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**THIS DECLARATION IS SUBJECT TO ARBITRATION PURSUANT TO SECTION 15-48, ET. SEQ., OF THE SOUTH CAROLINA CODE OF LAWS (THE SOUTH CAROLINA UNIFORM ARBITRATION ACT), AS MODIFIED HEREIN**

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
SUGAR HILL POINT**

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR SUGAR HILL POINT**

**THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUGAR HILL POINT** (this “**Declaration**”) is made as of the 15th day of November, 2016 (the “Effective Date”), by **SUGAR HILL POINT DEVELOPMENT, LLC**, a South Carolina limited liability company, and its successors and assigns (“**Declarant**”).

**STATEMENT OF PURPOSE**

Declarant owns certain Property located in Wagener Township, Oconee County, South Carolina, which is more particularly described on Maps recorded in Plat Book B550, Pages 3 and 4, and as amended and restated in Plat Book 8570, Pages 6 + 7, in the Office of the Register of Deeds of Oconee County, South Carolina (the “**Registry**”). Declarant desires to create a residential community of single-family homes to be named Sugar Hill Point (the “**Development**”).

Declarant desires to ensure the attractiveness and natural beauty of the Development, to prevent any future nuisances or impairment, and to enhance the value and amenities of all Lots within the Development.

Declarant desires to provide for the maintenance and upkeep of certain Common Areas within the Development for the common use and benefit of all Owners. Declarant desires to provide for a system under which Owners will pay for the maintenance and upkeep of the Common Areas. All Owners in the Development will pay the costs associated with maintenance and/or improvement of the Common Area (as defined in SECTION 1).

To these ends, Declarant desires to subject the Property to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, each and every one of which is for the benefit of the Property and each Owner.

Declarant has incorporated Sugar Hill Point Homeowners Association, Inc., a South Carolina non-profit corporation (the “**Association**”) which will (a) own, maintain and administer the Common Areas, except as otherwise provided in this Declaration; (b) administer and enforce the covenants, conditions, and restrictions contained in this Declaration; and (c) collect and disburse the Assessments created by this Declaration to efficiently preserve, protect and enhance the values of the Development, including the Common Areas, to ensure specific rights, privileges and easements in the Common Areas, and to provide for the maintenance and upkeep of the Common Areas, as provided in this Declaration.

NOW, THEREFORE, Declarant declares that all of the Property 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 be appurtenant to and run with the Property and be binding on all parties owning any right, title or interest in the Property or any part thereof, their respective heirs, successors and assigns, and shall inure to the benefit of each Owner.

## SECTION 1. DEFINITIONS

“**Additional Property**” shall mean any additional real estate in the vicinity, of or contiguous to the Property, which may be made subject to the terms of this Declaration in accordance with the provisions of Subsection 2.2.

“**Annual Assessment**” shall mean an amount assessed by the Association against each Lot, for the purposes set forth in Subsection 5.2.

“**Architectural Guidelines**” shall mean the Architectural, Design, Landscape, and Shoreline Improvement Guidelines established by Declarant, and amended from time to time, which explain Declarant’s vision for the Development and the Property and establish procedures for reviewing plans and specifications for constructing Homes and other Improvements, landscaping the Lot, and preserving the Vegetative Buffer. All construction within the Development must comply with the Architectural Guidelines, including, without limitation, any fees established in the Architectural Guidelines.

“**Architectural Review Committee**” or “**ARC**” shall mean the committee appointed by the Board to oversee the development and enforcement of architectural review and control standards for conformance with the Architectural Guidelines, covenants and restrictions with respect to the Development, and to perform certain other functions described in this Declaration in accordance with the Architectural Guidelines.

“**Articles of Incorporation**” shall mean the Articles of Incorporation for the Association attached as **Exhibit A** and incorporated by reference.

“**Assessments**” shall collectively mean the Annual Assessments, Supplemental Annual Assessments, Special Assessments, Special Individual Assessments, and Working Capital Assessments, as more particularly described in this Declaration.

“**Association**” shall mean Sugar Hill Point Homeowners Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

“**Board**” shall mean the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

“**Bylaws**” shall mean the Bylaws for the Association, attached as **Exhibit B** and incorporated by reference.

“**Common Area**” or “**Common Areas**” shall mean the Entrance Monument, Street Lights (if any), the Private Drive and the Private Driveway easement (including drainage facilities and other Improvements located therein), and the optional Pathway Easement, as well as landscaping and landscaping lights, pathways, drainage easements and utilities (including water and gas lines and meters; electrical lines, telephone poles, transformers, and meters; and fire hydrants to the extent such are not owned or maintained by the respective utility companies), and any other real property specifically shown and designated on the Map as “**Common Open Area**,” “**Common Open Space**,” “**Common Area**,” or “**COS**.” The Common Areas shall be owned by the

Association (or the Association shall hold easement rights therein) for the common use, benefit, and/or enjoyment of all of the Owners as described in this Declaration. Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Development or to add Additional Property by Supplemental Declaration, which may have additional Common Areas. Common Area shall also include any Improvements made by Declarant within the right-of-way of any private, state or county road within or related to the Development. The Association shall be responsible for maintaining all Common Area after conveyance by the Declarant.

“**CPI**” shall mean the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84=100) 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, the Board shall use the index which is most similar to the CPI that is publicized by the United States Government indicating changes in the cost of living.

“**Declarant**” shall mean Sugar Hill Point Development, LLC, and such of its successors and assigns to whom its rights as Declarant are transferred by written instrument recorded in the Registry.

“**Development**” shall mean Sugar Hill Point, a residential subdivision developed on the Property by Declarant.

“**Duke**” shall mean Duke Energy Carolinas, LLC, its successors and assigns, and its division, Duke Energy Lake Services.

“**Home**” shall mean a structure for use and occupancy as a residence constructed on a Lot within the Development. Each Lot may contain multiple structures, each of which may be used as a Home and/or auxiliary buildings in accordance with Oconee County ordinances, codes, and/or guidelines applicable to the Property with respect to permissible dwellings and occupancy requirements.

“**Entrance Monument**” shall mean the easement area(s) designated by Declarant as “**Entrance Monument Easement**,” “**Entrance Monument Area**,” or “**COS**” (or a similar term) located at the entryway to the Development, and the monuments and entrance signs located on such parcels which shall be three feet back from the curb, together with any lighting, irrigation system, landscaping, gate, and other Improvements which may be constructed within such Entrance Monument Area, to be used as the entrance for the Development. The Association shall be responsible for maintaining the Entrance Monument, including the cost of lighting, irrigation, and landscaping.

“**FERC**” shall mean the Federal Energy Regulatory Commission.

“**Improvement**” or “**Improvements**” shall mean any and all man-made changes or additions to any portion of the Property, including without limitation, the examples set forth in Subsection 7.8.

“**Lake Buffer Area**” shall mean the area on Lots 1, 2, and 3 that is fifty (50) feet from the 800’ MSL contour, full pond elevation, the first twenty-five (25) feet of which is the same as the

Vegetative Buffer for those Lots. The Lake Buffer Area is subject to the Shoreline Management Guidelines issued by Duke Energy Lake Services, from time to time.

“**Lot**” or “**Lots**” shall mean the separately numbered parcels depicted on the Map.

“**Map**” or “**Maps**” shall mean (i) the plat of survey of Sugar Hill Point recorded in Plat Book B550, Pages 3 and 4 in the Registry, as amended and restated by plat of survey recorded in Plat Book 577 Pages 6 + 7 of the Registry, (ii) any map of Additional Property recorded by Declarant, and (iii) any revision of any such Map recorded by Declarant in the Registry.

“**Member**” shall mean every person or entity that holds a membership in the Association.

“**Mortgage**” shall mean any mortgage constituting a first lien on a Lot.

“**Mortgagee**” shall mean the owner and holder of a Mortgage.

“**Owner**” shall mean the record owner, whether one or more persons or entities, of fee simple title to any Lot within the Development, including Declarant if it owns any Lot. The definition of Owner shall not include any Mortgagee.

“**Pathway Easement**” shall mean the easement reserved by Declarant and further described in Subsection 10.14 hereof.

“**Person**” shall mean any natural person, corporation, joint venture, partnership (general or limited), limited liability company, association, trust, or any other legal entity.

“**Phase**” shall mean any phase, section or portion of the Property for which a separate Map or Maps are recorded in the Registry.

“**Pier Zones**” shall mean the portions of Lake Keowee shoreline located adjacent to certain of the Waterfront Lots designated as “Pier Zone” (or a similar term) on the Map, to be used for purposes of constructing a dock or pier, as set forth in Subsection 7.25.

“**Property**” shall mean all the real property within the Development, exclusive of the public right-of-way of Sugarhill Road, but including the Lots and Common Areas as more particularly shown on the Map.

“**Private Drive**” shall mean the private drive known as Morning Mist Lane, as shown on the Map, which serves Lots 1-10. “**Private Driveway**” shall mean the private driveway known as Sunrise Cove Drive, as shown on the Map, which serves Lots 11-13. Both the Private Drive and the Private Driveway shall be maintained by the Association as more particularly set forth in Subsection 3.1 and Subsection 4.6 of this Declaration.

“**Registry**” shall mean the Office of the Register of Deeds for Oconee County, South Carolina.

“**Septic System**” shall mean an individual ground absorption sewage disposal system (including septic tanks and all related equipment) on each Lot, individually installed and maintained by each Owner in accordance with applicable Oconee County codes, ordinances, and guidelines,



and the rules, regulations, setbacks, and permit requirements of the South Carolina Department of Health and Environmental Control (“**DHEC**”).

“**Special Individual Assessment**” shall mean the amount assessed by the Association for the purposes set forth in Subsection 5.6.

“**Special Assessment**” shall mean the amount assessed by the Association against each Lot for the purposes set forth in Subsection 5.5.

“**Street Lights**” shall mean those street lights, if any, which may be constructed upon and over the rights-of-way of the Private Drive, and/or solar lights along the Pathway Easement and any other paths that may be constructed by the Association as Common Areas.

“**Supplemental Annual Assessment**” shall mean an amount assessed by the Association in addition to the Annual Assessment, as set forth in Subsection (d).

“**Supplemental Declaration**” shall mean any Declaration of Covenants, Conditions and Restrictions recorded in the Registry with regard to a certain Phase, section, or portion of the Property, as more particularly described in Subsection 2.2.

“**Vegetative Buffer**” (per Oconee County Ordinance, Chapter 38, Section 38-11.1) shall mean the area within the “Lake Overlay District” (including all of Sugar Hill Point Subdivision) that is twenty-five (25) feet from the 800’ MSL contour (full pond elevation).

“**Waterfront Lots**” shall mean Lots 1 - 12, inclusive, as shown on the Map.

“**Working Capital Assessment**” shall mean the amount assessed by the Association when a Lot is sold by Declarant to the first Owner, as more particularly set forth in Subsection 5.4(a).

## SECTION 2. PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE ASSOCIATION

### 2.1 Property

The Property subjected to this Declaration is described on the Map, as well as any Additional Property that may become subject to this Declaration (by filing one or more Supplemental Declarations as provided in Subsection 2.2), all of which is incorporated into the definition of the Property.

### 2.2 Additions to the Property

- (a) Declarant may cause Additional Property (including Common Areas) to be made subject to the terms of this Declaration by filing one or more Supplemental Declarations in the Registry. Each Supplemental Declaration shall contain a description of the Additional Property and a statement by Declarant of its intent to extend the operation and effect of this Declaration to the Additional Property.

- (b) Any Supplemental Declaration may contain complementary additions as may be necessary in the judgment of Declarant to reflect the different character of the Additional Property. In no event shall any Supplemental Declaration revoke, modify or add to the covenants and restrictions contained in this Declaration with respect to the Property, nor revoke, modify, change or add to the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for amendment set forth in Subsection 12.4 of this Declaration.
- (c) So long as Declarant owns any part of the Property, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration, any Supplemental Declaration, or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

### SECTION 3. PROPERTY RIGHTS

#### 3.1 Ownership of Common Area

Declarant reserves the right, but is not required, to construct the following within the Common Areas: (i) the Entrance Monument(s) including a gate to be located at the entrance of the Development; (ii) walking paths or trails, including without limitation, a path within the Pathway Easement; (iii) the Private Drive (including, as applicable, drainage facilities and other Improvements), as reflected on the Map; (iv) the Private Driveway (including, as applicable, drainage facilities and other Improvements), as reflected on the Map; and (v) any other Improvements that Declarant, in its sole opinion, may deem necessary or desirable for the use and enjoyment of the Owners, as provided in this Declaration. All of the Common Areas shall be maintained by the Association, regardless of whether they are owned by Declarant or the Association; provided, however, Declarant shall convey all Common Areas to the Association no later than ten (10) years following the recordation of this Declaration. Notwithstanding the recordation of any Map 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 general public.

#### 3.2 Owners' 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 establish and enforce reasonable rules and regulations governing the use of 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 the Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the rules and regulations published by Declarant, the Board, or the Association ("**Rules**");

- (c) the right of Declarant or the Association to grant or reserve utility, drainage and other easements across the Common Areas; and
- (d) the provisions of SECTION 7 of this Declaration.

### 3.3 Delegation of Use

Any Owner may delegate, in accordance with the Bylaws, his or her right of enjoyment to the Common Areas to the members of his or her family, guests, invitees, or tenants, as the case may be; however use by those persons may be temporarily or permanently revoked by the Association for repeated violations and/or disregard of the Rules.

## SECTION 4. THE ASSOCIATION

### 4.1 Membership

Every Owner of a Lot shall be a Member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws attached as **Exhibit B**.

### 4.2 Classes of Lots and Voting Rights

The voting rights of the Members shall be appurtenant to the ownership of Lots. There shall be two (2) classes of Lots with respect to voting rights:

- (a) Class A Lot. Class A Lots shall be all Lots, except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of the Lot to one (1) vote. If more than one Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to the Lot shall be exercised as they, among themselves, determine, but only one (1) vote may be cast with respect to any Class A Lot.
- (b) Class B Lot. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with Declarant. Declarant shall have four (4) votes for each Class B Lot it owns.

### 4.3 Turnover Date

The Class B Membership shall cease and be converted to the Class A Membership upon the earliest to occur of the following: (a) December 31, 2032; or (b) the date Declarant shall elect, in its sole discretion, that the Class B Membership shall cease and be converted to the Class A Membership as evidenced by a written instrument signed by Declarant and recorded in the Registry. The earliest to occur of (a) or (b) shall be the "**Turnover Date**." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class A Member.

#### 4.4 Availability of Documents

The Association shall maintain current copies of this Declaration, the Bylaws, the Architectural Guidelines, and the 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 and/or provided electronically, at the Association's option. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

#### 4.5 Management Contracts

At its sole discretion, the Board may self-manage the Association or is authorized to engage the services of any Person to act as property manager or managing agent of the Association (the "**Manager**"). The Manager will perform all of the powers and duties of the Association delegated to it in a written agreement (the "**Management Contract**") at a compensation level to be determined by the Board. The term of the Management Contract shall not exceed one (1) year and may be renewed by mutual agreement of the parties for successive one (1) year terms. Any Management Contract shall be terminable by the Board, with or without cause, upon ninety (90) days prior written notice to the Manager, without payment of a termination fee.

#### 4.6 Maintenance

The Association shall maintain the Private Drive and Private Driveway. Maintenance of the Private Drive and the Private Driveway shall include repair and reconstruction, when necessary, and shall conform to the standard of construction and maintenance required by the Oconee County Roads and Bridges Department (Ordinance No. 2013-16, Section 26-2 (a) and (b)). Travel on the Private Drive shall be restricted to a maximum of fifteen (15) miles per hour and travel on the Private Driveway shall be restricted to a maximum of five (5) miles per hour.

The Common Areas, together with all utilities, and easements located within the Common Areas and not otherwise maintained by public entities or utilities, shall be maintained by the Association as described below:

- (a) Maintenance of the Entrance Monument(s) shall include maintenance, repair and reconstruction, when necessary, of the monuments and gate (if applicable), plus signage, irrigation and lighting (if any), and plants located thereon and will include providing and paying for landscaping, utility charges for irrigation and lighting, the monuments (if any), electronic gate controls (if applicable), and signage.
- (b) All Common Areas shall be clean and free from debris and maintained in an orderly condition, together with the landscaping and irrigation (if any) in accordance with the standards for private parks or common areas in comparable residential developments within the vicinity of the Development, including periodic removal and replacement of any landscaping, utilities, or Improvements located within the Common Areas, as needed.

- (c) The Association shall not be responsible for the maintenance of any Lot or any Improvements within the boundaries of any Lot, including, without limitation, any trees or vegetation, driveway or any dock, pier, or boatslip located within the Pier Zone adjacent to any Lot, which shall be the sole responsibility of such Lot Owner.
- (d) Each Owner shall be responsible for maintaining the Septic System on its Lot in a proper operating condition and in compliance with any requirements imposed by the Association, DHEC, or any governmental authority.

#### 4.7 Reserve Fund

The Association shall establish and maintain an adequate reserve fund for (a) the periodic maintenance, repair, and replacement of Improvements located on all Common Areas and the Private Drive; (b) to fund unanticipated expenses of the Association; and/or (c) to acquire equipment or services deemed necessary or desirable by the Board, from time to time, in its sole discretion. The Reserve Fund shall generally be collected and maintained out of the Annual Assessment, unless the Board determines that a Supplemental Annual Assessment or a Special Assessment is necessary to fund the Reserve Fund. The amount of the Reserve Fund shall be determined, from time to time, by the Board, in its sole discretion.

#### 4.8 Liability Limitations

Declarant, the Association, its Members, the Board, or any officers, directors, agents, or employees of any of them shall not be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of the Association or otherwise. Declarant, the Association, and their respective directors, officers, agents, or employees shall not be liable for any incidental or consequential damages for failure to inspect any Common Area, Improvements, or other property within the Development or for failure to repair or maintain the same. Declarant, the Association, the Manager, or any other Person making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages occasioned by any act or omission in the repair or maintenance of any premises, Improvements or portions thereof. The Association shall, to the extent permitted by applicable law, indemnify, defend, and hold harmless all Directors on the Board from and against any and all loss, cost, expense, damage, liability, claim, action, or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action, or cause of action resulting from the willful misconduct or negligent acts or omissions of the Person(s) to be indemnified.

### SECTION 5. ASSESSMENTS

#### 5.1 Creation of the Lien and Personal Obligation for Assessments

Subject to Subsection 5.7, Declarant covenants for each Lot it owns within the Property, and each Owner by acceptance of a deed to a Lot, whether or not it is expressed in such deed, is deemed to covenant and agrees to pay to the Association when due all Annual Assessments, Supplemental Annual Assessments, Working Capital Assessments, Special Assessments, and

Special Individual Assessments. Any such Assessment, together with interest, costs, and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which such Assessment is made, and is the personal obligation of the Owner of the Lot at the time the Assessment was due. The personal obligation for delinquent Assessments shall not pass to an Owner's successors in title unless expressly assumed by them, provided such Assessments, together with interest, costs, and reasonable attorneys' fees, shall be a continuing lien upon the Lot against which such Assessments are made.

## 5.2 Purpose of Annual Assessment

The Annual Assessments levied annually by the Association against each Lot shall be used as follows:

- (a) to repair, maintain, reconstruct (when necessary), and keep clean and free from debris the Common Areas and any Improvements located on the Common Areas, and to maintain the landscaping in accordance with standards in comparable developments within the vicinity of the Development;
- (b) to maintain and repair the Private Drive to the applicable standards of maintenance required for Private Drives by the Oconee County Roads and Bridges Department;
- (c) to maintain and repair the Private Driveway to the applicable standards of maintenance (if any) required for Private Driveways by the Oconee County Roads and Bridges Department;
- (d) if applicable, to pay all costs associated with the lease of the Street Lights, including, but not limited to, monthly lease payments and utility costs;
- (e) to maintain appropriate community directional and informational signage of architectural quality;
- (f) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association;
- (g) to pay the premiums on all insurance carried by the Association pursuant to this Declaration or the Bylaws;
- (h) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties in this Declaration or the Bylaws;
- (i) to maintain a reserve fund for the purposes set forth in 4.7 in an amount determined by the Board in its sole discretion; and
- (j) to carry out the maintenance responsibilities of the Association set forth in Subsection 4.6.

### 5.3 Payment of Annual Assessments; Due Date

Annual Assessments shall commence as to each Lot on the date determined by the Board. The Annual Assessment for each calendar year shall be in an amount set by the Board, in accordance with 5.4, and shall be due and payable in one annual payment no later than January 31 of each such year. By December 1<sup>st</sup> of each year, the Board shall establish the amount of the Annual Assessment as to each Lot for the next calendar year. The Association shall send written notice of the amount of the Annual Assessment to each Owner on or before January 5<sup>th</sup> 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. Notwithstanding the foregoing, the Board may increase or decrease the frequency of the collection of the Annual Assessments (or may provide for collection in installments) in any reasonable manner in its sole discretion.

### 5.4 Working Capital Assessment and Maximum Annual Assessment

- (a) When an Owner acquires title to a Lot from Declarant, the Owner shall pay a Working Capital Assessment to build the working capital of the Association. The Working Capital Assessment shall be Two Thousand Five Hundred Dollars (\$2,500.00) and shall only be assessed when the Lot is sold by Declarant to the first Owner, and not on subsequent re-sales of the same Lot. The Working Capital Assessment is not an advance payment of the Annual Assessments and shall not be construed as a transfer fee. Its purpose is simply to provide sufficient funds and working capital for the Association to operate.
- (b) After the first year of Annual Assessments, the Board may increase the Annual Assessment each year (without a vote of the Members), by a maximum amount equal to the previous year's Annual Assessment times the greater of (i) twenty percent (20%), or (ii) the annual percentage increase in the CPI. 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, without a vote of the Members.
- (c) After the first year of Annual Assessments, the maximum Annual Assessment may be increased above the maximum amount set forth in Subsection 5.4(a) by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration, plus the written consent of Declarant (so long as Declarant owns any part of the Property).
- (d) The Board may establish the Annual Assessment at an amount not to exceed the maximum set forth in Subsection 5.4(b) (the "**Maximum Annual Assessment**"). If the Board levies less than the Maximum Annual Assessment for any calendar year and thereafter, during such calendar year, determines that the important and essential functions of the Association cannot be funded by such lesser amount, the Board may, by vote in accordance with the Bylaws, levy a supplemental Annual Assessment

(“**Supplemental Annual Assessment**”). The sum of the Annual Assessment and Supplemental Annual Assessment for any year shall not exceed the applicable Maximum Annual Assessment for such year, other than as set forth herein.

### 5.5 Special Assessments for Capital Improvements

In addition to the Annual Assessment authorized above, the Association may levy a Special Assessment in any calendar year, applicable to only that year 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 Private Drive, the Private Driveway (if applicable), or the Entrance Monument(s) and all Improvements located thereon, including fixtures and personal property related thereto. Provided, however, any such Special Assessment must be approved by Declarant (so long as Declarant owns any part of the Property) and by a vote of a majority of the votes appurtenant to the Lots which are then subject to this Declaration.

### 5.6 Special Individual Assessment

In addition to the Annual Assessments, Supplemental Annual Assessments, Working Capital Assessments, and Special Assessments authorized above, the Board shall have the power to levy a Special Individual Assessment applicable to any particular Owner for the following reasons: (i) for the purpose of paying for the cost of any construction, reconstruction, repair, or replacement of any damaged component of the Common Areas, whether caused by any act or omission of such Owner, members of such Owner’s family, or such Owner’s tenants, agents, guests, employees, or invitees and not the result of ordinary wear and tear; (ii) for failure to properly maintain the Septic System on an Owner’s Lot; (iii) for payment of fines, penalties, or other charges imposed against any particular Owner because of the failure of the Owner, members of such Owner’s family, or such Owner’s tenants, agents, guests, employees, or invitees to comply with the terms and provisions of this Declaration, the Bylaws, the Architectural Guidelines, or any Rules established by the Association or Declarant pursuant to this Declaration or the Bylaws; (iv) for failure to properly maintain the exterior portions of the Home or any Improvements on their Lot; or (v) for failure to keep their lawn mowed, shrubs pruned, fallen trees removed, and kudzu pulled on their Lot. Provided, however, Declarant shall not be obligated to pay any Special Individual Assessment, except with Declarant’s prior written approval. The due date of any Special Individual Assessment levied pursuant to this 5.6 shall be fixed in the Board’s resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner at least thirty (30) days prior to the date such Special Individual Assessment is due.

### 5.7 Assessment Rate

- (a) Subject to the exception set forth in Subsection 5.7(b), Annual Assessments, Supplemental Annual Assessments, and Special Assessments must be fixed at a uniform rate for all Class A Lots.



- (b) Annual Assessments, Supplemental Annual Assessments, and Special Assessments for each Class B Lot owned by Declarant shall be one-fourth (1/4) of the amount of the Annual Assessments, Supplemental Annual Assessments, and Special Assessments for each Class A Lot in the Development not owned by Declarant.

## SECTION 6. GENERAL ASSESSMENT PROVISIONS

### 6.1 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.

### 6.2 Effect of Nonpayment of Assessments; Remedies of the Association

Any Assessment not paid by its due date, shall bear interest from such due date at the rate of eighteen percent (18%) 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 late charges as established by the Board to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner (or foreclose the lien against the Lot), and interest, late payment charges, costs, and reasonable attorneys' fees related to such action or foreclosure shall be added to the amount of such Assessment. No Owner may waive or escape liability for the Assessments by not using the Common Areas.

### 6.3 Subordination of the Lien to Mortgages

The lien of any Assessments shall be subordinate to the lien of any first Mortgage on a Lot. Sale or transfer of any Lot shall not affect the Assessment lien. The sale or transfer of any Lot pursuant to a mortgage foreclosure under any first Mortgage on a Lot, 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; provided, however, that the Board may, in its sole discretion, determine that such unpaid Assessments should be collectable pro rata from all Owners. No sale or transfer shall relieve the purchaser of such Lot from liability for any Assessments which become due after the transfer. The lien of such Assessments shall continue to be subordinate to the lien of any first Mortgage on a Lot.

## SECTION 7. RESTRICTIONS

### 7.1 Land Use, Building Type, and Single-Family Residential Restriction

All Lots in the Development shall be used only for single-family residential purposes. However, unlike many traditional neighborhoods, the Development embraces a "cottage" style of development, where multiple structures on each Lot may be permitted (such as a guest house and a main house). All Improvements must be approved by the ARC in accordance with the Architectural Guidelines, but there will be a streamlined approval process for Owners who use

one of the pre-approved designs by Architect Stephen Fuller. No log cabin (or having the architectural characteristics of a log cabin), mobile home, modular home, pre-manufactured home, pre-engineered home, or shell home may be erected or permitted to remain on any Lot. The Home must be stick built on the Lot. No boat, houseboat, or recreational vehicle may be used at any time as a Home.

The residential restriction in this Subsection 7.1 shall not prohibit the Owner from having a home office or conducting business activities within their Home so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Home; (b) the business activity conforms to all applicable zoning requirements; (c) the business activity does not involve persons coming into the Development who do not reside in the Development, or involve door-to-door solicitation of residents of the Development; and (d) the business activity is consistent with the residential character of the Development and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Owners, as may be determined in the sole discretion of the Board. Neighborhood yard sales may be permitted with prior written approval from the Board, which may be withheld by the Board in the exercise of its reasonable discretion.

## 7.2 Rentals and Leasing Restrictions

An Owner is permitted to lease his Home as a vacation rental without Board approval provided that: (a) the written lease or vacation rental agreement is on the Association's approved form ("**Approved Lease Form**"), which is available from the Association upon request; (b) the tenant agrees to comply with the Rules which shall be attached to the Approved Lease Form and which include the Board's right to terminate if the tenant, lessee, or guest is violating the Rules; (c) the Owner is responsible for any damage or destruction caused by the tenant, lessee, or guest or for the failure of the tenant, lessee, or guest to comply with all of the terms and provisions of this Declaration, the Rules, the Bylaws, and the Approved Lease Form; and (d) any Owner who has a tenant, lessee or guest that fails to comply with the provisions of this Declaration, the Rules, the Bylaws, and the Approved Lease Form will not be permitted to rent to that tenant or lessee again or to allow that guest to use the Owner's Lot or Home again. For purposes of this Declaration, a long-term lease is for a term over six (6) months, and a short-term lease is for a term less than six (6) months. Any ownership or leasing arrangement which constitutes a vacation time-sharing ownership plan or vacation time-sharing lease plan under Title 27 of Chapter 32 of the South Carolina Code of Laws is prohibited. Any form of interval or sequential ownership of a Lot or Home is also prohibited, provided, however tenant in common ownership of a Lot or Home is expressly permitted.

## 7.3 Home Size Restrictions

There are no minimum or maximum square footage requirements on Homes or Improvements built within the Development. Home height shall not exceed 2½ stories, excluding basements or lower levels, without the prior written approval of the ARC.

## 7.4 Building Construction and Quality

Homes, Improvements, and boat docks shall be constructed of new material of good quality and appearance and shall be constructed in a good and workmanlike manner. The Architectural Guidelines contain additional information and detail concerning the materials that can be used and the quality of construction that is required.

## 7.5 Exterior Materials and Colors

Exterior materials shall be as described in the Architectural Guidelines. Post and beam accents are encouraged. Ideally, Homes shall use the same or similar exterior materials on all sides of the structure. Permitted colors shall be established by the ARC.

## 7.6 Architectural Guidelines

The ARC shall, from time to time, publish Architectural Guidelines, as defined in SECTION 1. The Architectural Guidelines explain the general intent of the development of the Property and are a guide to help the ARC review plans and specifications for the construction of Homes and other Improvements on Lots, for the landscaping of Lots, and the preservation of the Vegetative Buffer. The Architectural Guidelines shall explain the procedures for submission, review, and approval of plans and specifications and shall establish the fees to be imposed by the ARC. The Architectural Guidelines may be revised and amended at any time by the ARC, with Board approval. The Architectural Guidelines may also contain construction rules to be followed by all Owners and builders performing work or installing Improvements (including landscape Improvements) on the Property, and shall provide for a Construction Escrow Deposit, as described in Subsection 7.29.

## 7.7 Architectural Review Committee (“ARC”)

So long as Declarant owns any Lot or other portion of the Property, the members of the ARC shall be appointed by Declarant. When Declarant no longer owns any Lot or other portion of the Property, the Board shall have the authority to appoint the members of the ARC on an annual basis. The ARC shall consist of at least three (3) individuals. The members of the ARC may be Owners, but are not required to be Owners. The members of the ARC may be removed or replaced at any time, with or without cause, and without prior notice, by the party having the authority to appoint such ARC members. The ARC shall have the authority to employ, retain, and/or use the services of any architects, landscape architects, engineers, other design professionals, or attorneys as it deems necessary or desirable, from time to time. The ARC’s review and approval of any plans is made on the basis of aesthetic considerations only and the ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither Declarant, the Association, the Board, the ARC, any committee, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Improvements.

## 7.8 Definition of Improvements

The term “**Improvement**” or “**Improvements**” shall mean and include any and all changes or additions to a Lot, including, but not limited to, the location, materials, size and design of all Homes, buildings, or structures (including any exterior devices attached to or separate from Homes or buildings, such as heating and air conditioning equipment, solar heating devices, antennae, satellite dishes); piers, docks, boatslips; roofed structures; parking areas; fences; statuary and fountains; landscaping (including cutting trees); hedges; mass plantings; irrigation equipment, apparatus and systems; swimming pools and recreational facilities; driveways; signs; site preparation; changes in grade or slope; exterior illumination; and changes in any exterior color or shape. The definition of Improvements includes both original Improvements and all later changes to Improvements.

## 7.9 Setback Lines

No Improvements on any Lot (including any stoops, porches, or decks) shall be erected or permitted to remain which violate the setbacks contained in this Subsection 7.9 or the Sight Line Corridor Easement established in Subsection 10.13. Piers and dock facilities are exempt from the rear setback restrictions and may be installed outside the Building Envelope. Driveways, which are connected to the Home and are not covered or enclosed in any manner, may encroach within the front and side setback, provided that such encroachment does not violate any applicable governmental requirement. If any zoning, subdivision, or development ordinance, floodway regulations, or other ordinance, law or regulation applicable to a Lot prescribes greater setbacks, then all Improvements erected during the pendency of that zoning, subdivision, or development ordinance, floodway regulations or other ordinance, law or regulation shall be governed by the greater setbacks. Except as set forth in the immediately preceding sentence, the setbacks shown on the Map are as follows: (a) front setbacks for all Lots that front on the Private Drive are twenty-five (25) feet from the Private Drive right-of-way; (b) side setbacks for all Lots are five (5) feet from the property line; (c) rear setbacks for Waterfront Lots 1-3 are fifty (50) feet from the 800’ MSL contour (full pond elevation); (d) rear setbacks for Waterfront Lots 4-12 are twenty-five (25) feet from the 800’MSL contour (which is the same as the Vegetative Buffer), and Lots 7-10 are further subject to the Sight Line Corridor Easement described in Section 10.13.

## 7.10 Variances

Setbacks are established on the recorded Maps, in Subsection 7.9, and in Subsection 10.13. The ARC may authorize variances from compliance with the setbacks and/or the Architectural Guidelines when circumstances such as topography, natural obstructions, hardship, aesthetic, or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing, (b) be contrary to this Declaration, or (c) stop the ARC from denying a variance in other circumstances or for another Lot. If the requested change is waived by the ARC but violates any zoning or subdivision ordinance or other applicable law or regulation, the Owner who has committed the violation must first obtain a variance or other similar approval from the appropriate governmental authority before the waiver granted will be deemed effective. If no waiver or variance is obtained, the Improvement must be removed at the expense of the Owner (or it may

be removed at the Association's expense and billed to the Owner) as described in the Architectural Guidelines.

### 7.11 Development and Combination of Lots

Declarant reserves the following rights with respect to any Lots it owns: (a) the right to subdivide Lots; (b) the right to combine Lots; or (c) the right to change boundaries or dimensions of Lots, all as may be shown on one or more revisions to the Map. Except for Declarant's reserved rights with respect to the Lots it owns, no other Lot shall be subdivided by sale or otherwise to reduce the Lot area shown on the Map. However, a Lot Owner may request permission from the ARC to combine one Lot with one or more contiguous Lots so long as the parcel or parcels which result from such combination do not violate any applicable zoning ordinance, subdivision ordinance, or other applicable law or regulation. The Owner requesting the combination of Lots shall be solely responsible for any costs that may result from such combination, including the costs of relocating any easements or utility lines. Any combination of Lots will not be recognized unless the Owner has applied and been granted approval at the sole discretion of the ARC. The ARC (and applicable government agencies) may waive setback restrictions if the plans for the Owner's Home or Improvements involve construction across Lot lines, providing the ARC believes it is in the best interests of the Development to do so. However, because of the small number of Lots in the Development, the Owner of multiple combined Lots shall be responsible for paying an Assessment for each original Lot it owns and shall continue to have a vote for each original Lot it owns. A Lot combined by an Owner with approval of the ARC may be subsequently subdivided by the Lot Owner back to its original configuration or other such configuration as may be approved the ARC.

### 7.12 Utilities and Maintenance within Utility Easements

Declarant reserves certain easements with each Lot's setbacks for the installation, maintenance, and repair of utilities (such as electricity, septic system, water, gas, telephone, cable television) as set forth in 10.8. Additional utility easements may be more particularly shown and delineated on the Map and in other recorded easement documents. Within such easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or 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 defined easement areas and shall maintain any Improvements located thereon, except those Improvements installed and maintained by a public authority or utility company. All utilities and utility connections shall be located underground, including electrical, telephone and cable television lines. Geothermal, solar, and engineered septic systems shall all be considered by the ARC. Transformers, electric, gas, or other meters of any type, or other apparatus shall be located at the rear of the Homes or Improvements constructed on Lots, and shall be appropriately screened as set forth in the Architectural Guidelines. Declarant reserves the right to create and impose additional easements over any unsold Lot or Lots for road drainage, utility and entry signage installation purposes by the recording of appropriate instruments, and such easements shall not be construed to invalidate any of these covenants.

### 7.13 Storm Drainage Facility Maintenance

Declarant reserves the right to impose easements for storm drainage facilities as set forth in 10.8. Within such easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or 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 and any Improvements lying within the defined easement areas, except those Improvements installed and maintained by a public authority or utility company. Each Owner is responsible for keeping the storm drainage easement areas on their Lot clean and free from debris. If an Owner fails to do so, the Association has the right to hire a contractor to undertake such maintenance responsibilities and the cost shall be charged to the Lot Owner as a Special Individual Assessment against their Lot. If an outfall or storm drainage facility breaks underground and the public authority or utility company fails or refuses to make appropriate repairs, the Association reserves the right to hire a contractor and pay for such repairs through the Annual Assessment (or, if necessary, through a Supplemental Annual Assessment or a Special Assessment).

### 7.14 Fences and Walls

The Architectural Guidelines contain provisions concerning fences and walls. No fences or walls may be erected without ARC approval.

### 7.15 Signs

No signs of any kind may be displayed to the public view on any Lot, with the following exceptions which may not exceed four (4) feet in height or five (5) square feet in size, excluding staking: (a) two (2) signs advertising the Property for sale or lease (one of which may be placed at the front of the Lot facing the Private Drive or Private Driveway and one of which may be placed at the rear of the Lot facing the Lake; and (b) one sign used by a builder to advertise the Lot during the construction and sales period. These restrictions do not apply to temporary entry signs or advertising by Declarant, or for sale signs installed by Declarant or its agents prior to the initial sale of all Lots in the Development. The Architectural Guidelines may contain additional provisions concerning signs.

### 7.16 Antennas; Satellite Dishes or Discs

No exterior satellite dish or antenna may be placed by an Owner on any portion of the Owner's Home or Lot without the prior written approval of the ARC. An Owner may install on its Home or Lot a satellite dish, disc, or antenna no larger than one meter diagonally or in diameter. The Board may require that an exterior satellite dish, disc, or antenna be screened from public view from Lake Keowee or the Private Drive or Private Driveway on which the Lot fronts, provided that (i) the cost of screening is reasonable, (ii) the screening does not impair reception, and (iii) the screening requirements are the same as for HVAC units, pool equipment, or similar installations. An Owner may not install an exterior satellite dish, disc, or antenna on the Common Area.

### 7.17 Lot Maintenance; Trash Disposal

Each Owner shall keep his or her Lot, and the area adjacent to the Lot between the edge of the Private Drive right-of-way and the edge of the pavement or curb, in a clean and orderly condition and shall keep the Improvements thereon in a suitable state of painting and repair, promptly repairing any damage caused by fire or other casualty. No clothes lines may be placed or maintained on any Lot unless they are appropriately screened from view from any adjoining Lots and the Private Drive, and are approved by the ARC. No Lot shall be used for storage of trash of any kind 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 before removal by trash collection authorities or companies.

### 7.18 Off-Road Parking; Off-Water Boat Storage

Each Lot Owner shall provide an attached or detached garage and/or a concrete, asphalt, or gravel driveway that provides space for parking at least two (2) vehicles. Brick or stone pavers are also permitted in earth tones, but must be approved by the ARC. Parking is also subject to such Rules adopted by the Board of the Association. No commercial vehicles (vehicles with commercial writing on their exteriors, or vehicles used primarily for commercial purposes), mobile homes, recreational vehicles or related equipment, including any boat, houseboat, trailer, motor home, recreational vehicle or "camper" vehicle may be maintained, stored or kept on any portion of the Property (including without limitation, the Private Drive or the Private Driveway) for longer than forty-eight (48) hours unless in an enclosed garage, and may not be used as a residence for any period of time. All vehicles must have a current license plate affixed and be in operable condition. For purposes of this Subsection, a vehicles shall be considered "stored" if it is put up on blocks or covered with a tarpaulin or cover for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked within the Property during normal business hours while making deliveries. Temporary carports are prohibited and construction of permanent carports, (which are discouraged), will require prior approval of the ARC.

### 7.19 Sewage Disposal

Every Home erected on any Lot shall be served by an individual on-site septic system approved by DHEC for the disposal of domestic sewage. All septic 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. By purchasing a Lot, each Owner acknowledges that any governmental permit or approval allowing for the construction and operation of a Septic System may be limited in duration in accordance with its terms, and neither Declarant, nor the Association, nor the officers, directors, members, employees, agents or affiliates or any of them, shall have any liability, directly or indirectly, based on the inability of an Owner to obtain any such permit or approval (including an extension, renewal, or continuation) following its initial expiration.

The Owner of the Lot for which a Septic System is being installed shall be responsible for obtaining all necessary environmental permits and other permits for the use of the Septic System and shall hold harmless Declarant, the Association, its successors and assigns, from any loss,

damage or liability relating thereto, except to the extent that such loss, damage or liability results from the negligent act or omission or willful misconduct of Declarant, the Association, its successors and assigns, or its officers, directors, agents, employees, members, invitees or licensees. Prior to the installation of a Septic System, the Owner of the Lot shall have the proposed location of such Septic System staked and approved by the appropriate governmental authorities, and such Septic System shall be approved by, and constructed and maintained in accordance with all regulations and requirements of all governmental authorities and regulatory agencies of competent jurisdiction. The Owner of the Lot shall be responsible for operating and maintaining the Septic System at the Owner's sole cost, expense, and liability.

## 7.20 Public Water System; No Wells

Declarant shall cause a public water system to be constructed to provide water necessary to serve the Development (the "**Water System**"). All water mains, pipes and other equipment necessary for the operation and maintenance of the Water System shall be located within the utility easements described in Subsection 7.12, or within the Private Drive right-of-way. The Water System and all mains, pipes, equipment and other related personal property is the property of Seneca Light and Water, a public utility company duly licensed and operating under the authority granted by the South Carolina Public Service Commission. The Water System shall be the sole source of potable water for the Development, and no well may be dug or constructed on any Lot for the purpose of providing a domestic water supply. Cisterns or rain barrels may be permitted for irrigation purposes, provided they are appropriately screened from view and approved by the ARC.

## 7.21 Nuisances; Unsightly or Unkempt Conditions

Each Owner is responsible for preventing the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot or Home. No noxious, noisy, or offensive hobby or activity shall be carried on or upon any Lot, nor shall anything be done on a Lot which may be or become an annoyance or nuisance to the other Owners in the Development. No animal, substance, thing, or material shall be kept upon any Lot that emits foul or obnoxious odors, is noxious, dangerous, unsightly, or unpleasant, or that causes any noise that disturbs the peace and quiet of the occupants of surrounding property. No hunting or discharge of any gun or firearm is permitted on any part of the Development. Fireworks are not permitted within the Development except on July 4<sup>th</sup> and December 31<sup>st</sup>, on which days they will be permitted until midnight if handled in a safe manner that does not endanger or encroach on other Lot Owners. With the exception of those dates, 10 pm to 7 am shall be considered "quiet hours", which shall be strictly enforced. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier, or other sound device, except such devices used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

## 7.22 Removal of Trees and Other Vegetation

All trees, shrubs, and ground cover within the Vegetative Buffer are considered to be "**Protected Vegetation**" because cutting and clearing is not permitted without the prior written approval of the ARC. With respect to Lots 1, 2, and 3, the provisions of this Section 7.22 shall be extended to the Lake Buffer Area, which is twenty-five (25) feet beyond the Vegetative Buffer.



Subject to local ordinances and Duke Energy Lake Services' Shoreline Management Guidelines, the practical exceptions to this rule are that dead or diseased trees and poisonous plants may be removed, underbrush may be selectively cleared within two (2) feet of the ground, individual trees may be limbed up to one-third (1/3) of the tree height, and ground covers may be planted, and a four (4) foot path may be cleared to provide access to piers. Lawn grass such as Zoysia and Centipede must not be planted inside the Vegetative Buffer.

In addition to the Protected Vegetation within the Vegetative Buffer, any "**Mature Trees**" on the Lot that are more than twenty (20) feet from the footprint of the Home or more than five (5) feet from the driveway may not be cut down or otherwise removed without the prior written approval of the ARC. For purposes of this Declaration, Mature Trees shall mean all evergreen or deciduous trees with a caliper of six (6) inches or more measured four and one-half (4.5) feet from the base of the tree. Any Mature Trees that exist within five (5) feet of a Lot line shall require written authorization from adjacent Lot Owners plus ARC approval prior to removal. Declarant encourages each Owner to keep as many Mature Trees as possible, and the ARC may require a tree survey prior to any tree removal on a Lot, in its sole discretion. During the construction approval process, the Owner must request permission from the ARC to remove any trees outside the setbacks established in Subsection 7.9, which must be approved by the ARC prior to removal. In addition, certain Mature Trees may be designated on the Map as trees that must not be removed, no matter where they are located on a Lot. Any Owner who removes, willfully damages, and/or causes to be removed any Mature Trees in violation of this provision shall be subject to a Special Individual Assessment, at the discretion of Declarant and/or the ARC, as applicable.

### 7.23 Replacement of Removed, Damaged or Destroyed Trees

Declarant reserves the right and easement to go upon any Lot or other portion of the Property to replant or order the replanting of any trees, shrubs or other vegetation removed, damaged or destroyed within the Development in violation of the terms of Subsection 7.22. If Declarant exercises its easement rights pursuant to the terms of this Subsection 7.23, the Owner of the nonconforming Lot shall reimburse Declarant within fifteen (15) business days following the submission of an invoice for any costs or expenses incurred. The exercise or non-exercise of the easement rights contained in this Subsection 7.23 shall be subject to the discretion of Declarant, provided that Declarant shall not have the obligation to exercise such rights. If Declarant is no longer in existence and has not assigned its Declarant rights to another entity, any of the other Owners in the Development can sue to enforce Declarant's rights reserved under this Subsection 7.23, pursuant to their enforcement rights under Subsection 12.1 of this Declaration. In either case, the ARC may require a replanting plan, at the Owner's expense, that details the size, type, and location of replacement vegetation. All vegetation planted for the purposes of replacement must be guaranteed for one (1) year after installation. Any vegetation that is dying, dead, or otherwise in poor health at the end of its first installation year must be replaced at the sole cost and expense of the Owner. If any trees are replaced, the newly installed trees will also be guaranteed for an additional one (1) year period after replacement. All trees replanted to replace dead, dying, or diseased trees, or other vegetation in poor health will be considered Protected Vegetation regardless of its caliper size. Within the Vegetative Buffer, row planting of evergreens reaching a mature height of greater than three (3) feet is not permitted.

## 7.24 Docks, Piers and Boat Houses

Duke controls access to, use of, and water levels in Lake Keowee. The Owners of Waterfront Lots 1-10 must receive permission from Duke (or a successor manager of Lake Keowee under authority from the FERC) prior to placing or constructing any pier, structure, or other Improvement within or upon, or conducting any activity altering the topography of, the hydroelectric project surrounding and encompassing the waters of Lake Keowee. Declarant anticipates that Waterfront Lots 11 and 12 have insufficient shoreline to receive permission from Duke to construct a pier, dock or boathouse. Declarant makes no oral, express or implied representation or commitment as to the likelihood of the Owner of any Lot obtaining such permission from Duke, nor as to the continued existence, purity, depth, or levels of water in Lake Keowee, and Declarant shall have no liability with respect to these matters. Construction of dock facilities is also subject to the recorded restrictions and easements affecting the Waterfront Lot, as well as Duke's Shoreline Management Guidelines. Duke's Shoreline Management Guidelines can be downloaded from this link: <https://www.duke-energy.com/community/lakes/services/kt-shoreline-management-plan> or may be obtained directly by an Owner from Duke Energy Lake Services. Enclosed docks or boathouses will not be allowed either on the water or within the Vegetative Buffer. Covered docks must be one level, have pitched roofs, and in a uniform color approved by the ARC. The ARC reserves the right to include additional requirements on docks, piers, and boat houses in the Architectural Guidelines. The placement, construction, or use of any pier or dock or any activity altering the topography of the hydroelectric project surrounding and encompassing the waters of Lake Keowee shall be subject to each of the following:

- (a) easements, restrictions, rules, regulations and guidelines for construction and use promulgated by Declarant;
- (b) all laws, statutes, ordinances and regulations of all Federal, State, and local governmental bodies of competent jurisdiction, including without limitation, FERC;
- (c) rules and regulations, privileges and easements affecting the Lot and the waters and submerged land of Lake Keowee established by Duke, its successors and assigns. Duke is the manager of Lake Keowee under authority granted by FERC, and its current management plan runs through August 31, 2016, and is expected to be renewed. As manager of Lake Keowee, Duke controls access to, the use of, and the water level in Lake Keowee. All Owners, Declarant, and any builders must receive permission from Duke (or a successor manager of Lake Keowee, under authority from FERC) prior to any alterations, including the construction and continued use and maintenance of any dock, pier, or boatslip; and
- (d) No Lot Owner shall construct a pier, boat mooring, or any other structure outside the Pier Zone designated on the Map applicable to the Lot or such zone as may be designated by the ARC on an unrecorded map or otherwise.

## 7.25 Boat Ramps

No new boat ramps of any kind shall be permitted on any Lot, and no boat shall be placed in (or removed from) the waters of Lake Keowee from any Lot; provided, however, small watercraft such as canoes, kayaks, dinghies, and jet skis may be launched from any Waterfront Lot if they can be launched without a ramp. All other watercraft shall be launched from a public boat ramp outside the Development.

## 7.26 Rights of Duke

Duke has certain privileges and easements affecting the Development which include the right, privilege and easement of backing, ponding, raising, flooding, or diverting the waters of Lake Keowee and its tributaries upon and over the Development, as more specifically described in the deed from Duke to Declarant, and under the Duke Lease.

## 7.27 Non-Waiver

No delay or failure on the part of an aggrieved party to invoke an available remedy in respect to a violation of any provision contained herein or referred to herein shall be held to be a waiver by that party of any right available to the party upon the recurrence or continuance of said violation or the occurrence of a different violation.

## 7.28 Erosion and Sediment Controls

Prior to any earth-disturbing activity, erosion and sediment control measures shall be implemented and undertaken by the Owner or Owner's builder in accordance with the applicable requirements imposed by DHEC and/or other applicable regulatory agencies, from time to time.

## 7.29 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 Home or other Improvements shall be permitted to exist on any Lot, except during such reasonable time period necessary for completion. All exterior construction of Improvements and landscaping as provided in the ARC approval, must be completed within one (1) year after the date upon which it commenced, unless (a) otherwise specified by the ARC in its approval, or (b) the ARC grants a written extension. Each Lot Owner, prior to commencement of construction, shall post with the Board a construction escrow deposit as provided in the Architectural Guidelines ("**Construction Escrow Deposit**"). The Construction Escrow Deposit shall be held in escrow by the Board, pending completion of construction of Improvements on the Owner's Lot. If a Lot Owner fails to complete construction and landscaping, damages the Private Drive, Private Driveway, or Common Area or leaves the Private Drive, Private Driveway, or Common Area in a dirty or unkempt condition, the Board reserves the right to use the Construction Escrow Deposit to clean up and/or repair such damage. Any damage to the Private Drive, Private Driveway, or any part of any Common Area or any utility system caused by an Owner or Owner's builder or such builder's contractors or subcontractors shall be repaired by such responsible Owner. Any builder of Improvements (and such builder's contractors and subcontractors) on any portion of the

Property shall keep such portion of the Property free of unsightly construction debris, and shall similarly keep contiguous areas free from any dirt, mud, garbage, trash, or other debris which is occasioned by construction of Improvements. To the extent that the amount of the Construction Escrow Deposit is insufficient, the Board may levy a Special Individual Assessment against an Owner's Lot to pay for the cost of repairing any damage to the Private Drive, Private Driveway, or any part of any public road, Common Area or utility system, to pay for the cost of cleaning public and private areas, including the Private Drive and Private Driveway, and to pay for the cost of the removal of garbage, trash or other debris caused by the activities of an Owner or Owner's builder or such builder's subcontractors during the construction of Improvements. Each Owner and such Owner's builder shall be responsible for erosion control protection during any earth-disturbing operations.

### 7.30 Marine Toilets

No watercraft equipped with a marine toilet having a fixed or portable holding tank, or a through-hull or overboard discharge toilet, shall be permitted to discharge into the waters of Lake Keowee or at any Waterfront Lot's docks or piers, but must be properly emptied off-site in accordance with the requirements of DHEC, Duke, FERC, and/or Oconee County.

### 7.31 Restricted Activities in Common Areas

Without the prior written consent of Declarant and the Board, an Owner or its builder shall not (a) cut any trees or vegetation on the Common Areas; (b) dump, dig, fill, destroy or commit any waste on the Common Areas; (c) obstruct the Common Areas; (d) keep or store any materials on the Common Areas; (e) alter the Common Areas; (f) construct, plant, or remove anything in the Common Areas. Each Owner shall be liable to the Association and/or Declarant for any damage to any Common Area caused by the negligent acts or omissions or willful misconduct of the Owner or the Owner's family, tenants, guests, agents, builder, employees, or invitees. Provided, however, the provisions of this Subsection 7.3.2 shall not apply to Declarant in connection with Declarant's construction activities on the Property.

### 7.32 Unsightly or Unkempt Conditions

The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the repair, maintenance (other than washing), assembly and disassembly of motor vehicles and other mechanical devices which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any Lot, other than in enclosed garages, sheds, or similar structures.

### 7.33 Rules and Regulations

The Owners of all Lots shall abide by all Rules, as defined in Subsection 3.2(b), adopted by Declarant, the Association, or the Board, from time to time. The Board shall have the power to enforce compliance with the Rules by all appropriate legal and equitable remedies. If an Owner is found by the Board to have violated the Rules, the Owner shall be liable to the Association and/or Declarant for all damages, costs, and expenses of enforcement and any resulting costs or expenses, including without limitation, reasonable attorneys' fees.

### 7.34 Animals and Pets

No animals, livestock or poultry shall be raised, bred or kept on any Lot or any other portion of the Property, except that dogs, cats, or other generally recognized household pets may be kept, provided that (a) they are not kept for any commercial purposes; and (b) that they do not create a nuisance (in the judgment of the Board) such as, but without limitation, by noise, odor, refuse, or damage or destruction of property. There shall be no more than three (3) household pets kept or maintained in a Home, except for newborn offspring of such household pets which are all under (9) months in age. Whenever they are outside of a Home, dogs shall be kept on a leash or otherwise confined in a manner reasonably acceptable to the Board. Animal control authorities shall be permitted to enter the Development and the Property to patrol and remove pets that violate this Subsection 7.34 and to remove any wild animals. All pets shall be registered, licensed and inoculated as required by law. All Owners must comply with Oconee County ordinances related to pets. No fenced dog enclosure, dog house, dog run, or other structure for pets may be constructed or maintained on any Lot, nor may any dogs be left outside tethered on a chain or rope, unattended on a deck or patio, or allowed to roam without a leash. The Board may issue additional Rules with respect to pets, as it deems appropriate, from time to time.

### 7.35 Governmental Requirements

Nothing in this Declaration shall waive any governmental requirements applicable to any Lot and all applicable governmental requirements or restrictions relative to the construction, maintenance, repair, reconstruction, removal, replacement, and installation of Homes or Improvements on and/or use of any Lot shall continue to apply to each Lot. Each Owner shall comply with all laws, regulations, ordinances (including, without limitation, applicable zoning ordinances) and other governmental rules and restrictions in regard to the Lot or Lots owned by such Owner.

### 7.36 Enforcement by the ARC

The ARC shall reasonably review all applications and enforce all provisions of the Architectural Guidelines in good faith. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Architectural Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the Bylaws. In such event, neither the Association, its officers, nor directors shall be held liable to any Person for exercising the rights granted by this paragraph. In addition to the foregoing, the Association shall have the authority and standing, acting through the Board, to pursue all legal and equitable remedies available to enforce the provisions of this Section 7 and the decisions of the ARC.

Any construction, alteration, or other work done in violation of this Section 7 or the Architectural Guidelines or which is conducted without the approval of the ARC shall be deemed to be nonconforming. Upon written request from Declarant, the Board, or the ARC, each Owner shall, at his or her own cost and expense, remove such construction, alteration, or other work and shall restore the Lot or the Improvements to substantially the same condition as existed prior to the construction, alteration, or other work. If an Owner fails to remove and restore as required hereunder, the Association has the right to select a contractor to enter the Lot,

remove the violation, and restore the Lot to substantially the same condition as existed prior to the construction, alteration, or other work. All costs, together with the interest at the lesser of eighteen percent (18%) or the maximum rate then allowed by law, may be assessed against the Lot and collected as a Specific Assessment.

## SECTION 8. INSURANCE

### 8.1 Board

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

Fire/Casualty Coverage. All Improvements and all fixtures included in the Common Area and all personal property and supplies belonging to the Association shall be insured in an amount up to 100% of the then-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 with the assistance of the insurance company providing coverage or an insurance broker or agent selected by the Board. The Board shall, at least annually, review the insurance coverage and determine if any adjustments need to be made. The insurance 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 policies shall provide that adjustments of any and all covered losses shall be approved by the Board and the insurance company. In addition to the provisions and endorsements set forth in this SECTION 8, to the extent available, the fire and casualty insurance coverage shall contain the following provisions:

(i) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent, contractor, or employee of the Association, the Owners and their employees, agents, contractors, tenants and invitees; and

(ii) a provision that the coverage will not be prejudiced by act or neglect of one or more Owners when the 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.

Public Liability Coverage. The Board shall also obtain and maintain, to the extent available and applicable, public liability insurance in such limits as the Board 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, the Manager, if any, and each Owner with respect to their liability arising out of the ownership, maintenance, or repair of the Common Areas. The insurance coverage shall include endorsements for cross-liability claims of one insured against another, including the liability of the Owners as a group to a single Owner. The Board shall review such limits annually. Until the first meeting of the Board 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.

Fidelity Coverage. The Board may 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 in its discretion. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy does not cover volunteers. In the alternative, the Board may require that the Manager of the Association obtain fidelity coverage.

Other Coverage. The Board may determine, from time to time, that other types of insurance coverage should be obtained.

## 8.2 Premium Expense

Premiums upon insurance policies purchased by the Board shall be paid by the Association from the Annual Assessments and charged as a common expense to be collected from the Owners.

## 8.3 Special Endorsements

The Board shall use its best efforts to obtain 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 canceled or substantially modified (including cancellation for nonpayment of premium) without at least thirty (30) days prior written notice to the named insured, any insurance trustee and all Mortgagees; and
- (c) coverage that cannot be cancelled, non-renewed, invalidated or suspended on account of the conduct of any officer or employee of the Board without prior written demand that the Board cure the defect and the allowance of a reasonable cure period.

## 8.4 General Guidelines

All insurance policies purchased by the Board shall be with a company or companies licensed to do business in the State of South Carolina and holding a rating of "A-VIII" 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. The Manager or another authorized Person may be named as the Association's authorized representative, with exclusive authority to negotiate losses under any policy providing such insurance. The property insurance policy and public liability insurance policy shall not contain the following provisions: (a) contributions or assessments may be made against Declarant, the Association, the Owners, or the Mortgagees; (b) loss payments are contingent upon action by the carriers, directors, policy holders or members; or (c) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

## 8.5 Owner's Personal Property

By accepting title to a Lot within the Development, each Owner acknowledges that neither the Association nor Declarant has any obligation to provide any insurance for any portion of such Owner's Lot or any Home or other Improvements or property located thereon.

## SECTION 9. RIGHTS OF MORTGAGEES

### 9.1 Approval of Mortgagees

Unless at least seventy-five percent (75%) of the Mortgagees holding Mortgages on Lots located within the Development 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; provided, however, the granting of easements for utilities or other purposes pursuant to the terms of this Declaration shall not be deemed a transfer within the meaning of this provision;
- (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 any Common Areas in the Development on a current replacement cost basis in an amount not less than 100% of the insurable value as set forth in SECTION 8; or
- (d) use the proceeds of any hazard insurance policy covering losses to any part of any Common Area for a purpose other than the repair, replacement, or reconstruction of the damaged Common Areas.

### 9.2 Additional Rights

If a Mortgagee wants the provisions of this Subsection 9.2 to be applicable, Mortgagee shall send written notice to the Association by certified mail, return receipt requested, addressed to the Association and sent to its address stated in the Bylaws. The notice shall identify the Lot or Lots it owns or upon which it holds a Mortgage, together with sufficient pertinent facts to identify the Mortgage. The notice shall designate the address to which notices are to be given by the Association to such Mortgagee. If a Mortgagee fails to give written notice as established by this paragraph, the Mortgagee shall not be entitled to the benefits of this Subsection 9.2. If a Mortgagee has given written notice to the Association, a Mortgagee shall have the following rights:

- (a) to be furnished at least one copy of the annual financial statement and report of the Association within ninety (90) days following the end of each fiscal year;
- (b) to be given notice by the Association 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 this Declaration, the Bylaws or any rules and regulations promulgated by the Board 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 designates in writing;
- (d) to be given prompt written notice of any casualty loss to the Common Areas, or loss by eminent domain, condemnation 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; and
- (f) to be given prompt written notice of any action which requires the consent of any or all of the Mortgagees.

### 9.3 Books and Records

Any Mortgagee will have the right, upon ten (10) days' prior written notice, to examine the books and records of the Association during the Association's reasonable business hours.

### 9.4 Payment of Taxes and Insurance Premiums

The Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Association and the persons, firms or corporations making such payments shall be owed prompt reimbursement from the Association.

## SECTION 10. EASEMENTS AND OTHER RIGHTS

### 10.1 Duke Easements

Duke has reserved easements and rights with respect to the Development for the following purposes:

- (a) the right to clear and flood property up to the elevation of 810 feet above mean sea level (MSL), USGS Datum, in connection with the operation of its hydroelectric power facility. This affects all of the Lots in the Development that adjoin the shoreline of Lake Keowee, as shown on the Map, and includes the right of ingress and egress over the Development or roads or streets within the Development for the purpose of exercising the clearing and flooding rights; and
- (b) the right to erect and maintain electric transmission and communication lines within the Development, including the right to clear obstructions or hazards within the areas in which such transmission or communication lines are located (as well as rights of ingress and egress for those purposes).

## 10.2 Easements Reserved by Declarant

Declarant, in addition to any other easements granted or reserved in this Declaration, reserves for the benefit of Declarant, its successors and assigns, and grants to the Association and any other persons or entities hereinafter set forth, the following non-exclusive easements on, upon, over, across, through, and under the Property. In addition, Declarant reserves unto itself, its successors and assigns, the right, on behalf of itself and the Association, to grant additional easements on, upon, over, across, through, and under the Common Areas and any portion of the Property owned by Declarant as deemed to be in the best interests of and proper for the Development, including, but not limited to, easements in favor of Declarant, the Association and any designees of the foregoing, the Owners, and all their family members, guests, invitees and lessees, and to various utilities, governmental and quasi-governmental authorities and agencies, and private concerns for the purposes and uses hereinafter specified. In addition, Declarant reserves the following rights (the “**Special Declarant Rights**”) to do any or all of the following: (a) to elect, appoint, or remove any Association officer, Director, or ARC member during the Declarant Control Period; (b) to exercise any development right with respect to the Property; (c) to maintain sales offices, management offices, signs advertising the Development, and models; (d) to use easements through the Common Area to make improvements to the Development; and (e) to add Additional Property to the Development.

## 10.3 Easements and Cross-Easements on Common Areas

Declarant, for itself, its designees and the Association, reserves the right to impose upon the Common Areas, from time to time, such easements and cross-easements for ingress and egress, installation, maintenance, construction and repair of utilities and facilities including, but not limited to, electric power, telephone, cable television, master antenna transmission, governmental and quasi-governmental purposes, sewer, Septic Systems, water, natural gas, drainage, irrigation, lake access and maintenance, storm water management, lighting, television transmission, garbage and waste removal, emergency services, and landscaping as it deems to be in the best interests of all or any portion of the Development.

## 10.4 Use of Common Areas

Subject to any limitation or restriction set forth in this Declaration, Declarant declares that the Common Areas are subject to a perpetual non-exclusive easement in favor of Declarant, the Association, and their respective designees, the Owners and their family members, guests, invitees and lessees, and appropriate governmental and quasi-governmental agencies to use the Common Areas for all proper and normal purposes including, but not limited to, ingress, egress and access for the furnishing of services and utilities and for such use of the facilities as are reasonably intended in accordance with the terms of this Declaration. If ingress or egress to any Lot or other portion of the Property is through any Common Area, any conveyance or encumbrance of such Common Area is subject to this easement. If a path is constructed within the Pathway Easement or a path or walking trail is constructed elsewhere on the Common Areas, it is strictly limited to pedestrian use. No bikes, strollers, skateboards, scooters, or vehicles are permitted on the path or walking trails.

### 10.5 Right-of-Way Over Private Drive and Private Driveway

Declarant reserves, for the benefit of itself, its agents, employees, lessees, invitees, designees, licensees, successors and assigns, and grants to the Association, its agents, employees, lessees, invitees, designees, licensees, successors and assigns, and to each Owner of a Lot, their family members, guests, invitees, tenants, successors, and assigns, and to all governmental and quasi-governmental agencies and service entities having jurisdiction over the Property while engaged in their respective functions, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, over and across the Private Drive and the Private Driveway (as applicable) for the purpose of providing access, ingress and egress to and from, through and within the Property. All Lot Owners are required to maintain the portion of their Lot which abuts the Private Drive or the Private Driveway. All Lot Owners shall mow the grass and maintain the portion of their Lot which is subject to the Private Drive or Private Driveway right-of-way, and keep it free from trash and debris.

### 10.6 Right of the Association and Declarant to Enter Upon the Common Area, unsold Lots, and Lots under Construction

Declarant reserves for the benefit of itself, its successors and assigns, and grants to the Association and the ARC, the Manager, and its respective agents, employees, or other designees an easement for ingress, egress and access to enter upon or over the Common Areas and Lots for the purposes of inspecting any construction, proposed construction, or Improvements or fulfilling the rights, duties and responsibilities of ownership, administration, maintenance and repair of Common Area and any unsold Lots, as appropriate, or to ensure compliance with plans approved by the ARC. Such easement includes an easement in favor of the Association and Declarant to enter upon the Common Areas and any unsold Lots to use, repair, and maintain the same for the purposes for which they are initially or subsequently designated. There is no obligation on the part of the Association or Declarant to maintain, repair, or construct Improvements that an Owner is required to maintain, repair, or construct.

### 10.7 Easement for Encroachment

Declarant reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, and the Owners, their successors and assigns, easements for encroachments, to the extent necessary, in the event any of the Improvements located on any portion of the Property now or hereafter encroaches upon any other portion of the Property as a result of minor inaccuracies in survey, construction or reconstruction, or due to settlement or movement. Any easement for an encroachment shall include an easement for the maintenance and use of the encroaching Improvements in favor of Declarant, the Association, the Owners, and all their respective designees, as the case may be.

### 10.8 Utility and Storm Drainage Easements

The Property shall be subject to all easements and rights-of-way for utilities and drainage shown on the Maps, including, without limitation, those easements described in Subsection 7.12 and Subsection 7.13. Such easements are reserved for the use of Declarant, its successors and assigns, and are established for the use of the Association, its successors and assigns. In addition,

whether or not shown on the Maps, Declarant reserves, for the benefit of itself, its successors and assigns, and grants to the Association, its successors and assigns, a non-exclusive easement and right-of-way over, under and along the Lot setbacks for the installation and maintenance of lines, conduits, pipes and other equipment necessary for furnishing electric power, natural gas, telephone service, cable service, water, irrigation, septic, and drainage facilities, stormwater drainage, and/or other utilities.

#### 10.9 Declarant's Right to Assign Easements and Maintenance of Easement Areas

Declarant shall have the right to assign and convey, in whole or in part, the reserved easements under this Declaration. The areas burdened by the easements and rights-of-way reserved by Declarant on each Lot or other portion of the Property, including any Improvements in such areas, which are not to be maintained by the Association or a public authority or utility, shall be maintained continuously by each Owner of such Lot or other portion of the Property, but no structures, plantings or other material shall be placed or permitted to remain upon such areas or other activities undertaken thereon which may damage or interfere with the installation or maintenance of utilities or other services, or which may retard, obstruct or reverse the flow of water or which may damage or interfere with established slope ratios or create erosion problems. Declarant and/or the Association may exercise the rights reserved in this SECTION 10 for the purpose of enforcing the provisions of this Subsection 10.9. The Association and/or Declarant shall have the right, but not the obligation, to maintain the landscaping in the easement areas reserved on any Lot.

#### 10.10 Easement Reserved for Declarant, the Association, the ARC, and the Manager

Declarant reserves full rights of access, ingress and egress for itself, the Association, the ARC, and the Manager at all times over and upon any Lot or other portion of the Property for the exercise of the easement rights described in this Section 10, as well as the maintenance and repair rights described below, and for the carrying out by Declarant or the Association of its rights, functions, duties, and obligations under this Declaration. Any such entry by Declarant, the Association, the ARC, and/or the Manager upon any Lot shall be made with minimum inconvenience to the Owner as is reasonably practical. Any damage caused as a result of the gross negligence or willful misconduct of Declarant, the Association, the ARC, the Manager, or their respective employees or agents shall be repaired by and at the expense of the party that caused the damage, as the case may be.

#### 10.11 Entrance Monument Easement

Declarant reserves a non-exclusive perpetual easement over the Common Area for the purpose of landscaping and maintaining the entryway, erecting and maintaining the Entrance Monument for the Development and adjacent landscaping. An easement is reserved by Declarant for itself, its successors in interest and assigns, and granted to the Association over portions of the Development identified as Common Area on the Map. Declarant or the Association shall have the right to landscape, maintain, and irrigate (if necessary) all such Common Area. The

Association may but is not required to, erect and maintain one or more monuments with an entrance sign (the “Entrance Sign”) bearing the name of the Development. The Entrance Sign, if constructed, shall be built in accordance with the applicable governmental standards for signs. Declarant may erect and maintain lighting for the Entrance Sign, landscaping, and other Improvements typically used for an entrance into a residential community.

### 10.12 Shared Beach Access Easement

Declarant establishes a shared beach access easement for the benefit of Lots 10, 11, and 12 in the location as shown on the Map (the “**Shared Beach Access Easement**”). The Shared Beach Access Easement is exclusively for Lots 10, 11, and 12, subject to the Association’s reserved right to enter onto the Shared Beach Access Easement if the Owners of Lots 10, 11, and 12 are not properly maintaining the area along the Shoreline that is subject to the Shared Beach Access Easement (the “**Shared Beach Area**”), or to enforce this provision. The Owners of Lots 10, 11, and 12 shall be responsible for maintaining the Shared Beach Area in good condition, including without limitation, raking leaves, picking up trash, and not leaving chairs, beach toys, sporting equipment, or shade structures on the Shared Beach Area overnight or for a longer period than twelve (12) hours, although a small boat that does not preclude or interfere with other Lot Owners’ access to the beach, or create an unsightly condition, may be allowed to remain indefinitely. The use and maintenance of the Shared Beach Area shall also be subject to further Rules published by the Association, from time to time.

The existing dock structure that currently exists in the Shared Beach Area (“**Existing Dock**”) shall be jointly maintained by the Owners of Lots 10, 11, and 12 for so long as Duke permits the Existing Dock to remain. If Duke requires that the Existing Dock be removed, the Association shall be responsible for such removal. Any improvements to the Existing Dock, if allowed, will be the responsibility of the Owners of Lots 10, 11 and 12. Declarant and the Association make no representations for how long or under what conditions Duke will allow the Existing Dock (or any subsequent improvements) to continue in its current location. The Shared Beach Area is subject to Duke’s reserved easements set forth in Subsection 10.1, and there is no representation or guaranty by Declarant or the Association as to whether the Shared Beach Area will continue to be available to the Owners of Lots 10, 11, and 12 if Duke exercises its reserved easements.

### 10.13 Sight Line Corridor Easement

The rights of Owners to build Improvements on Lots 7-10, inclusive (the “**Affected Lots**”, for purposes of this Subsection), is subject to the sight line corridor easement as shown on the Map (the “**Sight Line Corridor Easement**”). The purpose of the Sight Line Corridor Easement is to preserve views of the Lake for the mutual benefit of all Owners of the Affected Lots. Consequently, Improvements may not be built on the lake side of the Sight Line Corridor Easement unless the applicant Owner can demonstrate, to the satisfaction of the ARC, that such Improvement will not significantly impede or impact views from Improvements constructed (or to be constructed) on any of the other Affected Lots, subject to the review of the ARC in its sole discretion. Requests by Owners to construct gazebos, low decks, or other unobtrusive Improvements to the south of the Sight Line Corridor Easement will be considered by the ARC on a case-by-case basis. The Sight Line Corridor Easement is in addition to the Setback Lines established under Subsection 7.9.

#### 10.14 Pathway Easement

Declarant establishes an easement (the “**Pathway Easement**”) consisting of an area which is up to four (4) feet in width located within approximately ten (10) feet of the 800’ MSL contour on Lots 1-12, and including such additional access to individual Lots as may be needed for equipment necessary to construct a path within approximately ten (10) feet of the 800’ MSL contour. Declarant and/or the Association, may, in its sole discretion, choose to develop a path within the Pathway Easement for the exclusive use and benefit of the Owners of Lots 1-12 in the Development, Declarant, and the Association, the use of which shall be subject to the Rules regarding its use, and subject to approval by Oconee County and/or Duke. Declarant and/or the Association have no obligation to construct a path within the Pathway Easement, but have simply reserved the right to do so.

#### 10.15 Right to Grant Additional Easements

Declarant shall have the right to grant over, under, across and upon the Common Areas until conveyed to the Association and any portion of the Property owned by Declarant, any easements, rights-of-way, licenses, and other rights in accordance with or to supplement the provisions of this Declaration or as may otherwise be necessary or desirable for the development of Sugar Hill Point. The Board shall have the right to grant such easements, rights-of-way, licenses, and other rights over, under, across and upon the Common Area in accordance with or to supplement the provisions of this Declaration or as may be necessary or desirable for the development of Sugar Hill Point, by the execution, without further authorization, of such grants of easement or other instruments as may, from time to time, be necessary or desirable, in its sole discretion. Such easements may be for the use and benefit of Persons who are not Owners or Members of the Association.

#### 10.16 No Merger of Easements

The easements established shall not be terminated by merger or otherwise, except upon execution and recordation of an instrument specifically terminating any such easement.

### SECTION 11. CONDEMNATION

#### 11.1 Partial Taking Without Direct Effect on Lots

If all or part of the Common Area is taken or condemned by any authority having the power of eminent domain, but no Lot is taken, all compensation and damages shall be paid to the Board in trust for all Owners and their Mortgagees according to their respective interests in such Common Areas. The Association, acting through the Board, shall have the right to act on behalf of the Owners with respect to the negotiation, litigation, and settlement of the issues with respect to the taking and compensation affecting the Common Areas, without limitation on the right of the Owners to represent their own interests with respect to any taking or condemnation involving their Lots. Each Owner, by acceptance of a deed to a Lot, appoints the Association as attorney-in-fact to negotiate, litigate, or settle on such Owner’s behalf all claims arising from the condemnation of the Common Areas. The proceeds shall be used to restore the Common Areas with the excess, if any, to be retained by the Association and applied to future operating expenses

by the Board, in its sole discretion. Nothing prevents Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or Improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Areas. If the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such allocation, the award shall be divided between the affected Owners and the Association, as their interests may appear, by the Board in its sole discretion.

## 11.2 Partial or Total Taking Directly Affecting Lots

If part or all of the Property shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific easements assigned to any Lot) is taken, the Association shall have the right to act on behalf of the Owners with respect to Common Area as provided in Subsection 11.1 and the proceeds shall be payable as outlined in that Subsection. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All compensation and damages for and on account of the taking of any one or more of the Lots or Improvements, fixtures or personal property thereon, shall be paid to the Owners of the affected Lots and their Mortgagees, as their interests may appear. If all of the Property shall be taken such that the Association no longer has reason to exist and shall thereafter be dissolved and/or liquidated, all compensation and damages for and on account of the taking of the Common Areas shall be distributed with the other assets of the Association in accordance with the Articles of Incorporation.

## 11.3 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 SECTION 9.

# SECTION 12. GENERAL PROVISIONS

## 12.1 Enforcement

Declarant wishes to maintain a high standard in the appearance and quality of the Development. Though damages would be difficult to measure, the failure of the Owners and the Association to abide by the terms, covenants and restrictions contained in this Declaration would result in irreparable damage to Declarant and its reputation. Accordingly, Declarant, during the term of this Declaration, as well as the Association or any Owner or Owners, shall have the right, but not the obligation, to enforce all restrictions, conditions, covenants, reservations, easements, liens, and/or 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, conditions, covenants, reservations, easements, liens, and/or charges, either to restrain violation thereof or to recover damages therefor. Each Owner and Declarant shall have all appropriate remedies at law or in equity to enforce against the Association the provisions of this Declaration, the Bylaws, and the Rules adopted by the Board which govern the Development.

In addition, the Association covenants and agrees that it shall exercise its power of enforcement to maintain a first class development in appearance and quality, and that it shall, upon the request of Declarant, enforce any restriction, condition, covenant, reservation, easement, lien or charge contained in this Declaration deemed by Declarant, in its sole discretion, to have been violated, using all remedies available to the Association at law or in equity. Declarant reserves 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 Declarant's sole discretion, to bring such Common Areas within the standards required by Declarant. If Declarant goes upon the Common Areas to perform maintenance and repairs for such purpose, the Association agrees to reimburse Declarant in full for the cost of such maintenance and repairs, upon receipt of a statement for such cost from Declarant. Failure by Declarant, the Association or by any Owner to enforce any restrictions, conditions, covenants, reservations, easements, liens, and/or charges herein contained shall not be deemed a waiver of the right to do so thereafter.

If a dispute, claim, or controversy arises under this Declaration between two parties, the proponent party shall propose an arbitrator. If the other party refuses to agree to the arbitrator within ten (10) days after written request by the proponent party, the Board shall have the exclusive right to appoint the arbitrator. The decision by the arbitrator shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other. The non-prevailing party shall bear the cost of arbitration and attorneys fees incurred by the prevailing party.

## 12.2 Alternative Dispute Resolution and Arbitration

**THIS DECLARATION IS SUBJECT TO ARBITRATION PURSUANT TO SECTION 15-48, ET. SEQ., OF THE SOUTH CAROLINA CODE OF LAWS (THE SOUTH CAROLINA UNIFORM ARBITRATION ACT), AS MODIFIED HEREIN.**

Note: The overriding purpose of this Subsection 12.2 is to allow the parties to elect the least onerous and cost-effective process for resolving disagreements or objections ("**Dispute**" or "**Disputes**") based on the circumstances of the Dispute and the effectiveness of the governing jurisdiction's small claims, superior court and/or arbitration systems, based on advice of their respective counsel. The Board and the Members of the Association are bound to resolve their objections to any matter according to the provisions of this Section.

In the event of a Dispute arising from or in any way connected with this Declaration, or to interpret or enforce any rights under the South Carolina Uniform Arbitration Act, the parties agree to resolve such Disputes as follows.

First, the parties must in good faith, attempt to negotiate their differences for at least thirty (30) days following receipt of a written demand submitted by the aggrieved party outlining the facts of their Dispute. If unsuccessful, negotiation must be followed by at least one good faith attempt to mediate the Dispute with a neutral mediator. If mediation is unsuccessful, the parties shall proceed to binding arbitration, unless the parties unanimously agree to litigate instead as described below. Any mediation or arbitration shall be performed in accordance with the rules of the American Arbitration Association or such other rules to which the parties may mutually agree.



After unsuccessful negotiation, the aggrieved party in any Dispute can elect to submit their Dispute to small claims court in lieu of mediation and arbitration if: a) the amount in controversy is within the state's small claims court limits, and b) the Dispute does not involve a declaration of rights of the parties. Any small claims court decision shall be binding on the parties. All Disputes not submitted to small claims court shall be subject to the alternative dispute resolution procedures described above; however if mediation is unsuccessful, on request of the aggrieved party and unanimous consent of all parties, the aggrieved party may initiate litigation in superior court (or the state's equivalent) in lieu of arbitration. The prevailing party in any small claims court action, binding arbitration, or litigation shall be entitled to an award of reasonable attorneys' fees and costs associated with Dispute resolution and/or litigation.

At all times leading up to and during such negotiation, mediation, or arbitration, the Board shall maintain Association operations as if such Dispute had not occurred, except that disbursement of any funds that are in Dispute, if applicable, shall be held in trust in a bank account in the name of the Association or other designated escrow account, until such time as the Dispute has been resolved.

### 12.3 Severability

Invalidation of any of the provisions contained in this Declaration, or any restriction, condition, covenant, reservation, easement, lien, or charge contained herein by judgment or court order shall not affect any other provisions, which shall remain in full force and effect.

### 12.4 Amendment

In addition to the specific amendment rights reserved or granted elsewhere in this Declaration, until the conveyance of the first Lot, Declarant may amend this Declaration for any reason. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, ordinance, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance on the Lots; (c) to enable any institutional or government lender, purchaser, issuer, or guarantor of Mortgage Loans on the Lots or Homes; (d) to satisfy the requirements of any local, state, or federal agency; (e) to correct scrivener's errors; (f) to make corrections or changes that do not materially adversely affect the title to any Lot; or (g) to make corrections or changes that the Owner of a Lot consents to in writing.

This Declaration may also be amended or modified at any time and from time to time by an agreement signed by Owners holding a majority of votes appurtenant to the Lots which are then subject to this Declaration; provided, however, any amendment to this Declaration must be consented to by Declarant so long as Declarant is the Owner of any portion of the Property in the Development. Any such amendment shall not become effective until either (a) the instrument evidencing such change has been filed of record, or (b) the Secretary of the Association executes a certification in recordable form stating that the amendment has been approved by the requisite number of Owners.

In addition, Declarant may, at Declarant's option, amend this Declaration without obtaining the consent or approval of any other person or entity if the amendments or modifications are correctional in nature and do not involve a change which has a material adverse effect on the rights, duties or obligations specified in this Declaration.

## 12.5 Term

The covenants and restrictions of this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them for a period of thirty (30) years from the date this Declaration is recorded. After that time the covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument is recorded which is signed by a majority of the then Owners of the Lots, plus Declarant for so long as Declarant is the Owner of any Lot in the Development, agreeing to terminate the covenants and restrictions in whole or in part. Provided, however, that the residential use restrictions set forth in 7.1 of this Declaration shall run with the land and be binding upon all parties and all persons claiming under them in perpetuity.

**[BALANCE OF PAGE LEFT INTENTIONALLY BLANK – SIGNATURE OF DECLARANT APPEARS ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the Effective Date.

Signed, sealed and delivered in the presence of:

Thomas Tamrack

First Witness (Signature)

THOMAS TAMRACK

First Witness (Print Name)

Corinne J. Hurley

Second Witness (Signature)

Corinne J. Hurley

Second Witness (Print Name)

DECLARANT

SUGAR HILL POINT DEVELOPMENT, LLC,  
a South Carolina limited liability company

By: Its Members

SP Acquisitions, LLC,  
a South Carolina limited liability company

By: Chris D. Pott

Chris D. Pott

Its: Member

Ashley Darr

First Witness (Signature)

Ashley Darr

First Witness (Print Name)

David Berns

Second Witness (Signature)

David Berns

Second Witness (Print Name)

SUGAR HILL POINT DEVELOPMENT, LLC,  
a South Carolina limited liability company

By: MEMBERS

MRI Sugar Hill, LLC,  
a Florida limited liability company

By: Kim L. Taylor

Kim L. Taylor

Its: Manager

FILED OCONEE COUNTY, SC  
ANNA K. DAVIDSON  
REGISTER OF DEEDS

2016 NOV 17 A 10:44

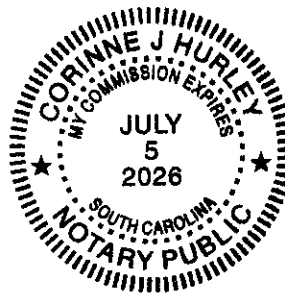
STATE OF SC )  
 )  
COUNTY OF Greenville )

ACKNOWLEDGEMENT

I, Corinne J. Hurley, a Notary Public of the County and State aforesaid, do hereby certify that Sugar Hill Point Development, LLC, a South Carolina limited liability company, by its Member, SPI Acquisitions, LLC, by its Member, Chris D. Pott, appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 16<sup>th</sup> day of November, 2016.

Corinne J. Hurley  
Notary Public for State of SC  
My Commission Expires: 7-5-2026



[NOTARY STAMP OR SEAL]

STATE OF Florida )  
 )  
COUNTY OF Sarasota )

ACKNOWLEDGEMENT

I, Ashley Darr, a Notary Public of the County and State aforesaid, do hereby certify that Sugar Hill Point Development, LLC, a South Carolina limited liability company, by its Member, MRI Sugar Hill, LLC, by its Manager, Kim L. Taylor, appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 14<sup>th</sup> day of November 2016.

Ashley Darr  
Notary Public for State of Florida  
My Commission Expires: 12-19-2017

[NOTARY STAMP OR SEAL]



Ashley Darr  
State of Florida  
My Commission Expires 12/19/2017  
Commission No. FF 78182

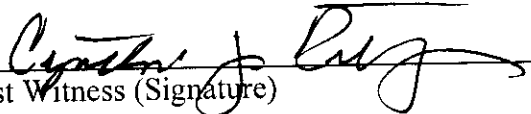
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ANNA K. DAVISON  
REGISTER OF DEEDS  
2016 NOV 17 A 10:44

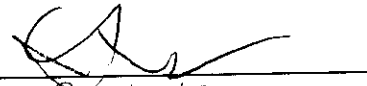
IN WITNESS WHEREOF, the undersigned, as Mortgagee, has consented to this Declaration.

Signed, sealed and delivered in the presence of:

GRANTOR:

SOUTHERN FIRST BANK

  
First Witness (Signature)

By:   
Its: Senior Vice President

Cynthia V. Ritzey  
First Witness (Print Name)

  
Second Witness (Signature)

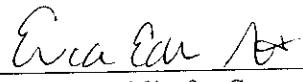
Erica Hockensmith  
Second Witness (Print Name)

STATE OF South Carolina )  
 )  
COUNTY OF Greenville )

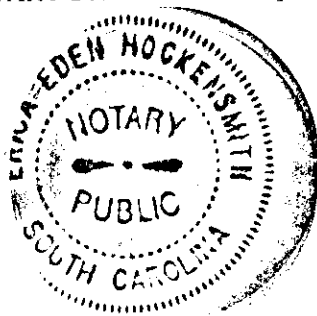
ACKNOWLEDGEMENT

I, Erica Eden Hockensmith, a Notary Public of the County and State aforesaid, do hereby certify that Southern First Bank, a South Carolina Corporation, by Donald L. Kiser, its Senior Vice President appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 15<sup>th</sup> day of November, 2016.

  
Notary Public for State of South Carolina  
My Commission Expires: 01/02/2025

[NOTARY STAMP OR SEAL]



FILED OCONEE COUNTY, SC  
ANNA K. DAVISON  
REGISTER OF DEEDS

2016 NOV 17 10:44  
REGISTER OF DEEDS  
ANNA K. DAVISON  
FILED OCONEE COUNTY, SC 41

**EXHIBIT A**

**ARTICLES OF INCORPORATION FOR  
SUGAR HILL POINT HOMEOWNERS ASSOCIATION, INC.**

**[SEE ATTACHED]**

**STAMP ADDED TO  
CAPTURE IMAGE**

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CAPTURE IMAGE**

STATE OF SOUTH CAROLINA  
SECRETARY OF STATE

CERTIFIED TO BE A TRUE AND CORRECT COPY  
AS TAKEN FROM AND COMPARED WITH THE  
ORIGINAL ON FILE IN THIS OFFICE

ARTICLES OF INCORPORATION  
Nonprofit Corporation - Domestic  
Filing Fee \$25.00

JUL 13 2016

*Mark Hammond*  
SECRETARY OF STATE OF SOUTH CAROLINA

**TYPE OR PRINT CLEARLY IN BLACK INK**

Pursuant to S.C. Code of Laws §33-31-202, the undersigned corporation submits the following information:

1. The name of the nonprofit corporation is Sugar Hill Point Homeowners Association, Inc.

2. The initial registered office (registered agent's address in SC) of the nonprofit corporation is

110 Creekwood Court Street Address  
Greenville Greenville SC 29607  
City County State Zip Code

The name of the registered agent of the nonprofit corporation at that office is

Christopher Pott Print Name

I hereby consent to the appointment as registered agent of the corporation.  
*Christopher Pott*  
Agent's Signature

3. Check "a", "b", or "c" whichever is applicable. Check only one box.
- a.  The nonprofit corporation is a public benefit corporation.
  - b.  The nonprofit corporation is a religious corporation.
  - c.  The nonprofit corporation is a mutual benefit corporation.

4. Check "a" or "b", whichever is applicable.
- a.  This corporation will have members.
  - b.  This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is

110 Creekwood Court Street Address  
Greenville Greenville SC 29607  
City County State Zip Code

160725-0127 FILED: 07/13/2016  
SUGAR HILL POINT HOMEOWNERS ASSOCIATION, INC.  
Filing Fee: \$25.00 ORIG



Mark Hammond

South Carolina Secretary of State

Form Revised by the South Carolina  
Secretary of State, March 2012

6. If this nonprofit corporation is either a **public benefit** or **religious corporation** complete either "a" or "b", whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation. **If you are going to apply for 501(c)(3) status, you must complete section "a."**

a.  Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

If you choose to name a specific 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

\_\_\_\_\_

**OR**

b.  If the dissolved corporation is not described in Section 501(c)(3) of the Internal Code, upon dissolution of the corporation, the assets shall be distributed to one or more public benefit or religious corporations or to one or more of the entities described in (a.) above.

If you chose to name a specific public benefit, religious corporation or 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

\_\_\_\_\_

7. If the corporation is a **mutual benefit corporation** complete either "a" or "b", whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a.  Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b.  Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to

\_\_\_\_\_

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See S.C. Code of Laws §33-31-202(c)).

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



Name of Corporation Sugar Hill Point Homeowners Association.

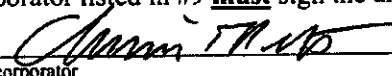
- 9. The name and address of each incorporator is as follows (**only one is required, but you may have more than one**).

Chris Pott	110 Creekwood Court Greenville, SC	29607
Name	Address	Zip Code
Name	Address	Zip Code
Name	Address	Zip Code

- 10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles.

Name (only if named in articles)	Signature of director
Name (only if named in articles)	Signature of director
Name (only if named in articles)	Signature of director

- 11. Each incorporator listed in #9 **must** sign the articles.

Signature of incorporator 

Signature of incorporator \_\_\_\_\_

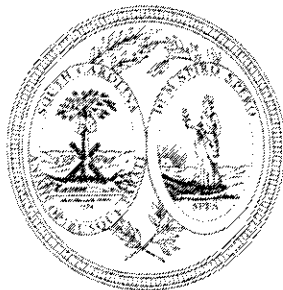
Signature of incorporator \_\_\_\_\_

- 12. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date/time is \_\_\_\_\_

**Filing Checklist**

- Articles of Incorporation (in duplicate)
- \$25.00 made payable to the SC Secretary of State - Political Associations must also submit CL-1 form and additional \$25.00 fee
- Self-Addressed, Stamped Return Envelope
- Return all documents to: South Carolina Secretary of State's Office  
Attn: Corporate Filings  
1205 Pendleton Street, Suite 525  
Columbia, SC 29201

# *The State of South Carolina*



*Office of Secretary of State Mark Hammond*

## **Certificate of Incorporation, Nonprofit Corporation**

**I, Mark Hammond, Secretary of State of South Carolina, Hereby Certify that:**

SUGAR HILL POINT HOMEOWNERS ASSOCIATION, INC., a nonprofit corporation duly organized under the laws of the State of South Carolina on July 13th, 2016, and having a perpetual duration unless otherwise indicated below, has as of the date hereof filed a Declaration and Petition for Incorporation of a nonprofit corporation for religious, educational, social, fraternal, charitable, or other eleemosynary purpose.

Now, therefore, I, Mark Hammond, Secretary of State, by virtue of the authority in me vested by the S.C. Code Ann. §33-31-101 et seq., do hereby declare the organization to be a body politic and corporate, with all the rights, powers, privileges and immunities, and subject to all the limitations and liabilities, conferred by Chapter 31, Title 33, of the S.C. Code of Laws and Acts amendatory thereto.

Given under my Hand and the Great Seal of the State of South Carolina this 29th day of July, 2016.

  
Mark Hammond, Secretary of State

**EXHIBIT B**  
**BYLAWS FOR**  
**SUGAR HILL POINT HOMEOWNERS ASSOCIATION, INC.**  
**[SEE ATTACHED]**

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**BYLAWS FOR  
SUGAR HILL POINT HOMEOWNERS ASSOCIATION, INC.**

ARTICLE 1

Section 1.1 Name. The name of the non-profit corporation is **SUGAR HILL POINT HOMEOWNERS ASSOCIATION, INC.** (the "**Association**").

Section 1.2 Location. The principal office of the Association shall initially be located in Greenville County, South Carolina at 110 Creekwood Court, Greenville, SC, 29607. The registered office of the Association may be, but need not be, identical with the principal office.

ARTICLE 2

DEFINITIONS

All capitalized terms when used in these Bylaws, or any amendment hereto (unless the context shall otherwise require or unless otherwise specified herein or therein) shall have the meanings set forth in that certain Declaration of Covenants, Conditions and Restrictions for Sugar Hill Point executed by Sugar Hill Point Development, LLC, and duly recorded in the Office of the Register of Deeds of Oconee County, South Carolina (the "**Registry**") (as supplemented and amended, from time to time, the "**Declaration**").

ARTICLE 3

MEETINGS OF MEMBERS

Section 3.1 Annual Meetings. The first annual meeting of the Members shall be held sometime during the months of September, October, or November, 2017, as determined by a vote of the Board, and each subsequent regular annual meeting of the Members shall be held on or about the anniversary date of the first annual meeting, or at another reasonable time to be determined by the Board. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held on the first day following which is not a legal holiday.

Section 3.2 Special Meetings. Special meetings of the Members may be called at any time by the President of the Association, by the Board, or upon the written request of the Members who are entitled to vote at least ten percent (10%) of all of the votes appurtenant to the Lots.

Section 3.3 Place of Meetings. All meetings of the Members shall be held at such place within Oconee County, South Carolina, as shall be determined by the Board, from time to time.

Section 3.4 Notice of Meeting. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary of the Association or other person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, not less than ten (10) days nor more than sixty (60) days before the date of such meeting to each Member entitled to vote

there at, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for notice purposes. The notice shall specify the place, date, and hour of the meeting, and in the case of a special meeting, the purpose of the special meeting.

Section 3.5 Classes of Lots and Voting Rights. The voting rights of the Members shall be appurtenant to the ownership of Lots. There shall be two (2) classes of Lots with respect to voting rights:

- 3.5.1 Class A Lots. All Lots shall be Class A Lots, except Class B Lots as defined below. Each Class A Lot shall entitle its Owner(s) to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Class A Lot, all such persons shall be Members and the appurtenant voting rights shall be exercised as they, among themselves, determine. However, in no event shall more than one (1) vote be cast with respect to any Class A Lot. No matter how many Owners there are of a Class A Lot, each Class A Lot is only entitled to one (1) vote.
- 3.5.2 Class B Lots. Class B Lots shall be all Lots owned by Declarant that have not been conveyed to purchasers who are not affiliated with Declarant. Each Class B Lot owned by Declarant shall be entitled to four (4) votes.

Section 3.6 Declarant Control Period. The Class B Membership shall cease and be converted to Class A Membership on the first to occur of the following events:

- 3.6.1 December 31, 2032; or
- 3.6.2 upon the election of Declarant, in its sole discretion, to terminate its Class B Membership and to convert the Class B Lots to Class A Lots. Any such election, to be effective, must be in writing and recorded in the Registry.

The earliest to occur of Section 3.6.1 or Section 3.6.2 shall be referred to as the "**Turnover Date**." After the Turnover Date and for so long as Declarant owns any part of the Property, Declarant shall be a Class A Member.

Section 3.7 Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, twenty percent (20%) of the votes appurtenant to the Lots shall constitute a quorum for any action, except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting subsequent meetings may be called, subject to the same notice requirements of Section 3.4, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 3.8 Proxies. At all meetings of Members, votes may be cast in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association. Every

proxy shall be revocable and shall automatically cease upon conveyance of the applicable Member's Lot.

Section 3.9 Action by Members. Except as provided otherwise in the Articles of Incorporation, the Declaration or these Bylaws, any act or decision approved by a majority vote of all votes entitled to be cast by all classes of Members, present or represented by legitimate proxy at a legally constituted meeting at which a quorum is present, shall be regarded as the act of the Members. Notwithstanding any term or provision herein, the affirmative vote of no less than two-thirds (2/3) of all votes entitled to be cast by all classes of Members shall be required in order for the Association to (a) file a complaint, on account of an act or omission of Declarant, with any governmental agency which has regulatory or judicial authority over the Development or any part thereof, or (b) assert a claim against or sue Declarant.

Section 3.10 Waiver of Notice. Any Member may, at any time, waive notice of any meeting of the Members, in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member at any such meeting shall constitute a waiver of notice by such Member, except where such Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the Members are present at any meeting of the Members, no notice shall be required and any business may be transacted at such meeting.

Section 3.11 Informal Action by Members. Any action which may be taken at a meeting of the Members, may be taken without a meeting if notice setting forth the proposed action to be taken has been provided to all Members entitled to vote in writing, and a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such action at a meeting and filed with the Secretary of the Association to be kept in the Association's minute book.

Section 3.12 Class Voting Prohibited. Class voting is expressly prohibited under these Bylaws.

## ARTICLE 4

### BOARD OF DIRECTORS

Section 4.1 Number. Prior to the Turnover Date, a Board of three (3) Directors shall be appointed by Declarant. The Directors appointed by Declarant do not need to be Members of the Association. The Board shall manage the business and affairs of the Association. At the first annual meeting of the Members following the Turnover Date, a Board of three (3) Directors shall be elected in accordance with Section 4.4 and Section 4.5.

#### Section 4.2 Initial Directors.

- 4.2.1 The initial Board shall be appointed by Declarant. The initial Board shall serve at the election of Declarant from the date upon which the Declaration is recorded in the Office of the Register of Deeds of Oconee County, South Carolina, until such time as their successors are

duty appointed in accordance with Section 4.1, or duly elected and qualified as described in Section 4.4 and Section 4.5.

4.2.2 The names of the Directors who shall serve on the initial Board are as follows:

<u>Name</u>	<u>Address</u>
David Swain	850 River Road Woodruff, SC 29388
Chris Pott	110 Creekwood Ct. Greenville, SC 29607
Mary Swain	850 River Road Woodruff, SC 29388

Section 4.3 Nomination. Subject to Section 4.1, nominations for the first election of the Board after the Turnover Date shall be made from the floor at a meeting of the Members. After such first election of Directors, a Nominating Committee shall make nominations for election to the Board, but nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the Board prior to the annual meeting following the first election of Directors and each annual meeting of the Members thereafter, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4.4 Election. After the Turnover Date, the Board shall be elected at the annual meeting of the Members by written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles of Incorporation, these Bylaws and the Declaration. Subject to the terms of this ARTICLE 4, the persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4.5 Term of Office. Each Director shall hold office for the term for which such Director was elected, or until his death, resignation, retirement, removal disqualification or until his successor is elected and qualified. Subject to Section 4.1, at the first election of Directors following the Turnover Date, the Members shall elect three (3) Directors. The Member who receives the most votes shall serve for a three (3) year term. The Member who gets the next highest number of votes shall serve for a two (2) year term. The Member receiving the next highest number of votes shall serve for a one (1) year term. Votes shall be tallied at the meeting at which they are cast and, in the event of a tie vote, a run-off election shall be conducted at the same meeting. After the initial election of Directors, each Director shall

thereafter serve for a three (3) year term. Any Director may be elected for an unlimited number of successive terms.

Section 4.6 Removal. Subject to Section 4.1, any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a Director, such Director's successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. The Members may elect a Director at any time to fill any vacancy not filled by the remaining members of the Board.

Section 4.7 Compensation. No Director shall receive compensation for any services rendered to the Association. However, any Director may be reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties as a Director. Nothing shall prohibit the Association from compensating a Director, or any entity with which a Director is affiliated, for services or supplies furnished to the Association in a capacity other than as a Director pursuant to a contract or agreement with the Association, provided that such Director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the Board of Directors, excluding the interested Director.

## ARTICLE 5

### MEETINGS OF DIRECTORS

Section 5.1 Regular Meetings. Meetings of the Board shall be held on a regular basis as often as the Board sees fit, but no less often than annually, on such days and at such place and hour as may be fixed from time to time by resolution of the Board. If the meeting falls upon a legal holiday, then that meeting shall be held at the same time on the next day that is not a legal holiday.

Section 5.2 Special Meetings. Special meetings of the Board shall be held when called by the President of the Association, or by any Director, after not less than three (3) days notice to each Director.

Section 5.3 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 5.4 Informal Action by Directors. Action taken by a majority of the Directors without a meeting is nevertheless Board action if written consent to the action in question is signed by all of the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action so taken.

Section 5.5 Chairman. A Chairman of the Board shall be elected by the Directors and shall preside over all Board meetings until the President of the Association is elected. Thereafter, the President shall serve as Chairman. In the event there is a vacancy in the office of the President, a Chairman shall be elected by the Board and serve until a new President is elected.



Section 5.6 Liability of the Board. The members of the Board shall not be liable to the Members for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The Members shall indemnify, defend and hold harmless each of the Directors against all contractual liability to others arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration or these Bylaws. The Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent that they are also Members.

## ARTICLE 6

### POWERS AND DUTIES OF THE BOARD

Section 6.1 Powers. The Board, for the benefit of the Members, shall have the following specific powers and rights (without limitation, however, with respect to any other powers and rights which the Board may possess under South Carolina law or under the Declaration):

- 6.1.1 To adopt and publish rules and regulations governing the use of the Common Areas and facilities and the personal conduct of the Members and their families, guests and invitees while on the Property ("**Rules**"), and to establish Special Individual Assessments for the infraction or violation of the Rules or non-payment of Assessments, as more particularly described in Section 5.6 of the Declaration;
- 6.1.2 To suspend any Member's voting rights and right to use the Common Areas during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended (after notice and hearing) for a period not to exceed sixty (60) days for infraction or violation of published Rules;
- 6.1.3 To exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Members by other provisions of these Bylaws, the Articles of Incorporation, or the Declaration;
- 6.1.4 To declare the office of a Director to be vacant in the event such Director is absent from three (3) consecutive regular meetings of the Board;
- 6.1.5 To employ a Manager, an independent contractor, or such other employee(s) as the Board deems necessary, and prescribe their duties;
- 6.1.6 To adopt Architectural Guidelines, as defined in Section 1.3 of the Declaration, and to appoint the members of the Architectural Review Committee (or ARC), as defined in Section 1.4 of the Declaration;

- 6.1.7 To grant all necessary easements and rights-of-way upon, over, under and across the Common Areas when it deems such action to be necessary and appropriate, including, but not limited to, easements for the installation and maintenance of electrical, telephone, cablevision, water, sanitary sewer and other utilities or drainage facilities, provided, however, until such time as Declarant no longer owns any portion of the Property, the Board may not grant such an easement or right-of-way without the prior written approval of Declarant;
- 6.1.8 To appoint and remove all officers, agents and employees of the Association, prescribe their duties, set their compensation (if any), and require such security or fidelity bonds only as the Board determines is appropriate in the exercise of its reasonable discretion;
- 6.1.9 To enter into agreements or contracts with utility companies with respect to utility installation, consumption and service matters relating to the Common Areas and/or the Association;
- 6.1.10 To enter into agreements or contracts with builders regarding the construction of Improvements on Lots located in the Development;
- 6.1.11 To retain the services of legal, accounting, engineering, architectural, landscaping, or other professional firms;
- 6.1.12 To employ or retain the services of architects, engineers, landscape designers, attorneys, or other qualified professionals to advise the Association;
- 6.1.13 To maintain contingency reserves for the purposes set forth in the Declaration;
- 6.1.14 To enforce the provisions of the Declaration and any Additional or Supplemental Declaration and any Rules established by the Board, as provided in the Declaration;
- 6.1.15 To levy Assessments as more particularly set forth in the Declaration; and
- 6.1.16 To take any and all other actions, and to enter into any and all other agreements, as may be necessary for the fulfillment of its obligations under the Declaration or these Bylaws.

Section 6.2 Duties. The Board, for the benefit of the Members, shall have the following specific duties (without limitation of other duties the Board may have):

- 6.2.1 To maintain current copies of the Declaration, these Bylaws, the Rules, and the Architectural Guidelines concerning the Development, as well as Association books, records and financial statements, available for

inspection upon reasonable notice and during normal business hours by all Owners, Mortgagees, and insurers and guarantors of Mortgages that are secured by Lots:

- 6.2.2 To supervise all officers, agents, and employees of the Association to ensure that their duties are properly performed;
- 6.2.3 As more fully provided in the Declaration:
  - 6.2.3.1 To set the amount of the Assessments;
  - 6.2.3.2 To send written notice of each Assessment to every Owner thirty (30) days before the due date of the Assessment; and
  - 6.2.3.3 To foreclose the lien against any Lot for which Assessments are not paid or to bring an action at law against the Owner personally obligated to pay the same;
- 6.2.4 To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid, which certificate shall be conclusive evidence of such payment;
- 6.2.5 To procure and maintain adequate liability insurance covering the Association and its Directors and officers and adequate hazard insurance on the Common Area or other property owned by the Association, all in accordance with the Declaration;
- 6.2.6 To cause all officers or employees that have fiscal responsibilities to be bonded, if the Board deems appropriate in the exercise of its reasonable discretion, in accordance with the Declaration;
- 6.2.7 To maintain or cause to be maintained the Common Areas (including the upkeep and maintenance of associated Improvements) in accordance with the Declaration; and
- 6.2.8 To own and maintain the Private Drive and Private Driveway (including any swales and medians) to the standard of maintenance required by Oconee County.

## ARTICLE 7

### OFFICERS AND THEIR DUTIES

Section 7.1 Officers. The officers of the Association shall be a President, a Vice President, a Secretary, a Treasurer, and such other officers as the Board may, from time to time, by resolution create.

Section 7.2 Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

Section 7.3 Term. The Board shall elect each officer of the Association and each shall hold office for one (1) year or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies.

Section 7.4 Special Appointment. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 7.5 Resignation and Removal. The Board may remove any officer from office with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified, and the acceptance of such resignation shall not be necessary to make it effective.

Section 7.6 Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.7 Multiple Offices. The same person may hold the offices of Secretary and Treasurer. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 7.4.

Section 7.8 Compensation. No officer shall receive compensation for any services rendered to the Association, other than services that the Board may approve from time to time under a separate written contract. However, any officer may be reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties as an officer.

Section 7.9 Duties. The duties of the officers are as follows:

7.9.1 President - The President shall be the chief executive officer of the Association and, subject to the control of the Board, shall supervise and control the management of the Association. The President shall perform the following duties: (a) preside at all meetings of the Board, (b) see that orders and resolutions of the Board are carried out; (c) sign all leases, mortgages, deeds and other written instruments; and (d) co-sign all checks and promissory notes.

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

7.9.3 Secretary - The Secretary shall perform the following duties: (a) record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, (b) keep the corporate seal of the

Association and affix it on all papers requiring the corporate seal; (c) serve notice of meetings of the Board and of the Members; (d) keep appropriate current records showing the Members of the Association, together with their addresses; and (e) perform such other duties as required by the Board.

- 7.9.4 Treasurer - The Treasurer shall perform the following duties: (a) receive and deposit in appropriate bank accounts all monies of the Association; (b) disburse such funds as directed by resolution of the Board; (c) sign all checks and promissory notes of the Association; (d) keep proper books of account; and (e) prepare an annual budget and a statement of income and expenditures to be presented to the Members at their regular annual meeting.

## ARTICLE 8

### COMMITTEES

Subject to Section 4.3, the Board shall appoint a Nominating Committee and shall also appoint the Architectural Review Committee, as set forth in Section 6.1.6. In addition, the Board shall appoint other committees as it deems appropriate, from time to time, in carrying out its purposes.

## ARTICLE 9

### BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, upon reasonable notice and during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and these Bylaws shall be available for inspection by any Member at the principal office of the Association.

## ARTICLE 10

### ASSESSMENTS

As more particularly described in the Declaration, each Member is obligated to pay Assessments to the Association. Any Assessments that are not paid when due shall be delinquent. If an Assessment is not paid by its due date, the Assessment shall bear interest at the maximum rate then permitted under South Carolina law. Any late charges, costs of collection and reasonable attorneys' fees related to any such delinquent Assessment may be added to the amount of such Assessment. No Member may waive or otherwise escape liability for payment of Assessments by non-use or abandonment of its Lot.

ARTICLE 11

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words SUGAR HILL POINT HOMEOWNERS ASSOCIATION, INC. - 2016 - S.C.

ARTICLE 12

AMENDMENTS

Section 12.1 Procedure for Amendment. Subject to the limitations hereinafter contained, the Articles of Incorporation and these Bylaws may be amended or modified at any time by a vote of no less than a majority of all votes entitled to be cast by the Members, which vote is taken at a duly held meeting of the Members at which a quorum is present, all in accordance with these Bylaws. Provided, however, if a majority of all votes entitled to be cast by the Members cannot be obtained at such a meeting, then the Articles of Incorporation and these Bylaws may be amended by obtaining the vote of a majority of all votes present at a duly held meeting of the Members at which a quorum is present and by, within ninety (90) days of such vote, obtaining written consent to such amendment by Members holding a sufficient number of votes to comprise, along with such voting Members, a majority of all votes entitled to be cast by the Members. Further provided, that any amendment or modification to the Articles of Incorporation and these Bylaws must be consented to by Declarant so long as Declarant is the Owner of any Lot or other portion of the Property, which consent Declarant may grant or withhold in its sole discretion. In addition, Declarant, as Class B Member, without obtaining the approval of any other Member or any other Owner or Owners, may make amendments or modifications to the Articles of Incorporation and these Bylaws for any of the following reasons: (a) to correct scrivener's errors; (b) to make changes which are correctional in nature and do not materially and adversely affect the rights, duties or obligations of any Members; or (c) apply only to the portions of the Property then owned by Declarant. Any amendment or modification effected pursuant to this Section 12.1 shall become effective with respect to these Bylaws when adopted by the Board, provided, however, such an amendment or modification in lieu of being executed by the Members voting for such amendment or modification, may contain a certification of the Secretary of the Association stating that the amendment or modification has been voted on and approved by the requisite number of votes of the Members, as provided in this Section 12.1, and when with respect to the Articles of Incorporation any amendment or modification is filed of record in the Office of the South Carolina Secretary of State.

Notwithstanding anything in this Section 12.1 to the contrary, Declarant, as the Class B Member, may at its option, amend the Articles of Incorporation and these Bylaws without obtaining the consent or approval of any other person or entity if the amendments are correctional in nature and do not involve a change which has a material adverse affect on the rights, duties, or obligations specified in these Bylaws or the Articles.

Section 12.2 Resolution of Conflict. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## ARTICLE 13

### MISCELLANEOUS

The fiscal year of the Association shall be the calendar year and shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year, which shall begin on the date of incorporation.

## ARTICLE 14

### INDEMNIFICATION OF DIRECTORS AND OFFICERS

Neither Declarant, nor any Member, nor the Board, nor the Association, nor any officers, Directors, agents or employees of any of them shall be personally liable for debts contracted for or otherwise incurred by the Association or for a tort of another Member, whether or not such other Member was acting on behalf of the Association or otherwise. Neither Declarant, nor the Association, nor their Directors, officers, agents or employees shall be liable for any incidental or consequential damages for failure to inspect any portion of the Common Area or Improvements or for failure to repair or maintain the same. Declarant, the Association or any other person, firm or entity making such repairs or maintenance shall not be liable for any personal injury or other incidental or consequential damages caused by any act or omission in the repair or maintenance of any portion of the Common Area and/or Improvements.

The Association shall, to the extent permitted by applicable law, indemnify and defend all members of the Board from and against any and all loss, cost, expense, damage, liability, claim, action or cause of action arising from or relating to the performance by the Board of its duties and obligations, except for any such loss, cost, expense, damage, liability, claim, action, or cause of action resulting from the gross negligence or willful misconduct of the person(s) to be indemnified.

The Association shall indemnify (a) any Director or officer of the Association, (b) any former Director or officer of the Association, (c) any member of the Architectural Review Committee, and (d) any person who serves at the request of the Association as a director or officer of another entity against expenses (including reasonable attorneys' fees) or liabilities actually and reasonably incurred by him or her in connection with the defense of or as a consequence of any threatened pending or completed action, suit or proceeding in which he or she is made a party or was (or is threatened to be made) a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for gross negligence or willful misconduct in the performance of a duty.

The indemnifications provided herein shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any statute, bylaw, agreement, vote of Members or any disinterested Directors or otherwise and shall continue as to any person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors, and administrators of such person.

The Association may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Association, or is or was serving at the Association's request as a director, officer, employee or agent of another entity, against any liability asserted against him and incurred by him in such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

The Association's indemnity of any person who is or was a Director, officer, employee or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another entity, shall be reduced by any amounts such person may collect as indemnification (i) under any policy of insurance purchased and maintained on his behalf by the Association, or (ii) from such other entity.

Nothing contained in this ARTICLE 14, or elsewhere in these Bylaws, shall operate to indemnify any Director or officer if such indemnification is for any reason contrary to any applicable state or federal law.