretary of the Moonlight Bay on Lake Keowee Property Owners Association, Inc. (the "Association"), a nonprofit corporation organized under the laws of South Carolina.

I hereby certify and attest that, in accordance with Article XII Section 3 of the Association's Declaration of Covenants, Conditions and Restrictions dated August 21, 2002, and recorded in Deed Book 1237, Pages 170-265, Register of Deeds, Oconee County, South Carolina (the "Declaration"), a majority of the eligible-to-vote Owners signed an agreement signifying their approval of the attached Amended and Restated Declaration of Covenants, Conditions, and Restrictions Moonlight Bay on Lake Keowee.

I hereby certify and attest that on the 4<sup>TH</sup> day of JANUARY, 2019, PATRICK BRITTON, the President of the Association executed the foregoing, attached Amended and Restated Declaration of Covenants, Conditions, and Restrictions Moonlight Bay on Lake Keowee.

FURTHER AFFIANT SAYETH NAUGHT.

In the presence of:

Deborah R. Majewski  
Witness

Drake Sears  
DRAKE SEARS, AFFIANT  
SECRETARY, MOONLIGHT BAY ON LAKE  
KEOWEE PROPERTY OWNERS  
ASSOCIATION, INC.

Andrew Smith  
Andrew Smith, Notary Public

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STATE OF SOUTH CAROLINA  
COUNTY OF OCONEE

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ACKNOWLEDGEMENT

I, Andrew Smith, a Notary Public for the State of South Carolina, do hereby certify that Drake Sears personally appeared before me this day and executed this instrument.

Witness my hand and official seal this 7<sup>th</sup> day of January 2019.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

ANDREW SMITH  
S.C. Notary Public  
My Commission Expires  
May 15th, 2023

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**AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE**

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 4<sup>th</sup> day of January, 2019 by the Moonlight Bay on Lake Keowee Property Owners Association, Inc. a South Carolina Nonprofit Corporation, hereinafter referred to as the "Association". All capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Declaration.

**STATEMENT OF PURPOSE**

WHEREAS, Landman Development, LLC, a South Carolina Limited Liability Company, the Developer and Declarant owned certain property located in Oconee County, South Carolina, which is more particularly described on that certain subdivision plat recorded in Plat Book A894, Page 8 in the Office of the Register of Deeds for Oconee County, South Carolina. Declarant intended to provide for the creation of the properly shown on that subdivision plat a residential community of single-family residences to be named Moonlight Bay on Lake Keowee (the "Development").

WHEREAS, the Declarant intended to insure the attractiveness of the Development, to prevent any future impairment thereof, to prevent nuisances and enhance the value and amenities of all properties within the Development. Furthermore, Declarant intended to provide for the maintenance and upkeep of certain Common Areas within the Development for the common use and benefit of all Property Owners, including, but not limited to Street Lights and the Public Roads (prior to acceptance by governmental authorities for public maintenance). As part of such Common Areas, Declarant intended to construct and provide for the maintenance and upkeep of a lighted Entrance Monument to be located at the entrance to the Development, which Entrance Monument and common area will be for the common use and benefit of all Owners.

WHEREAS, the Declarant intended to provide for a system whereby all Owners will pay for the maintenance and upkeep of the Common Areas and the cost associated with leasing the Street Lights, if any, and the costs of maintenance and upkeep of the Entrance Monument, the Public Roads (prior to their acceptance for public maintenance), and such other Common Areas as all Owners are entitled to use and enjoy.

WHEREAS, to these ends, the Declarant intended to subject the real property described herein to the covenants, condition, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each Owner thereof.

WHEREAS, the Declarant further intended to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Areas, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created, in order to efficiently preserve, protect and enhance the values and amenities in the Development, to ensure the residents' enjoyment of the specific right, privileges and easements in the Common Areas, and to provide for the maintenance and upkeep of the Common Areas and other amenities.

WHEREAS, to that end the Declarant caused to be incorporated under South Carolina law, the Association, as a non-profit corporation created for the purpose of exercising and performing the aforesaid functions, said corporation to be governed by its Bylaws.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**STATEMENT OF PURPOSE (Cont)**

WHEREAS, the Association accepts the foregoing Statement of Purpose.

WHEREAS, the pursuant to the provisions of the original covenants created and recorded by the Declarant and to the Bylaws of the Association and subject to this Declaration, the Declarant has relinquished control of and the Association has taken responsibility for the aforesaid functions.

NOW THEREFORE BE IT RESOLVED, that pursuant to the original covenants the Owners at Moonlight Bay on Lake Keowee have approved these Amended and Restated Declaration of Covenants, Conditions and Restrictions, the Association does hereby declare that all of the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall supersede all previous covenants and which along with any subsequently properly amended, restated, or supplemented covenants that are recorded with the Register of Deeds for Oconee County, South Carolina, shall run with real property described herein and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1. "Additional Property" shall mean and refer to any real estate adjacent or contiguous to the Property shown on the subdivision plat recorded in Plat Book A894 Page 8 in the Office of the Register of Deeds for Oconee County, South Carolina or within four thousand (4,000) feet of any boundary of the Property shown on the subdivision plat recorded in Plat Book A894, Page 8 in the Office of the Register of Deeds for Oconee County, South Carolina all or a portion of which may be made subject to the terms of this Declaration in accordance with the provisions of Article II, Section 2 of this Declaration.

Section 2. "Architectural Review Board" shall mean and refer to the Architectural Review Board for Moonlight Bay on Lake Keowee.

Section 3. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for Moonlight Bay on Lake Keowee Property Owners Association, Inc., incorporated herein by reference.

Section 4. "Association" shall mean and refer to Moonlight Bay on Lake Keowee Property Owners Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

Section 5. "Board of Directors"; shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 6. "Bylaws" shall mean and refer to the Bylaws for the Association, incorporated herein by reference.

Section 7. "Common Area" or "Common Areas" shall mean and refer to the Entrance Monument, Street Lights, Public Roads (prior to their acceptance for maintenance by the Oconee County Public Works Department or other governmental entity) collectively, and any other property designated on the Subdivision plat as "Common Area," "Common Open Area", "Common Open Space," or "COS." The Common Areas shall be owned by the Association (except as otherwise provided herein) for the common use; benefit and enjoyment of all Owners. The listing and description of the components of

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**ARTICLE I  
DEFINITIONS (Cont)**

the Common Area was illustrative of Declarant's plans only and was not a guaranty by the Declarant or the Association that all or any part of such components will be constructed or installed by Declarant or the Association at any future time. The Association reserves the right, but not the obligation, to provide additional Common Areas within the Subdivision, and shall have the right to designate which Owners shall be permitted to use and Common Areas or future Common Areas as set forth in Article II, Section 2 of the Declaration.

Section 8. "Declarant" shall mean and refer to the former Development and Declarant of Moonlight Bay on Lake Keowee, LANDMAN DEVELOPMENT LLC.

Section 9. "Declaration" shall mean the Amended and Restated Declaration of Covenants, Conditions and Restriction Moonlight Bay On Lake Keowee executed on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and any amendments, supplements, of restatements of covenants, conditions and restriction approved by the Association and recorded in the Office of the Register of Deeds for Oconee County, South Carolina.

Section 10. "Entrance Monument" shall mean and refer to the area reserved and granted by Declarant to the Association pursuant to Article VIII, Section 12 of this Declaration and recorded in Deed Book 1829, Pages 116-117 in the Office of the Register of Deeds for Oconee County, South Carolina, over a portion of the Common Area located at the entrance to the Subdivision where such Common Area intersects and adjoins Evatt Road as shown on the Subdivision plat, and any monuments and entrance signs located on such parcel together with lighting, an irrigation system, landscaping and other improvements which may be constructed on such easement area, to be used as an entryway for the Subdivision, and for the purposes set forth in Article VIII, Section 12.

Section 11. "Lot" or "Lots" shall mean and refer to the separately numbered parcels depicted on the Subdivision plat, which Lots do not include the Entrance Monument, Access Area, or other Common Areas as described in this Declaration.

Section 12. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 13. "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

Section 14. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot within the Development, but excluding those having such interest merely as security for the performance of a obligation.

Section 15. "Property" shall mean and refer to the property shown on the Subdivision plat, exclusive of the public rights-of-way as shown on the Subdivision plat, and which Property includes the Lots and the Common Areas as defined herein and as more particularly shown on the Subdivision plat.

Section 16. "Public Roads" shall mean and refer to all roads and cul-de-sacs in the Subdivision and shown on the Subdivision plat, all to be maintained by the Association as more particularly set forth in Article IV, Section 6 of the Declaration and accepted for public maintenance by the Oconee County Public Works Department or other governmental entity. See Deed Book 1332, Pages 42-44 records of the Office of the Register of Deeds for Oconee County, South Carolina.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**ARTICLE I  
DEFINITIONS (Cont)**

Section 17. "Street Lights" shall mean and refer to those certain street lights which may or may not be constructed upon and over the rights of way of the Public Roads, and upon and over any Common Areas, including the Entrance Monument, which are to be maintained and leased by the Association.

Section 18. "Subdivision" or "Development" shall mean and refer to MOONLIGHT BAY ON LAKE KEOWEE residential development developed on the Property by Declarant.

Section 19. "Subdivision Plat" shall mean and refer to (i) the subdivision plat of MOONLIGHT BAY ON LAKE KEOWEE SUBDIVISION recorded in Plat Book A894 at page 8 in the Office of the Register of Deeds for Oconee County, South Carolina, (ii) any subdivision plats of Additional Property subjected to this Declaration, and (iii) any revisions of such subdivision plat or subdivision plats recorded in the Office of the Register of Deeds for Oconee County, South Carolina.

**ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF  
THE ASSOCIATION**

Section 1. Property. The real property, which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and which is and shall be within the jurisdiction of the Association, is located in Oconee County, South Carolina, and is the Property as defined above and as more particularly described and shown on the Subdivision plat.

Section 2. Additions to the Property

(a) **The Association** may cause Additional Property to be made subject to the terms and scheme of this Declaration by filing one or more supplemental Declarations in the Office of the Register of Deeds for Oconee County, South Carolina containing a description of the Additional Property and a statement by the Association of its intent to extend the operation and effect of this Declaration to the Additional Property. The Association may also cause additional Common Areas within or adjacent to any Additional Property to be constructed and made subject to the terms and scheme of this Declaration by the filing of one or more Supplemental Declarations describing the Common Areas to be added, and a statement by the Association of its intent to extend the operation and effect of this Declaration to the additional Common Areas. Notwithstanding the foregoing, the covenants and restrictions established herein as applied to, or imposed upon, the Additional Property may be altered or modified by the filing of one or more Supplemental Declarations as provided in Subparagraph (b) below.

(b) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Association to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke, modify or change the covenants and restrictions contained herein with respect to the Property, nor revoke, modify or change the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for Amendment set forth in Article XII, Section 3 of this Declaration, except as may be otherwise specifically set forth herein. Notwithstanding the foregoing, the Association shall have the right, without meeting the requirements for Amendment set forth in Article XII, Section 3 of this Declaration, to amend this Declaration to reconfigure any proposed piers, or Common Areas to reflect the actual final configuration of such areas and the "as-built" construction of such amenities.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**ARTICLE III  
PROPERTY RIGHTS**

Section 1. Ownership of Common Areas. Declarant conveyed to the Association the Common Areas to be owned and maintained by the Association, including the Entrance Monument located at the entrance to the Development and the Public Roads, as reflected on the Subdivision plat, for the use and enjoyment to the Owners who are entitled to the use of such Common Areas as provided in this Declaration. Notwithstanding the recordation of and Subdivision plat or any other action by Declarant or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public (with the exception of the Public Roads, which have been accepted for public maintenance by the Oconee County Public Works Department or other governmental entity).

Section 2. Owner's Rights to Use and Enjoy Common Areas. Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas, and such right shall be appurtenant to and conveyed with title to such Owner's Lot, subject to the following:

- (a) the right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Areas to insure the availability of the right to use the Common Areas to the Owners and the safety of all Owners on the Common Areas;
- (b) the right of the Association to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Common Areas by an Owner for any period during which any assessment against his Lot until all assessments, fines, and fees are paid remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) the right of the Association to grant utility, drainage and other easement across the Common Areas;
- (d) the right of the Association to restrict the use of certain Common Areas to designated Owners as shall be described in this Declaration, including any amendments or supplements.

Section 3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his or her right or enjoyment to the Common Areas and facilities located thereon to the members of his family, his guests or his invitees.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**ARTICLE IV  
THE ASSOCIATION**

Section 1.                    Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws of MOONLIGHT BAY ON LAKE KEOWEE PROPERTY OWNERS ASSOCIATION, INC.

Section 2. : Class of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be one class of Lots with respect to voting rights: Class A Lots.

(a)    Class A Lots. Every person who is an Owner, except as otherwise set forth herein, shall be a Class A Member and shall be entitled to one (1) vote for each Lot owned if the Member is then in good standing. A Member is in good standing unless his or her voting privileges have been suspended by the Board. When more than one (1) person is a Class A Member by virtue of an ownership interest in the same Lot, the vote 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. In the event of disagreement among such persons and an attempt by two (2) or more of them to cast the vote of such Lot shall not be counted. The membership of a Class A Member shall automatically terminate upon the Member's sale, conveyance or transfer of his or her Lot. However, no termination of Class A membership shall affect such Member's obligation to pay assessments, fines or penalties as hereinafter provided for, due and payable for any period prior to the date of such termination, and there will be no refund for assessments paid for periods falling after the date of such termination.

(b)    The Association, Inc. shall be entitled to vote as a Class A member on all matters and in all events, having one (1) vote for each Lot owned by the Association, excluding common areas. The vote(s) shall be determined by quorum in board vote.

Section 3.    Relinquishment of Control. The Declarant has relinquished control of and the Association has accepted responsibility for the management of the Development pursuant to the Declaration and the Association's Bylaws, rules, regulations, and guidelines; however, the Declarant shall be liable for any and all costs of any sort arising from work conducted by or for the Declarant prior to the Declarant's relinquishment of and the Association's acceptance of responsibility for the management of the Development.

Section 4.    Availability of Documents. The Association shall maintain current copies of the Declaration, the Bylaws and other rules concerning the Development as well as its own books, records, and financial statements available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by Lots. All such documents shall be available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

Section 5.    Management Contracts. The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation level to be established by the Board of Directors and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.



**ARTICLE IV  
THE ASSOCIATION (Cont)**

Section 6. Maintenance. The Common Areas, together with all utilities, easements and amenities located within the Common Areas and not otherwise maintained by public entities or utilities, shall be maintained by the Association.

The Common Areas shall be maintained as more particularly described below:

- (a) Maintenance of the Entrance Monument shall include maintenance repair and reconstruction, when necessary, of the monuments, signage, irrigation, planters and lighting located thereon, and providing and paying for landscaping, cleaning and utility charges for irrigation and lighting of the monuments and signage located thereon (if any).
- (b) All Common Areas, including, but not limited to, the Public Roads (prior to governmental acceptance for operation and maintenance), and the Entrance Monument, shall be clean and free from debris and maintained in an orderly condition together with the landscaping thereon (if any) in accordance with high standards for private parks, including any removal and replacement of any landscaping, utilities, or improvements located thereon.
- (c) The Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the improvement within the boundaries thereof, with the exception of the Entrance Monument if located on any Lot. The Owners of such Lots shall be responsible for same.

Section 7. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements located on all Common Areas and the Public Roads (prior to acceptance for maintenance by a governmental authority) which the Association is obligated to maintain and in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors.

**ARTICLE V  
COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation for Annual, Supplemental Annual, Special and Special Individual Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association Annual Assessments, Supplemental Annual Assessments, Special Assessments and Special Individual Assessments, as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fee, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**ARTICLE V  
COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS (Cont)**

Section 2. Purpose of Annual Assessments. The assessments to be levied annually by the Association against each Lot ("Annual Assessments") shall be used as follows:

- (a) to repair, maintain, reconstruct (when necessary), keep clean and free from debris, the Common Areas and any improvements located thereon including but not limited to the Street Lights and Entrance Monument, and to maintain the landscaping thereon in accordance with high standards for private parks, including any necessary removal or replacement of landscaping, as more particularly set forth in Article IV, Section 6 of this Declaration;
- (b) to maintain and repair the Public Roads to the standards of the maintenance (if on is ascertainable) which would be required by the Oconee County Public Works Department or other governmental entity before it would accept such Public Road for maintenance more particularly set forth in Article IV, Section 6 of this Declaration;
- (c) to pay all costs associated with the lease of the Street Lights, if any, including but not limited to, monthly lease payments and utility costs
- (d) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association;
- (e) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws.
- (f) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws,
- (g) to maintain contingency reserves as to the amounts described in subsections (a) and (b) above for the purposes set forth in Article IV, Section 7 hereof in amounts as determined by the Board of Directors.

Section 3. Payment of Annual Assessments: Due Dates. Annual Assessments provided for herein shall commence as to each Lot on May 1st, 2003 and shall be Two Hundred Fifty & 00/100 (\$250.00) per annum, which amount shall be due and payable in full no later than May 30, 2003 of each year. The Annual Assessment for each and every year thereafter shall be in an amount as set by the Board of Directors, in accordance with Article V Section 4, and shall be due and payable in on annual installment, such installment being due and payable no later then May 30th of each such year. The Board of Directors shall fix the amount of the Annual Assessment as to each Lot for any calendar year at least thirty (30) days prior to May 1st of such calendar year, and the Association shall send written notice of the amount of the Annual Assessment, as well as the amount of the installment due, to each Owner on or before May 1st of such calendar year.

The failure of the Association to send, or of a Member to receive, such notice shall not relieve any Member of the obligation to pay Annual Assessments.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**ARTICLE V  
COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS (Cont)**

Section 4. Maximum Annual Assessment

(a) For years following the first year of Annual Assessments and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members, may increase the Annual Assessment each year by a maximum amount equal to the previous year's Annual Assessment times the greater of (i) ten percent (10%) or (ii) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items (1982- 84=100) (hereinafter "CPI") issued by the US Bureau of Labor Statistics for the most recent 12- month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI, which is published by the United States Government indicating changes in the cost of living. If the annual Assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Annual Assessments may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the Members.

(b) The maximum annual assessment may be increased above the maximum amount set forth in subparagraph (a) of this Section 4 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 set forth in Subparagraph (a) of this Section 4 (the "Maximum Annual Assessment"). If the Board of Directors shall levy less than the Maximum Annual Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by vote in accordance with the Bylaws, levy a supplemental Annual Assessment, ("Supplemental Annual Assessment"). In no event shall the sum of the annual and Supplemental Annual Assessments for any year exceed the applicable Maximum Annual Assessment for such year other than as set forth in Article V, Section 4 hereof.

Section 5. Special Assessments for Capital Improvements. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Common Area improvements which are not originally constructed by Declarant; or (ii) the reconstruction, repair or replacement of the Common Areas, including but not limited to the Public Roads (prior to acceptance for public maintenance), and Street Lights, including all improvements located thereon, including fixtures and personal property related thereto. Provided that any such assessment must be approved by a vote of no less than two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

**ARTICLE V  
COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS (Cont)**

Section 6. Special Individual Assessments. In addition to the Annual Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Lot Owner ("Special Individual Assessment") for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas, including the Public Roads, Entrance Monument and Street Lights, whether occasioned by any act or omission of such Lot Owner(s), members of such Lot Owner's family, or such Lot Owner's agent, guests, employees or invitees and not the result of ordinary wear and tear. The due date of any Special Individual Assessment levied pursuant to this Section 6 shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

Section 7. Assessment Rate. Annual, Supplemental Annual and Special Assessments must be fixed at a uniform rate for all Lots.

**ARTICLE VI  
GENERAL ASSESSMENT PROVISIONS**

Section 1. Certificate Regarding Assessments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 2. Effect of Nonpayment of Assessments: Remedies of the Association. Any Annual, Special, Special Individual, Supplemental Annual, not paid by its due date as set forth in Article V, Section 3, And Article VI, Section 3 hereof, or any other assessment not paid by its due date, shall bear interest from such due date at the rate of fourteen percent (14%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner of foreclose the lien against the Lot and the right to use the Common Areas, if applicable, and interest, late payment charges, costs and reasonable attorney's fees related to such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Areas, if applicable, or by abandoning his Lot.

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MOONLIGHT BAY ON LAKE KFOVEE POA, INC.

**ARTICLE VI  
GENERAL ASSESSMENT PROVISIONS (Cont)**

Section 3. Subordination of the Lien to Mortgages. The lien of the assessments provided for in Articles V and VI of this Declaration shall be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of trust, if any, to the Declarant. The sale or transfer of any Lot shall not affect the assessment lien, if any, on that Lot. The sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, however, shall extinguish the lien of such assessments as to payments, which became due prior to such sale or transfer. The Board of Directors may, in its sole discretion, determine such unpaid assessments to be an Annual, Supplemental Annual, Special, or Special Individual Assessment; or as applicable, determine such unpaid assessment to be collectable pro rata from all Owners including the foreclosure sale purchaser. Such pro rata portions are payable by all Owners notwithstanding the fact that such pro rata portions may cause the Annual Assessment to be in excess of the Maximum Annual Assessment permitted hereunder. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

**ARTICLE VII  
ARCHITECTURAL REVIEW BOARD**

Section 1. The Architectural Review Board. The members of the Architectural Review Board shall be appointed by the Board and shall serve for one or more year terms.

Section 2. Approval. No improvement of any kind including landscaping shall be placed on a lot without first obtaining the approval of the Architectural Review Board.

Section 3. Plans and Specifications. The Architectural Review Board shall determine what plans and specifications shall be required prior to approval of any improvement, based on ARB guidelines approved by the Board.

Section 4. Rights Reserved. Despite the fact that the proposed improvement meets the terms of these protective covenants, the Architectural Review Board reserves the right to disapprove of any improvement based upon purely aesthetic reasons.

## ARTICLE VIII RESTRICTIONS

Section 1. Land Use, Building Type and Residential Restrictions. All Lots in the Subdivision shall be known and described as residential lots and shall be used only for private residential and recreational purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than for use as a single family residential dwelling, unless otherwise provided herein, and only one single-family residential dwelling not exceeding 3 stories in height above ground shall be erected or permitted to remain upon any Lot. No log cabin (or structure resembling a log cabin, or having the architectural characteristics of a log cabin), mobile home, modular home or shell home may be erected or permitted to remain on any Lot. A private garage, outbuilding, fixed piers and floating boat dock facilities incidental to the residential use of the Lot are expressly permitted upon the condition that they are not rented, leased nor otherwise used for remuneration, subject to the other covenants and restrictions contained herein. No detached garage or outbuildings shall at any time be used as a residence. Any ownership or leasing arrangement for a Lot having the characteristics of a vacation time sharing ownership plan, a vacation time sharing lease plan or shared ownership, is hereby prohibited. Furthermore, no boat (including a houseboat), whether existing on a Lot or docked at a fixed pier or floating boat dock which is appurtenant to any Property in the Subdivision, may at any time be used as a residence.

Section 2. Dwelling Size. The square footage requirements hereinafter set forth are enclosed heated floor area and are exclusive of the area in unfinished basements, unheated porches of any type, attached or detached garages, carports; and unheated storage areas, decks or patios. Any one story dwelling erected upon any lot shall contain not less than 2000 square feet; any multi-story dwelling shall contain not less than 2400 square feet and the first floor shall contain not less than 1500 square feet.

Section 3. Building Construction and Quality. All buildings and outbuildings erected upon any Lot shall be constructed of new material of good grade, quality and appearance and shall be constructed in a proper, workmanlike manner. No building shall be erected unless it is completely underpinned with a solid brick, brick or stone-covered block or stucco foundation. The exterior surfaces of all dwellings and accessory structures shall be covered only with brick, stone, hard stucco (synthetic stucco is not permitted), wood, or siding consisting of composite or vinyl materials; provided, that any horizontal siding must be completely supported to maintain a straight and even outer surface and must be fully and properly finished. The exterior surface of any garage, outbuilding or appurtenant Structure or building erected on or located on any Lot shall be architecturally compatible with, and of material and construction comparable with, and of material and construction comparable in cost and design to, the exterior surface of the dwelling located on said Lot. All buildings shall have roofs (except for dormers, porches and bay windows) of not less than 6 in 12 pitch and not less than 12 inch overhang, covered with slate, cedar shakes, tile, pre-painted metal, fiberglass shingles, copper sheathing or other material approved by the Declarant, the Association, or the ARB. Rolled roofing material is not permitted. The exterior of all houses and other structures must be completed within one (1) year after the commencement of construction, except where such completion is impossible due to strikes, fires, national emergency or natural calamities.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
MOONLIGHT BAY ON LAKE KEOWEE POA, INC.

## ARTICLE VIII RESTRICTIONS (Cont)

Section 4. Permitted Accessory Structures.

No buildings, structures or improvements of any kind may be located on the property other than one detached, single-family residential home, and the following permitted accessory structures.

- (a) Storage and shop outbuildings, including detached garages, workshops, storage and utility buildings, greenhouses and similar buildings, not exceeding fourteen (14) feet in height. The total square footage contained within all such outbuildings combined shall not exceed two thousand (2000) square feet. All outbuildings shall be permanently affixed to the Property and shall be covered with the approved exterior materials described in Section 3(f) above. Further, no outbuildings shall be located wholly or partially within any Buffer Area (as defined below).
- (b) Recreational structures, including decking, gazebos, covered patios, playhouses, barbecue pits and similar structures. The total square footage contained within such structures when combined shall not exceed one thousand (1000) square feet in area. Further, no such structure shall be located wholly or partially within any Buffer area (as defined below).
- (c) To the extent permitted at the time of construction and installation by Duke Energy Corporation (or its successor, with respect to ownership and/or management authority over the Lake, if applicable) (hereinafter, "Duke Energy") and all applicable governmental authorities, waterfront structures, including fixed piers, boat slips or floats, covered docks, boat ramps, decking and sitting areas attached to piers, walkways and other similar structures. Grantee acknowledges by acceptance of this deed that policies, laws and regulations regarding its ability to construct or install such structures may change from time to time before or after Grantee's acquisition of the property and Grantor makes no representation or warranty as to Grantee's ability to construct or install such structures either now or in the future. Such structures may be located wholly or partially within the Buffer Area provided no more than a total of two hundred (200) square feet of such structures shall be located within the Buffer Area.

Section 5. Site Development Requirements. The property shall be subject to the following specific development requirements.

- (a) No portion (or portions) of the Property greater than two thousand (2000) square feet shall be: (i) denuded of ground cover or topsoil, (ii) graded, (ii) excavated or (iv) covered with earth or other natural or man-made fill material, unless all required building, grading and erosion control permits have been issued by the applicable municipal authorities.
- (b) All denuded, graded, excavated or filled areas shall be stabilized and replanted on or before: (i) the thirtieth (30<sup>th</sup>) day following the initial denuded, grading, excavation, or filling (unless footings and foundations are being installed upon the disturbed area and construction is being diligently and continuously pursued upon such area); or (ii) such time as construction is completed or interrupted for a period of thirty (30) continuous days. In addition to, or in the absence of local or state government regulations on such land disturbance, none of the activities described in (i) through (iv) in Section 7(a) above shall be allowed to commence with compliance with the following requirements:
  - (i) The surveying and flagging of the Buffer Area (defined below) and any portion of the Buffer Area that may be disturbed as a result of any activities permitted hereunder;

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
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## ARTICLE VIII RESTRICTIONS (Cont)

(ii) The flagging of all trees in the Buffer Area that equal or exceed six (6) inches in diameter, as measured four and one one-half feet (4.5') from the base of each tree. The trees, Buffer Area (defined below) and disturbed areas referenced in Sections 7 (a) and (b) shall be clearly and distinctly flagged, staked, or otherwise designated in order to prevent the unintentional violation of these restrictions by parties performing work upon the Property; and

(iii) The proper installation (in accordance with manufacturer's instructions) of construction silt fencing on the lower perimeters of all areas within the Property to be disturbed, and any other areas which may be impacted by silt runoff from any disturbed areas located on the Property.

Section 6. Buffer Area Restrictions. As used herein, the term "Buffer Area" shall mean any portion of the Property that is located within fifty feet (50') of any common boundary (the "Contour Line") of the property and Lake Keowee (the "Lake"). No portion of the Buffer Area may be disturbed in any way, including any disturbance or removal of topsoil, trees and other natural growth. The Contour Line of the Lake shall not change as a result of erosion or stabilization measures occurring following the conveyance of this Property to Grantee. Notwithstanding the second sentence in this Section 6, the following activities are permitted within the Buffer Area:

(a) Trees, which are less than six (6) inches in diameter, as measured four and one-half feet (4.5') from the base of each tree may be removed. Any tree removal shall be performed using hand held gas or electric chain saws and/or manual handsaws. No other mechanical equipment or vehicles may be used in removing any trees. Additionally, trees having a greater diameter than that set forth above that have become diseased or damaged through natural processes may be removed in the same manner.

(b) An access corridor may be created within the Buffer Area for the purpose of providing lake access to install shoreline stabilization or to install and use water access structures (such as docks or boat ramps) that have been approved in advance by Duke Energy and otherwise comply with Section 6 (c) above. The access corridor may not exceed fifteen (15) feet in width. Trees with diameters equaling or exceeding six (6) inches, as measured four and one-half feet (4.5') from base, may be removed within the access corridor and grading or ground disturbance (which otherwise complies with the restrictions set forth herein) may be performed if reasonably necessary to provide access to the Lake for the purposes described above in this Section 6 (b).

(c) Underbrush (defined as nuisance shrubs, vines and similar plant growth beneath the tree canopy, and generally growing less than six feet (6') in height) may be removed.

(d) Pruning and trimming of trees is permitted, provided that pruning is limited to tree branches beginning with the lowest to the ground and extending up the tree trunk no more than one-half of the total height of the tree. Trimming may also be performed on any limbs or branches that are diseased or naturally damaged.

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MOONLIGHT BAY ON LAKE KEOWEE POA, INC.



## ARTICLE VIII RESTRICTIONS (Cont)

(e) The use of rip-rap, bulk-heading or other shoreline stabilization methods or materials may be initiated with the prior written approval by Duke Energy and any shoreline stabilization shall be performed in compliance with Duke Energy's Shoreline Management Guidelines which are in effect at the time such stabilization occurs. Generally, Duke Energy allows structural stabilization to extend only to a height five feet above the Contour Line of the Lake. If Duke Energy authorizes Grantee to perform certain shoreline stabilization, then at all points where shoreline stabilization occurs, the inner boundary line of the Buffer Area (i.e. the boundary line opposite the Contour Line of the Lake) shall be adjusted inward (i.e. away from the Contour Line of the Lake) by the same distance that the stylization structures or improvements extend from the Contour Line of the Lake into the Property, provided however, that in no event shall the width of the undisturbed Buffer Area be reduced to less than fifty (50) feet between any portion of the interior edge of the stabilization structures or improvements and any residence or other structure or improvement located on the Property (other than docks, boat ramps, or other water access structures which have been approved in writing by Duke Energy).

Section 8. Building Setback Lines. No building on any Lot (including any stoops, porches, or deck) shall be erected or permitted to remain within the front (street right-of-way) or side abutting right-of-way (for a corner Lot) building setback lines as noted on the Subdivision plat. Notwithstanding any rear setback restrictions noted on the Subdivision plat, no building, including stoops, porches or decks, shall be erected or permitted to remain nearer than fifty (50) feet to the rear (waterside) lot line of any Lot adjoining the waters of Lake Keowee, unless approved by Declarant or the Association. Boathouses, piers and dock facilities are exempt from the rear setback restrictions provided they comply with the provisions set forth in Section 24 of this Article VIII. In the event any zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of that zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation shall conform to said requirements. No masonry mailboxes or other structures or improvements may be constructed or placed within the right-of-way of any Public Road so as to prevent such Public Road from being accepted by the Oconee County Public Works Department or other governmental entity for maintenance. No building shall be located within 10' of any side lot line or within 30' of a front lot line unless approved in writing by Declarant or the Association.

Section 9. Minor Setback Violations. In the event of the violation of any of the building setback covenants set forth above, the Board, after consulting with the ARB, reserves the right, but is not obligated, to waive in writing such violation of the setback covenants upon agreement of the Owner of the Lot upon which the violation occurs and the Owner of any Lot adjoining the violated setback, provided that such change is not in violation of any zoning or subdivision ordinance or other applicable law or regulation or, if in violation, provided a variance or other similar approval has been received from an appropriate governmental authority.

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## ARTICLE VIII RESTRICTIONS (Cont)

Section 10. Combination or Subdivision of Lots. Except as otherwise set forth herein, no Lot shall be subdivided by sale or otherwise so as to reduce the Lot area shown on the Subdivision plat except with the written consent of the Moonlight Bay on Lake Keowee Homeowners Association, Inc. However, an Owner of a Lot may combine with a portion or all of another contiguous Lot so long as the parcel or parcels which result from such combination do not violate any applicable zoning ordinance or other applicable law or regulation. In the event that two or more Lots are completely combined so as to create one parcel, the resulting parcel shall be considered as one Lot for the purpose of this Article VIII, but shall continue to be considered as multiple Lots for all other purposes (including voting and assessments). Furthermore, the Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relocating any existing easements.

Section 11. Utility Easements. Declarant reserved easements for the installation and maintenance of utilities (electricity, septic system, sewer, water, gas, telephone, cable TV, etc.) and drainage facilities over the front and rear ten (10) feet of each Lot (with the exception of the Lots along the waters of Lake Keowee, which will not have a ten [10] foot easement over the rear [i.e., waterside] and five (5) feet in width along each side lot line of each Lot. Said easement is now held by the Association. Additional drainage easements and utility easements are reserved as more particularly shown and delineated on the Subdivision plat and in other recorded easement documents. Within such easements, no structure, planting or other materials shall be placed or permitted to remain which may interfere with drainage and the flow of water within the easement areas. The Owner of each Lot shall maintain that portion of the Lot lying within the easement areas as defined herein and shall maintain any improvements located thereon, except those improvements installed and maintained by a public authority or utility company

Section 12. Entrance Monument Easement. Declarant reserved a non-exclusive perpetual easement for the purpose of landscaping and maintaining the entryway and erecting and maintaining the Entrance Monument for the Subdivision. An easement (the "Entrance Monument Easement") granted to the Association over the portion of the Subdivision identified as "Entrance Monument Easement" on the Subdivision plat (the "Easement Tract"). Said easement shall be held by the Association.

The Association shall have the right to landscape and maintain the Easement Tract as an entryway to the Subdivision. Further, Declarant or the Association may erect and maintain one or more stone monuments, with an entrance sign thereon (collectively, the "Entrance Sign") bearing the name of the Subdivision and Declarant, which Entrance Signs may be built to the applicable governmental standards for signs; and may erect and maintain lighting for the Entrance Sign, planters and other improvements typically used for an entryway (the Easements Tract, the Entrance Sign, lighting, landscaping, irrigation and other improvements to be constructed on the Easement Tract are herein collectively referred to as the "Entrance Monument").

Section 13 Stormwater Drainage Easement. Declarant reserved over the Common Areas an easement for drainage of storm water runoff from the Lots and Public Roads within the Subdivision. Said easement shall be held by the Association.

Section 14. Future Roadway Easement. The Association reserves unto itself, its successors and assigns, a non-exclusive perpetual easement to extend road development to provide pedestrian and vehicular access to other property owned by the Association.

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## ARTICLE VIII RESTRICTIONS (Cont)

Section 15 Fences and Walls. No wooden fence, or brick or stonewall may be erected nearer the front lot line of a Lot than the front face of the dwelling located on such Lot. In the case of a corner lot, no sideyard fence shall be located nearer than the side of the house facing the side street line. No wooden fences, or brick or stonewalls, greater than six (6) feet in height are permitted. Chain link or other metal fencing is not permitted, except that 2" x 4" metal mesh may be used with split rail fencing to contain animals or children within rear or side yards. Perimeter fencing shall not have more than fifty percent (50%) of any of its surface closed as viewed from a point on a line of sight perpendicular to the line of the fence. A wall constructed of brick or stone and used in lieu of a fence is exempt from the openness test.

Section 16 Signs. No signs of any kind may be displayed to the public view on any Common Area other than the Entrance Monument as set forth in Article VIII, Section 9. No signs, of any kind may be displayed to the public view on any Lot with the following exceptions which may not exceed five (5) square feet in size: (a) two signs (one on the front of the Lot and one in the rear) advertising the property for sale; and (b) one sign on the Lot only used by a builder to advertise the Lot during the construction and sales period; and (c) signs, flags or banners related to campaigns during election campaigns; and (d) signs indicating property is under security monitoring. These restrictions shall never apply to permanent entry signs, or signs such as neighborhood watch, premise under surveillance, speed limit and other cautions.

Section 17. Antennas: Satellite Dishes or Discs. No freestanding radio or television transmission or reception towers or antennas, shall be erected or maintained closer than fifty (50) feet to the boundary line of Lake Keowee, otherwise the location of satellite dishes and antennas must be approved by the ARB prior to installation.

Section 18 Lot Maintenance: Trash Disposal. Each Owner shall keep his Lot in a clean and orderly condition and shall keep the improvements thereon in a suitable state of painting and repair, promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of trash of any character whatsoever and no trash, rubbish, stored materials or similar unsightly items shall be allowed to remain on any Lot outside of an enclosed structure, except when temporarily placed in closed, sanitary containers pending collection by trash collection authorities or companies.

Section 19 Off-Street Parking: Off-Water Boat Storage.

(a) Each Lot Owner shall provide a concrete or asphalt driveway which provides space for parking two automobiles off the street prior to the occupancy of any dwelling constructed on the Lot. All automobiles must be parked in a carport, enclosed garage, or on a concrete or asphalt driveway.

All trucks, trailers, campers, mobile homes, recreational, and any other vehicles must have a current license plate affixed, in accordance to SC Department of Motor Vehicles requirements.

No truck or commercial vehicle in excess of one-ton load capacity, or any vehicle under repair, or any utility trailer (or facsimile thereof), or wrecked or junked motor vehicle shall be parked upon or permitted to remain on any Lot, any other Common Area, or Public Roads. Trucks or commercial vehicle in excess of one-ton load capacity are allowed on the owner's property during the course of construction / maintenance.

Utility trailers used during the course of construction or home improvement must be parked off the street and on the owner's property, with the owner's approval.

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**ARTICLE VIII RESTRICTIONS (Cont)**

Undeveloped lots shall at no time be used for temporary or long term parking of any type of vehicles or for any type of storage.

(b) No mobile home, recreational vehicle, camper or boat shall be used as a residence, either temporarily or permanently, or be parked upon or be permitted to remain on any Lot.-

(c) Boat/Trailer may be temporarily parked on the driveway for a period not exceeding 24 hours in order to clean, perform periodic maintenance, or stage for an outing, after which point the trailer must be parked either in an enclosed garage or behind the front of the house (with viewing reference being from the road) and screened from view as seen from the road. Screening shall also exist between neighboring properties such that the view is not objectionable vis a vis the property owner's neighbor(s). If a complaint is raised by any property owner, the Board will be the final arbitrator as to the aesthetics.

Section 20 Sewage Disposal. Every dwelling unit erected on any Lot shall be served by an approved septic system for the disposal of sewage, or connected to a private or public sewage disposal system. All septic systems or other private sewage disposal systems shall be approved by, and constructed and maintained in accordance with all the regulations and requirements of all governmental authorities and regulatory agencies having jurisdiction. Neither the Declarant nor the Association did or does not make any representations regarding the future availability of municipal sewer service.

Section 21. Public Water System: No Wells. Declarant constructed a water system in order to provide water supplies necessary to serve the Subdivision ("the Water System"). All water mains and pipes and other equipment necessary for the operation and maintenance of the Water System shall be located within the Utility Easements described in Article VIII, Section 8, or within public road rights-of-way. Upon its completion, the Water System and all mains, pipes, equipment and other personal property which is part thereof, became the property of City of Walhalla, a public utility company duly licensed and operating under the authority granted by the South Carolina Department of Health and Environmental Control. The Water System shall be the sole source of potable water for the Subdivision, and no well may be dug or constructed on any Lot for the purpose of providing domestic water supply.

Section 22. Nuisances. No noxious or offensive trade or activity shall be carried on upon any Lot or in any residential dwelling or outbuilding, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No substance, thing or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No animals, livestock, or poultry of any kind shall raised, bred, or kept on any Lot or in any residential dwelling or outbuilding except dogs, cats, or other household pets, which may be kept or maintained provided they are not kept, bred, or maintained for commercial purposes. The number of household pets kept or maintained, per Lot, shall not exceed three (3) in number except for newborn offspring of such household pets, which are under nine (9) months in age.

Section 23. Diligent Construction. All construction, landscaping or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. No construction materials of any kind may be stored within any Public Roads. Any damage to any street, curb or sidewalk or any part of any Common Area or any utility system caused by the Association, Declarant, Owner or any builder shall be repaired by such responsible party. The Association, builders, and all Owners shall at all times keep contiguous public and private areas free from any dirt, mud, garbage, trash or other debris which is occasioned by construction of improvements on any Lot or Common Area. The Association may provide for the cleaning of public and private areas due to the activities of the responsible party and may assess the responsible party a reasonable charge not to exceed the actual cost for such cleaning. The Association and each Owner or builder shall, consistent with standard construction practices, keep all portions of their Lots and Common Areas free of unsightly construction debris and shall at all times during

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## ARTICLE VIII RESTRICTIONS (Cont)

construction either provide dumpsters for the containment of garbage, trash or other debris which is occasioned by construction of improvements on a Lot or Common Areas, or take other measures consistent with standard construction practices necessary to keep the Lot and all Common Areas free of such garbage, trash, or other debris. The Association, any builder and each Owner shall be responsible for erosion control protection during any earth-disturbing operation.

Section 24 Removal of Trees and Other Vegetation. All trees, shrubs and ground cover within fifty feet (50') of the waters of Lake Keowee are considered to be "protected" vegetation in that cutting and clearing generally is not permitted therein without the prior written consent of the ARB. The practical exceptions to this rule are that dead or diseased trees and poisonous plants may be removed, underbrush may be selectively cleared, understory may be thinned to provide better views, individual trees may be limbed up, and grass or ground covers may be planted.

"Mature trees" may not be cut down or otherwise removed, from any Lot without the specific written approval of the ARB. "Mature tree" for purposes of the Declaration shall mean all trees with a caliper of six (6) inches or greater, except it be for home construction, without prior consent of Association.

Furthermore, in the event that trees, shrubs or ground cover are completely removed (as opposed to thinned) in connection with the improvement of any Lot, such cleared portions of the Lot shall be covered with grass or shall be landscaped with plants, shrubs, trees, mulch, wood chips, pine needles and/or similar landscaping improvements.

Declarant reserved the right and easement benefiting the Association to replant or order the replanting of any trees, shrubs or other vegetation removed within the Subdivision in violation of the terms of this Section 24. Should the Association exercise its easement rights pursuant to the terms of this Section 24, the Owner of the nonconforming Lot shall reimburse the Association (as applicable) within five business days following submission of an invoice for any costs or expenses incurred by the Association. The exercise or non-exercise of easement rights contained in this Section 24 shall be subject to the discretion of the Association and the Association shall have the obligation to exercise such rights.

The Association shall have the authority but not the obligation, in their sole discretion, to assess penalties against an Owner who cuts, damages, or removes any trees, shrubs or other vegetation on its Lot or any other Lot or Common Area contrary to the above provisions.

The penalties set out in this Section 24, and all related expenses to be reimbursed, shall be considered Special Individual Assessments against the respective Owner's Lot, entitling the Association to the assessment collection remedies specified in Article VI of this Declaration.

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## ARTICLE VIII RESTRICTIONS (Cont)

Section 25. Docks, Piers and Boathouses. The owner of any Lot adjoining the waters of Lake Keowee may construct one (1) pier, provided that such Lot is not located in an area where the narrowness of a cove precludes construction of a dock or pier as determined by Duke Power Company and/or any governmental entity having jurisdiction at the time such improvements are to be constructed. Any waterfront improvements shall have an open design to minimize obstruction of neighbors' views. Enclosed single-level or multi-level docks or boathouses will not be allowed either on the water or within the fifty-foot (50') waterfront setback. Multi-level docks are allowed provided that such docks do not exceed more than twenty-five feet in height, and are not enclosed. Provided, however, that the Piers and Boatslips shown on the Subdivision plat or such additional Piers and Boatslips as are added pursuant to a Supplemental Declaration set forth in Article II, Section 2 of this Declaration shall not be covered or roofed. Sundecks are specifically approved for boat docks in Moonlight Bay on Lake Keowee Subdivision.

The placement, construction, or use of the Piers, Boatslips, and of any other pier, dock, boatslip structures or other improvements within or upon, or the conducting of any activity altering the topography of, the hydroelectric project surrounding and encompassing the waters of Lake Keowee, is and shall be subject to each of the following:

- (i) easements, restrictions, rules and regulations for construction and use promulgated by the Association;
- (ii) all laws, statutes, ordinances and regulations of all Federal, State and local governmental bodies having jurisdiction thereof, including without limitation FERC;
- (iii) rules and regulations, privileges and easements affecting the Property and the waters and submerged land of Lake Keowee established by Duke Power Company, its successors and assigns. (Duke Power Company is the manager of Lake Keowee under authority granted by FERC; its current license plan runs through August 31, 2016. As manager of Lake Keowee, Duke Power Company controls access to, and the use and level of, the waters of Lake Keowee. All Owners, the Association, and any builders must receive a permit from Duke Power [or a successor manager of Lake Keowee, under authority from FERC] prior to any alterations therein, including the construction and continued use and maintenance of any dock, pier, or boats lip [including the Piers and Boatslips]). No pier of any kind shall be constructed outside of the area designated as "Pier Zone" on the Subdivision plat, nor shall any boat be moored at dock outside such Pier Zone, unless directed by Duke Power to do so.

Section 26. Right of the association to have access to undeveloped lots. The Association reserves the right of access to undeveloped lots for the purpose of controlling unsightly or invasive growth including but not limited to Kudzu, to remove dead trees, or to trim trees as necessary in case of potential safety hazard.

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## ARTICLE IX INSURANCE

Section 1.     Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

(a)     Fire. All improvements and all fixtures included in the Common Area, including but not limited to the Entrance Monument, and Public Roads (prior to acceptance by governmental authorities for maintenance), and all personal property and supplies belonging to the Association, shall be insured in an amount equal to 100% of the current replacement cost up to the amount specified in the insurance policy (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board of Directors with the assistance of the insurance company providing coverage. The Board of Directors shall, at least annually, review the insurance coverage required herein and determine 100% of the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against loss or damage by fire, windstorm, vandalism and malicious damage and all perils covered by a standard "all risk" insurance policy. All such policies shall provide that adjustment of loss shall be approved by the Board of Directors and the insurance company. In addition to the provisions and endorsements set forth in Section 4 of this Article IX, the fire and casualty insurance described herein shall contain the following provisions:

- (i)     a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Owners and Their employees, agents, tenants and invitees; and
- (ii)    a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

The property and public liability insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Association, the Owners or the Mortgagees; (2) loss payments are contingent upon action by the carriers, directors, policy holders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

(b)     Public Liability. The Board of Directors shall also be required to obtain and maintain to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to the Development, covering each member of the Board of Directors, the managing agent, if any, and each Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas; provided, however, that in no event shall the amounts of such public liability insurance ever be less than \$1,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including loss of use thereof, occurring upon, in or about, or arising from or relating to, the property or any portion thereof. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the Owners, such public liability insurance shall be in amounts of not less than \$1,000,000 per occurrence for claims for bodily injury and property damage.

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## ARTICLE IX INSURANCE (Cont)

(c) Fidelity Coverage. The Board of Directors shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association, in an amount determined by the Board of Directors in its discretion. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverage, including flood insurance and worker's compensation, as the Board of Directors shall determine from time to time desirable.

Section 2. Premium Expense. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged as a common expense to be collected from the Owners pursuant to Articles V and VI hereof.

Section 3. Special Endorsements. The Board of Directors shall make diligent effort to secure insurance policies that will provide for the following:

- (a) recognition of any insurance trust agreement entered into by the Association;
- (b) coverage that may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least forty-five (45) days prior written notice to the named insured, any insurance trustee and all Mortgagees; and
- (c) coverage that cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner or any Mortgagee.

Section 4. General Guidelines. All insurance policies purchased by the Board of Directors shall be with a company or companies licensed to do business in the State of South Carolina and holding a rating of "A-10" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and shall be issued in the name of, and provide that all proceeds thereof shall be payable to, the Association. Notwithstanding any of the foregoing provisions and requirement relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing such insurance.

Section 5. Owner's Personal Property. The Association shall not be liable in any manner for the safekeeping or conditions of any personal property belonging to or used by any Owner or his family, guests or invitees, located on or used at Common Areas. Further, the Association shall not be responsible or liable for any damage or loss to any other personal property of any Owner, his family, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all such personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase, at such Owner's sole cost and expense, of any liability or other insurance for damage to or loss of such property.

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**ARTICLE X  
RIGHTS OF MORTGAGEES**

Section 1. Approval of Mortgagees. Unless at least seventy-five percent (75%) of the Mortgagees holding Mortgages on Lots located within the Development then subject to the full application of this Declaration have given their prior written approval, the Association shall not:

- (a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for utilities or other purposes shall not be deemed a transfer within the meaning of this clause);
- (b) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;
- (c) fail to maintain fire and extended coverage insurance on insurable improvements in the Common Areas on a current replacement cost basis in an amount not less than 100% of the insurable value as set forth in Article IX; or
- (d) use the proceeds of any hazard insurance policy covering losses to any part of the Common Areas for other than the repair, replacement or reconstruction of the damaged Common Areas or other common amenities.

Section 2. Additional Rights. Any Mortgagee shall have the following rights, to wit:

- (a) to be furnished at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year;
- (b) to be given notice by the Association of the call of any meeting of the Association's membership, and to designate a representative to attend all such meetings;
- (c) to be given prompt written notice of default under the Declaration, the Bylaws or any rules and regulations promulgated by the Association by any Owner owning a Lot encumbered by a Mortgage held by the Mortgagee, such notice to be sent to the principal office of such Mortgagee or the place which it may designate in writing;
- (d) to be given prompt written notice of any casualty loss to the Common Areas, or loss by eminent domain or other taking of (i) the Common Areas or (ii) any Lot encumbered by a Mortgage held by the Mortgagee;
- (e) to be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- (f) to be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property; and to be given prompt written notice of any action which requires the consent of all or any portion of the Mortgagees as specified herein.

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**ARTICLE X  
RIGHTS OF MORTGAGEES (Cont)**

Whenever any Mortgagee desires the provisions of this Section 2 to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by certified mail, return receipt requested, addresses to the Association and sent to its address stated herein, identifying the Lot or Lots upon which any such Mortgagee holds any Mortgage or identifying any Lot owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it and which notice shall designate the place to which notices are to be given by the Association to such Mortgagee.

Section 3. Books and Records. Any Mortgagee will have the right to examine the books and records of the Association during any reasonable business hours.

Section 4. Notice to Mortgagees. A notice of any eminent domain or condemnation proceeding shall be sent to all Mortgagees who have served written notice upon the Association in accordance with Article X, Section 2 hereof.

**ARTICLE XII  
GENERAL PROVISIONS**

Section 1. Enforcement. To maintain a high standard in the appearance and quality of the Subdivision, the Association or any Owner or Owners, shall have the right, but not the obligation, to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such restrictions, covenant, restrictions, covenant, reservation, lien or charge, either to restrain violation thereof or to recover damages therefore. Each Owner shall have all appropriate remedies at law or in equity to enforce the provisions of this Declaration and the Bylaws and any duly authorized rules and regulations governing the Development against the Association. The Board shall have the right to establish by resolution additional procedures for the enforcement of the provisions of the Declaration.

In addition, the Association hereby covenants and agrees that it shall exercise its power of enforcement hereunder in order to maintain a first class subdivision in appearance and quality, and that it shall, in its sole discretion, to have been violated, using all remedies available to the Association at law or in equity. The Declarant reserved the right and easement, but not the obligation, to go upon any portion of the Common Areas at any time in order to repair and maintain such Common Areas where needed, in the Declarant's sole discretion, to bring such Common Areas within the standards required by the Declarant; said right, easement, and discretion shall be held by 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.

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

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**ARTICLE XII  
GENERAL PROVISIONS (Cont)**

Section 3. Amendment. The covenants and restrictions of this Declaration may be amended at any time and from time to time by an agreement signed by Owners holding a majority (51%) of votes appurtenant to the Lots which are then subject to this Declaration. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Notwithstanding the foregoing, the consent of the Owners holding two-thirds (2/3) of each class of votes in the Association and the approval of Mortgagees holding Mortgages on Lots to which at least two-thirds (2/3) of each class of votes of the Association are appurtenant shall be required to terminate the legal status of the Association, to withdraw land from the Development, to convey any portion of the Common Areas to any other party, to withdraw any portion of the Property from the requirements of this Declaration, or to restrict or revoke the Association's right of enforcement hereunder provided for in Section 1 of this Article XII. The consent of the Owners having at least two-thirds (2/3) of each class of votes in the Association and the approval of Mortgagees holding Mortgages on Lots to which at least a majority of the votes are appurtenant shall be required to add or amend any material provision of this Declaration which establish, provide for, govern or regulate any of the following:

- (a) voting;
- (b) assessments, assessment liens or subordinations of such liens;
- (c) reserves for maintenance, repair and replacement of the Common Areas;
- (d) insurance or fidelity bonds;
- (e) responsibility for maintenance and repair of the Common Areas;
- (f) boundaries of any Lot;
- (g) the interest in the Common Areas;
- (h) convertibility of Lots into Common Areas or of Common Areas into Lots;
- (i) leasing of Lots;
- (j) imposition of any right of first refusal or similar restriction on the right of any Lot Owner to sell, transfer, or otherwise convey his or her Lot; and
- (k) any provisions which are for the express benefit of Mortgagees or insurers or guarantors of Mortgages.

Notwithstanding the foregoing, no such consent shall be required for any addition or amendment which the Association is authorized to make under other Sections of this Declaration, including without limitation Article II, Section 2 and Article III, Section 2(d).

An addition or amendment to the Declaration shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. A Mortgagee who receives a request to approve non-material additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

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