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**THIS AGREEMENT IS SUBJECT TO ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET SEQ., CODE OF LAWS OF SOUTH CAROLINA, 1976 (AS AMENDED) OR IF IT IS DEEMED NOT TO APPLY, PURSUANT TO THE FEDERAL ARBITRATION ACT, TITLE 9, SECTION 1 ET. SEQ. UNITED STATES CODE (AS AMENDED).**

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

**FOR THE GARDENS AT WHITNEY LAKE  
PHASE 2A**

**July 10, 2012**

**Charleston County, South Carolina**

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FOR THE GARDENS AT WHITNEY LAKE  
PHASE 2A**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR THE GARDENS AT WHITNEY LAKE PHASE 2A (this "**Declaration**") is made on the date hereinafter set forth by **SOUTHEASTERN RECAPITALIZATION GROUP, LLC**, a South Carolina limited liability company, having a mailing address of 2743 Perimeter Parkway, Building 100, Suite 370, Augusta, Georgia 30909 (together with its successors and assigns, the "**Declarant**"), and is joined by **THE GARDENS AT WHITNEY LAKE PHASE 2A HOMEOWNERS ASSOCIATION, INC.**, a South Carolina nonprofit corporation (hereinafter referred to as the "**Association**")

**WITNESSETH:**

**WHEREAS**, the Declarant is the owner of certain real property located in the City of Charleston, Charleston County, South Carolina, which real property is more particularly described on Exhibit A (the "**Property**"); and

**WHEREAS**, the Declarant intends to for approximately eighty three (83) single family homes to be developed on the Property, which shall be submitted to the plan and operation of this Declaration; and

**WHEREAS**, the Declarant wishes to accomplish the following objectives for its benefit and the benefit of owners of property in The Gardens at Whitney Lake Phase 2A (as hereinafter defined) by the imposition of the covenants, conditions, restrictions and easements set forth herein:

(a) to maintain the value and the residential character and integrity of The Gardens at Whitney Lake Phase 2A community;

(b) to preserve the quality of the natural amenities of The Gardens at Whitney Lake Phase 2A community;

(c) to prevent any owner or any other persons from building or carrying on any other activity in The Gardens at Whitney Lake Phase 2A community to the detriment of any other

owner in The Gardens at Whitney Lake Phase 2A;

(d) to keep property values in The Gardens at Whitney Lake Phase 2A high, stable and in a state of reasonable appreciation; and

**WHEREAS**, as hereinafter provided in this Declaration, the Declarant has retained and reserved the right, privilege and option to submit to the provisions of this Declaration at a later time and from time to time, as a part of The Gardens at Whitney Lake Phase 2A community, Added Property, as defined in the Master Declaration; and

**WHEREAS**, in addition to any other covenants, easements, instruments, agreements and/or other matters to which the Property is subject, the Property is subject to: (1) the Declaration of Covenants, Conditions and Restrictions for The Gardens of Whitney Lake Association made by the Declarant's predecessor as in title to the Property, and with The Gardens of Whitney Lake Association, Inc., a South Carolina nonprofit corporation (the "**Master Association**"), dated the March 9, 2006, and recorded March 9, 2006, in the Register of Mesne Conveyances Office for Charleston County in Book W 575, Page 793 (the "**Master Declaration**"); (2) a 30' right-of-way easement granted from Jean L. Redding, Ann L. Green and Ann Green Chapman to South Carolina Electric & Gas Company dated November 28, 1988, and recorded November 30, 1988, in the Register of Mesne Conveyances Office for Charleston County in Book Y 179, Page 733; (2) a 5' right-of-way easement granted from Jean L. Redding, Ann L. Green and Ann Green Chapman to Commissioners of Public Works of the City of Charleston, South Carolina dated May 18, 1989, and recorded June 2, 1989, in the Register of Mesne Conveyances Office for Charleston County in Book X 184, Page 387; (3) a right-of-way easement granted from Jean L. Redding, Ann L. Green and Ann Green Chapman to South Carolina Electric & Gas Company dated August 2, 1989, and recorded October 25, 1989, in the Register of Mesne Conveyances Office for Charleston County in Book F188, Page 496; (4) a 30' right-of-way easement granted from Jean L. Redding, Ann L. Green and Ann Green Chapman to South Carolina Electric & Gas Company dated September 5, 1989, and recorded October 25, 1989, in the Register of Mesne Conveyances Office for Charleston County in Book F 188, Page 498; (5) a right-of-way easement granted from Willie Frazier to South Carolina Electric & Gas Company dated July 30, 1999, and recorded August 10, 1999, in the Register of Mesne Conveyances Office for Charleston County in Book F 332, Page 696; (6) a 20' right-of-way easement granted from Willie Frazier to Berkeley Electric Cooperative, Inc. dated July 17, 2001, and recorded October 23, 2001, in the Register of Mesne Conveyances Office for Charleston County in Book T 385, Page 138; (7) a 15' right-of-way easement granted from Whitney Lake, LLC to Berkeley Electric Cooperative, Inc. dated August 2, 2007, and recorded September 13, 2007, in the Register of Mesne Conveyances Office for Charleston County in Book P 638, Page 226.

**NOW, THEREFORE**, the Declarant hereby declares that all of the Property described on Exhibit A, and any additional property that Declarant, in its sole discretion, sees fit to develop or dedicate, as, by subsequent amendment hereto, may be subjected to this Declaration, shall be held, mortgaged, transferred, sold, conveyed, leased, occupied and used subordinate and subject to the following easements, restrictions, covenants, charges, liens and conditions which are hereby imposed for the purpose of protecting the value and desirability of the Property and

which restrictions, easements, charges, liens conditions and covenants shall touch and concern and run with the title to the Property, and which shall be binding on all parties having any right, title or interest in the Property or any portion thereof. This Declaration also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone or anything who/which purchases, takes or holds any interest in the Property.

## ARTICLE I DEFINITIONS

SECTION 1.1. “*Additional Property*” shall mean and refer to “Added Property” as defined in the Master Declaration and shall mean and refer to the real property located adjacent to, or in the vicinity of, the Property and currently owned or later acquired by Declarant that Declarant reserves the right, privilege and option to submit to the provisions of this Declaration at a later time and from time to time.

SECTION 1.2. “*Annual Assessment*” shall mean and refer to assessments levied in accordance with Section 4.3 hereto.

SECTION 1.3. “*Articles*” shall mean the Articles of Incorporation of the Association, as hereinafter defined. A copy of the Articles is attached hereto as Exhibit B and by reference made a part hereof.

SECTION 1.4. “*Association*” shall mean and refer to The Gardens at Whitney Lake Phase 2A Homeowners Association, Inc., a South Carolina nonprofit corporation, its successors and assigns, whose purpose is to administer the Property in accordance with the provisions of this Declaration.

SECTION 1.5. “*Board*” and/or “*Board of Directors*” shall mean and refer to the Board of Directors of the Association.

SECTION 1.6. “*Bylaws*” shall mean the Bylaws of the Association which establish the method and procedure of its operation. A copy of the Bylaws is attached hereto as Exhibit C, and by reference made a part hereof.

SECTION 1.7. “*Common Area*” shall mean all real property (including the improvements thereon) owned by the Association for the common use and enjoyment of the owners of Lots in The Gardens at Whitney Lake Phase 2A. The Common Area to be owned by the Association is described as follows:

All areas shown and designated as “HOA” on the Plat referenced on Exhibit A, if any, and as may be designated as “Sparkleberry Lane”; “Bell Flower Lane”, “Valley Oak Road”, “Waterleaf Road”, “Petunia Alley”, “Brittlebrush Lane”, “50’ Buffer (Type E)”, “H.O.A. Open Area/Greenway”, “Wetland Buffer”, “20’ Public Storm Drain Easement”, “20’ Public Drain Easement” or “Phase 2A H.O.A. Open Space” on any other plats of any property that may in the future

become subject to this Declaration.

Common Area shall also include the Recreational Facilities defined below.

Common Area shall also mean such property which from time to time is deeded to the Association by Declarant. Common Area may be conveyed subject to all applicable restrictive covenants of Record, and when tendered, title thereto shall be accepted by the Association. Common Area may also include, without limitation, entry features, landscaping, walls, fences, signage, mailbox structures, private streets (if any), street lights, ponds, wetland areas, wetland buffers, walking trails, conservation areas, entryways, planters and other areas that may or may not be deeded to the Association but will be maintained by the Association.

SECTION 1.8. “**Community**” shall mean and refer to The Gardens at Whitney Lake, which shall include The Gardens at Whitney Lake Phase 2A.

SECTION 1.9. “**Community Wide Standards**” shall mean and refer to the standards of conduct, maintenance, or other activity generally prevailing throughout The Gardens at Whitney Lake and throughout the Property, as the same may exist from time to time. Such standards may be more specifically determined by the Board of Directors, subject to the consent of Declarant so long as Declarant owns one or more Lots within the Property.

SECTION 1.10. “**Declarant**” shall mean and refer to Southeastern Recapitalization Group, LLC, a South Carolina limited liability company, as well as its successors and assigns, if Declarant shall make an express conveyance of its rights as developer hereunder to such successor or assign.

SECTION 1.11. “**Declaration**” shall mean this Declaration of Covenants, Conditions, Restriction and Easements for The Gardens at Whitney Lake Phase 2A, as the same may be amended, renewed or extended from time to time in the manner herein provided.

SECTION 1.12. “**The Gardens at Whitney Lake Phase 2A**” shall mean and refer to the approximately thirty six (36) Single Family Homes proposed to be located within the Property.

SECTION 1.13. “**Lease**” shall mean the agreement between an Owner and a lessee for the regular, exclusive occupancy of a Lot and the Home located thereon by any person other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity or emolument.

SECTION 1.14. “**Lot(s)**” shall mean and refer to any separately numbered plot of land shown upon any Recorded map of The Gardens at Whitney Lake Phase 2A, including any similar plots of the Additional Property that may be so designated from time to time by the Declarant, with the exception of the Common Area.

SECTION 1.15. “**Member**” shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 1.16. “**Owner**” shall mean and refer to the Record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 1.17. “**Plat**” shall mean those certain plats entitled as follows:

“FINAL SUBDIVISION PLAT THE GARDENS AT WHITNEY LAKE PHASE 2A JOHNS ISLAND, CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA” dated May 25, 2012, prepared for Blanchard & Calhoun Commercial, prepared by Thomas & Hutton and recorded in the RMC Office for Charleston County on June 6, 2012, in Plat Book L12 at Page 0157:

SECTION 1.18. “**Property**” shall initially mean and refer to the approximately thirty six (36) Lots located in The Gardens at Whitney Lake Phase 2A and other property, if any, described on Exhibit A, and such other property as may hereafter be made subject to this Declaration.

SECTION 1.19. “**Record**,” “**Recording**” and/or “**Recorded**” shall mean and refer to the appropriate recordation or filing of any document in the Register of Mesne Conveyances Office for Charleston County, South Carolina, or such other place which is designated as the official location for recording deeds and similar documents affecting title to real estate. The date of Recording shall refer to that time at which a document, map, or plat is Recorded.

SECTION 1.21. “**Recreational Facilities**” shall mean and refer to such recreational facilities and improvements designated for, and dedicated to, the common use and enjoyment of the Owners of Lots in the Community, whether or not reserved for the exclusive use of the Owners of Lots in the Community, whether or not owned by Declarant and whether or not located within the Community or located within or dedicated to the Common Area, including without limitation, playground areas, picnic areas, ponds, and any clubhouse, changing area, pool or other recreational facilities and improvements, if any. NO REPRESENTATION OR WARRANTY IS MADE BY DECLARANT THAT ANY OR ALL OF THESE RECREATIONAL FACILITIES WILL BE CREATED OR BUILT.

SECTION 1.22. “**Single Family Home**” or “**Home**” shall mean and refer to each single family home developed as a detached, single-family home situate on the Property and shall include the Lot of and on which said Home is situate if title to said Lot is held by the owner of the Home.

SECTION 1.23. “**Special Assessment**” shall mean and refer to assessments levied in accordance with Section 4.4 hereto.

SECTION 1.24. “**Supplemental Declaration**” shall mean and refer to a Recorded instrument which subjects Additional Property to this Declaration pursuant to Article XI and/or

imposes additional restrictions and obligations on the land described in such instrument.

## **ARTICLE II** **PROPERTY RIGHTS**

**SECTION 2.1. OWNERS' EASEMENTS OF ENJOYMENT.** Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to permit the use of and to charge reasonable admission and other fees, including any applicable penalties, for the use of any Recreational Facilities and to impose reasonable limits upon the number of guests who may use these facilities;

(b) the right of the Association to suspend the voting rights and right to use of the Recreational Facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;

(c) the right of the Association and/or Declarant to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer is signed by two-thirds (2/3) of each class of Members and has been Recorded;

(d) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area;

(e) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities thereon. No such mortgage of the Common Area shall be effective unless an instrument agreeing to such mortgage of Common Area is signed by three-fifths (3/5) of each class of Members. Also, so long as there are Class "B" Members, the mortgaging of any Common Area must also be approved by the U.S. Department of Veterans Affairs, if applicable;

(f) the right of the Association to exchange portions of the Common Area with the Declarant for substantially equal areas of the Property for the purpose of eliminating unintentional encroachments of improvements onto portions of the Common Area or any other purpose or reason. As long as there is Class "B" Members, no such exchange of portions of Common Area with the Declarant shall be effective unless an instrument agreeing to such exchange has been approved by the U.S. Department of Veterans Affairs, if applicable;

(g) the right of the Association to grant easements for adjacent property owners, as set forth in Article VIII;

(h) the right of the Association to enter any Home or Lot in order to perform any maintenance, alteration, or repair required herein to be performed by the Association, and the Owner of such Home or Lot shall permit the Association or its representatives to enter for such purpose at reasonable times and with reasonable notice;

(i) the right of the Association or its representatives to enter any Home or Lot in the case of any emergency threatening such Home or Lot or any other Home or Lot for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate;

(j) the easement rights of the Declarant reserved in Article VIII of this Declaration;

(k) notwithstanding anything to the contrary herein, the right of the Declarant and/or the Association to grant to any natural gas utility company an easement or license that is reasonably necessary for the purpose of placing, operating, maintaining, repairing and using any equipment, lines, pipes and/or tanks that directly services any Home located within the Property;

(l) the right of the Declarant and/or the Association to grant any easement, reasonable in size, that is necessary for the construction, placement and/or maintenance of any sidewalks or other such pathways, which the Declarant or Association, in its sole discretion, deems to be in the best interest of the overall Property; and

(m) the right of the Declarant and/or the Association to grant any easement or license, reasonable in size and scope, for any purpose that is reasonably necessary, in the opinion of the Declarant or Association, for the betterment of the Property as a whole.

SECTION 2.2. DELEGATION OF USE. Any Owner may delegate, in accordance with the Bylaws, his rights of enjoyment of the Common Area to the members of his family, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 2.3. LEASES OF UNITS, HOMES AND LOTS. Any Lease shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration, the Articles and the Bylaws of the Association and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the Lease. All Leases shall be in writing. The minimum term of any Lease shall be six (6) months. All Leases properties shall have no more than three (3) vehicles per unit/property. Other than the foregoing, there are no restrictions on the right of any Owner to lease his Home.

**ARTICLE III**  
**MEMBERSHIP AND VOTING RIGHTS; ASSOCIATION POWERS**

SECTION 3.1. MEMBERSHIP. Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

SECTION 3.2. VOTING. The Association shall have two classes of voting membership:



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

Class "B". The Class "B" Member shall be the Declarant and shall be entitled to four (4) votes for each Lot it owns that is subject to this Declaration. The Class "B" membership shall cease and be converted to Class "A" membership on the happening of any of the following events, whichever occurs earlier:

- (a) the date on which the total votes outstanding in the Class "A" membership equal the total votes outstanding in the Class "B" membership; or
- (b) on June 30, 2018; or
- (c) when Declarant elects by written notice to the Association to terminate its Class "B" membership.

SECTION 3.3. ACTION WHEN CLASS "B" MEMBERSHIP CEASES. At such time as the Class "B" membership ceases to exist on the happening of any of the events listed in Section 3.2 above, the Class "B" Member shall have no further liability for the action or inaction of the Association, and the existing Class "A" Members shall, in accordance with this Declaration and the Bylaws, promptly (1) notify all Members entitled to notice of a meeting of the Members, (2) hold a meeting to elect new directors, if necessary, and (3) make sure that the directors appoint corporate officers.

SECTION 3.4. MASTER ASSOCIATION. Each Owner, by acceptance of a deed to a Lot acknowledges and agrees that pursuant to the Master Declaration, all Owners shall be members of the Master Association and shall be subject to the Master Declaration.

SECTION 3.5. PURPOSE OF ASSOCIATION. The Declarant has established the Association for the purpose of exercising powers of (i) owning, maintaining and administering the Common Area, the Recreational Facilities and common facilities; (ii) providing common services; (iii) administering and enforcing the covenants, conditions and restrictions contained herein; and (iv) levying, collecting and disbursing assessments and charges herein created. Further, the Declarant reserves the right to convey to the Association and the Association agrees to accept any or all of its rights and obligations set forth herein. The Association shall be authorized (but not required) to provide the following services:

- (a) clean-up, maintenance, and landscaping of all open spaces and the Common Area, ponds and wetlands to the extent allowed by law owned by Association within the Property;
- (b) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service

- provided by the State and local governments;
- (c) construction, maintenance, landscaping and reconstruction of Recreational Facilities and other improvements within the Common Area;
  - (d) to set up and operate the Architectural Control Committee as provided herein;
  - (e) to construction improvements on open spaces and the Common Area;
  - (f) to provide administrative services including, but not limited to, legal accounting, financial and communication services informing members of activities, notice of meetings, referendums, etc., incident to the above listed services;
  - (g) to provide liability and hazard insurance covering improvements and activities on the open spaces and the Common Area, independently or in collaboration with the Declarant;
  - (h) to provide directors and officers liability insurance for the Association and its duly elected directors and officers;
  - (i) maintenance of all ponds and/or lakes located within the Property;
  - (j) landscaping of common roads and parkways, sidewalks and walking paths within the Property and any common properties or spaces located therein;
  - (k) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;
  - (l) to collect from the Owners, if appropriate, and to assume and pay any expenses, costs or assessments imposed on the Property pursuant to (1) the Master Declaration, (2) the Common Area, (3) the Area of Common Responsibility and (4) any other covenants, instruments and/or agreements to which the Property is subject;
  - (m) to exercise such voting or other rights assigned to the Property subject to this Declaration as set forth in (1) the Master Declaration and (2) any other covenants, instruments and/or other agreements to which the Property is subject;
  - (n) to provide any and all services necessary or desirable (in the judgment of the Board of Directors of the Association) to carry out the Association's obligation and business under the terms of this Declaration.

**ARTICLE IV**  
**COVENANT FOR MAINTENANCE AND ASSESSMENTS**

SECTION 4.1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay (a) to the Association: (i) Annual Assessments or charges; and (ii) Special Assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of ad valorem taxes levied against the Common Area; and (ii) a pro rata share of user fees and assessments for public improvements to or for the benefit of the Common Area if the Association shall default in the payment of either or both for a period of six (6) months as hereinafter provided. The Annual Assessments and Special Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the joint and several obligation of each Owner of such property at the time when the assessment fell due and upon such Owner's successor in title if unpaid on the date of the conveyance of such property. Provided, however, with respect to the Additional Property, Declarant is exempt from the assessment, charge and lien created herein until all or any portion of such Additional Property is added to the Property and subjected to this Declaration, and then only with respect to the portion or portions added to the Property and/or subjected to this Declaration.

SECTION 4.2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Property and in particular for the acquisition, improvement and maintenance of property, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area; the maintenance of water and sewer mains and storm drains in and upon the Common Area; the maintenance of open spaces, roads and streets which have not been accepted for dedication by a public authority, signage, roadway medians and islands (including signage, medians and islands located in dedicated rights-of way), drives and parking areas within the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws; the maintenance of any "sign easement" areas located on any lot, as shown on the Plat; the maintenance of entranceways, landscaping and lighting of the Common Area, road medians and islands and entranceways, the lighting of streets (whether public or private); the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Area, if any; the costs associated with duties of the Architectural Control Committee; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise. The obligation of each Owner of a Lot to pay assessments may not be amended to relieve any Lot Owners or the Association of their obligation to maintain any roads or rights-of-way so long as such roads and rights-of-way remain privately owned. Phase 2A assessments are to maintain common spaces and property available

for enjoyment to all Whitney Lake Owners and exclusive of maintenance/reserve funding of common areas specific and exclusive to multi-family sections elsewhere in the Subdivision.

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

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

SECTION 4.3. ANNUAL ASSESSMENT. Until December 31, 2012, the maximum annual assessment (the "**Annual Assessment**") shall be Four Hundred and Forty and No/100 Dollars (\$440.00) per Lot, and at the Board's option, may be collected ~~monthly, quarterly,~~ semi-annually or annually. The Annual Assessment shall be in addition to Special Assessments levied in accordance with Sections 4.4 below, if any.

(a) The Annual Assessment for the calendar year beginning January 1, 2013, and for each calendar year thereafter shall be established by the Board of Directors by preparation of a budget and assessment of the charges based upon each Lot's pro rata portion of this budget. For each calendar year thereafter, this may be increased by the Board of Directors without approval by the Members.

(b) In the absence of Board action, the Annual Assessment for the calendar year beginning January 1, 2013, and for each calendar year thereafter may be established without limit by an aggregate vote of two-thirds (2/3) of Class "A" and Class "B" Members who are voting in person or by proxy at a meeting duly called for this purpose.

SECTION 4.4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS. In addition to the Annual Assessments authorized above, the Association may levy, in any calendar year, a special assessment (the "**Special Assessment**") for the purpose of defraying in whole or in

part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or to make up any shortfall on the current year's budget, provided that any such assessment shall have the assent of two-thirds (2/3) of the aggregate votes of Class "A" and Class "B" Members who are voting in person or by proxy at a meeting duly called for this purpose. All Special Assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly, semiannual, or annual basis.

SECTION 4.5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 4.3 AND 4.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 4.3 or Section 4.4 shall be sent to all Members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of Members shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. If the required quorum is not present at the second meeting, a third meeting may be called subject to the same notice requirements, and all those present at the third meeting shall constitute a quorum.

SECTION 4.6. RATE OF ASSESSMENTS. Annual Assessments and Special Assessments must be fixed at a uniform rate for all Lots to which they apply and may be collected on a monthly, quarterly, semiannual or annual basis at the Board's option.

SECTION 4.7. DATE AND COMMENCEMENT OF ASSESSMENTS & DUE DATES. The Annual Assessments provided for herein shall commence as to a Lot at such time as it is conveyed to an Owner, pro-rated from January 1 in the year of the date of the sale. Provided, however, notwithstanding anything herein to the contrary, Declarant shall have the option each year of either (i) paying one hundred percent (100%) of the aggregate sum of the Annual Assessment and Special Assessment, as applicable, levied against all Lots owned by Declarant during each calendar year (which Annual Assessment shall be prorated for the period of time during which calendar year the Declarant is Owner of said Lot) or (ii) paying the greater amount of (a) twenty-five percent (25%) of the aggregate sum of the Annual Assessment and Special Assessment, as applicable, levied against all Lots owned by Declarant during each calendar year (which Annual Assessment shall be prorated for the period of time during which calendar year the Declarant is Owner of said Lot), or (b) such amount necessary to fund any difference between the Association's operating expenses and the Annual Assessments collected from Owners other than Declarant. The Declarant's obligation to pay assessments as stated herein shall create a lien against the Declarant's Lots within the Property. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each Annual Assessment period, the Board of Directors shall fix the amount of the Annual Assessment and promptly thereafter the Board of Directors shall cause written notice thereof to be sent to every Owner subject thereto. In the event the Board of Directors shall fail to fix the amount of Annual Assessments as described above, the assessment fixed for the immediately preceding year shall continue in effect until a new

assessment amount is fixed. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

SECTION 4.8. EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION. Any assessment not paid within thirty (30) days after the due date shall become delinquent and shall be subject to a late payment penalty of Ten and No/100 Dollars (\$10.00), and in addition thereto bear interest from the due date at the rate of twelve percent (12%) per annum or the highest rate allowed by law, whichever is lower. The Association may undertake reasonable collection efforts and/or bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of South Carolina for the foreclosures of mortgages, and interest, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot, nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein. The remedies herein provided shall not be exclusive, and the Association may enforce any other remedies to collect delinquent assessments as may be provided by law.

SECTION 4.9. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION. Upon default by the Association in the payment to the governmental authority entitled thereto of any *ad valorem* taxes levied against the Common Area, user fees, or assessments for public improvements to the Common Area, which default shall continue for a period of six (6) months, each Owner of a Lot within the Property shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes, user fees, or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner. This Section 4.9 shall not become applicable until Class "B" Membership ceases to exist.

SECTION 4.10. SUBORDINATION OF THE LIEN TO MORTGAGES. The liens provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in Section 4.9 above. However, the sale or transfer of any Lot which is subject to any such first mortgage pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first

mortgage.

SECTION 4.11. NOTICE OF LIEN. Recordation of this Declaration constitutes Record notice and perfection of any claim of lien for assessment(s), and such lien relates back to the date of filing of this Declaration. No further recordation of any claim of lien is required.

SECTION 4.12. EXEMPT PROPERTY. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of South Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

SECTION 4.13. CAPITAL CONTRIBUTION. Notwithstanding any other provisions of this Declaration, during the time in which the Declarant is a Member (Class "A" or Class "B") of the Association pursuant to this Declaration and the Bylaws, the Declarant (a) may collect a non-refundable contribution to the capital fund of the Association from the initial purchaser of each Lot in the amount of One Hundred Fifty and No/100 Dollars (\$150.00) and (b) shall not be required to prepare a capital budget, set any other capital contribution, or otherwise collect or contribute any amounts for capital reserves. Any capital contribution collected by the Declarant shall not be collected against a mortgagee which takes title to a Lot pursuant to foreclosure.

SECTION 4.14. MASTER ASSOCIATION ASSESSMENTS. Each Owner acknowledges that the assessments and other charges provided for herein include the assessments and other charges provided for in the Master Declaration and may increase or decrease from time to time as determined by the manager of the Master Association. Assessments and all other charges of the Master Association shall be paid directly to the Master Association, and the Association shall not be responsible for collecting such amount on behalf of the Master Association; provided, however, the Association may, in the sole and absolute discretion of the Board, agree in writing to collect such assessments and other charges provided for in the Master Declaration on behalf of the Master Association from all of the Owners of Lots within the Property.

## ARTICLE V **EXTERIOR MAINTENANCE**

SECTION 5.1. SINGLE FAMILY HOME. The vertical boundaries of each Single Family Home Lot are as shown on the applicable subdivision plat Recorded in the RMC Office for Charleston County, South Carolina. Each plot of land constituting a Single Family Home will consist of all land within the Lot, including all structures thereon. All property within The Gardens at Whitney Lake Phase 2A not a part of a Lot will be Common Area maintained by the Association, with the exception of any and all roads which the Declarant dedicates in writing to the public, Charleston County or another appropriate governmental body which formally accepts the maintenance of such roads.

SECTION 5.2. MAINTENANCE OF LOTS AND SINGLE FAMILY HOMES. Each Owner shall maintain his Lot, including all structures, parking areas, landscaping and other improvements thereon, unless such maintenance is the responsibility of the Association pursuant

to this Declaration or other Supplemental Declaration. Each Owner shall be responsible for the exterior maintenance of his Home and Lot, as follows: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, driveways, walks and other exterior improvements. Owners of Lots fronting on any roadway within the Property shall maintain, at the Owner's expense, driveways serving their respective Lot and shall maintain and irrigate, at the Owner's expense, landscaping on that portion of the area, if any, or right-of-way between the Lot boundary and the nearest pavement edge. Any landscaping between a Lot boundary and fences or walls on the Common Area shall be maintained and irrigated by the Owner of the abutting Lot, at the Owner's expense. The Owners performing maintenance of the foregoing areas abutting a Lot shall have no right to plant or remove trees, shrubs or sod from this area without prior approval pursuant to Article VI hereof. Owners of Homes may not block access or maintenance easements within or abutting their Lots, and within such areas only sod is permitted to be planted.

All maintenance required by this Section shall be performed in a manner consistent with the Community Wide Standards. In the event that an Owner neglects or fails to maintain his Lot and/or the exterior of his Home in a manner consistent with the Community Wide Standards, the Association shall have the absolute right to contract for and to perform maintenance as shall be prescribed by the Board of Directors, and for this purpose, the Owner grants unto the Board of Directors, its agents, employees, and all others designated by the Board of Directors, the right to enter upon the property of the Owner for the purpose of completing such maintenance work, all without liability or responsibility, criminal or civil, for trespass or any other action. Provided, however, the Association shall first give written notice to the Owner of the specific items of exterior maintenance or repair the Association intends to perform, and the Owner shall have twenty (20) days from the date of mailing of said notice within which to perform such exterior maintenance. The determination as to whether an Owner has neglected or failed to maintain his Lot and/or Home in a manner consistent with the Community Wide Standards shall be made by the Board of Directors of the Association, in its sole discretion. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article V. Advance notice shall not be required if the Association determines an emergency condition exists. The cost of such work required by the Board of Directors to cure maintenance deficiencies (together with an administrative surcharge equal to ten percent (10%) of such cost) shall be assessed against the Owner and his Lot as a Special Assessment and shall be subject to all lien rights provided herein.

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

The Association, its successors and assigns, agents, members, officers, directors, and employees of any of the foregoing, shall not be liable in any manner to the Owners or any other



party for any type of injury to person or property, including death, arising from action taken or failure to act within the scope of this Declaration or by law, including its own negligence, unless caused by the wanton and willful misconduct or gross negligence of Association.

In the event a Home constructed on a Lot is going to be unoccupied for a consecutive period of one (1) month or longer, the Association may require the Owner to designate a responsible firm or individual to undertake his general maintenance responsibilities, which responsibilities shall include, at a minimum, maintaining exterior appearance, safeguarding the property to prepare for severe weather and repairing the property in the event of any damage therefrom. At the request of the Association, the name(s) and address of such firm or individual must be furnished to the Association.

**SECTION 5.3. INSURANCE ON SINGLE FAMILY HOMES; DAMAGE TO SINGLE FAMILY HOMES.**

(a) **Required Coverage.** By virtue of taking title to a Lot and/or Home subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry homeowners insurance on the Lot(s) and structures constructed thereon, insuring, at a minimum, against windstorm, fire damage and vandalism. In the event an Owner fails to maintain insurance required by this Section, the Association may, but is not obligated to, obtain insurance on behalf of the Owner and assess the Owner and his Lot the cost thereof as a Special Assessment.

(b) **Repair and Reconstruction.** Each Owner of a Lot further covenants and agrees that in the event of a partial loss or damage to a Home, the Owner shall remove all debris within thirty (30) days after the damage or destruction and complete repair or reconstruction of the Home within six (6) months thereafter, subject to force majeure in both instances, in a manner consistent with the original construction (updated for applicable change in building codes) or such other plans and specifications as are approved in accordance with Article VI of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that a Home is damaged to an extent it must be razed to be reconstructed, the Owner of the Lot may decide not to rebuild or not to reconstruct, in which case the Owner, subject to force majeure, shall clear the Lot of all debris within thirty (30) days after the damage or destruction, return the Lot to substantially the natural state in which it existed prior to the beginning of construction, fully sod and provide an underground irrigation system for the Lot and thereafter the Lot shall be maintained in a neat and attractive condition consistent with the Community Wide Standards until such time in the future the Owner desires to construct a Home thereon. In the event a Home is totally destroyed and an Owner determines to rebuild or reconstruct, all debris shall be removed within thirty (30) days after the damage or destruction, and reconstruction shall be completed within six (6) months thereafter, subject to force majeure in both cases. Each Owner agrees to provide the Association with proof of insurance as outlined in this Section if requested.

**ARTICLE VI**  
**ARCHITECTURAL CONTROL**

SECTION 6.1. IMPROVEMENTS. No building, fence, wall, post, patio, deck, lighting, walk, driveway, banners, flags, flag poles, signs, antenna or other structure or planting or landscaping shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein, including, without limitation, any plantings or landscaping, be made until the plans and specifications showing the nature, kind, shape, height, materials, colors, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) or more members to be initially appointed by the Declarant for a term not to exceed three (3) years (hereinafter referred to as the “*Architectural Control Committee*”). Refusal of approval of plans, location or specifications may be based upon any ground, including purely aesthetic conditions, which in the sole and uncontrolled discretion of the Architectural Control Committee shall seem sufficient. The above notwithstanding, the Declarant, its successors or assigns, shall have the right to appoint one (1) member of the Architectural Control Committee until it divests itself of all Lots within the Property (including Lots located on any Additional Property or annexed property). Upon the divestiture of all Lots, unless the Declarant shall elect to do so sooner, the Board of Directors or Architectural Control Committee of the Association shall assume sole responsibility of the rights of approval.

SECTION 6.2. PROCEDURES.

(a) Any person desiring to make any improvement, alteration or change described in Section 6.1 above shall submit a application along with a \$250.00 refundable compliance deposit, two (2) copies of the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Architectural Control Committee which shall evaluate such plans and specifications in light of the purpose of this Article VI. Additionally, any person desiring to make any improvement, alteration or change shall be responsible for compliance with any applicable municipal zoning ordinance.

(b) Upon approval, one (1) copy of all plans and related documents bearing such approval, in writing, shall be returned to the applicant submitting the same. Approval for use in connection with any Lot of any plans and specifications shall not be deemed a waiver of the Architectural Control Committee’s right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot. Approval of such plans and specifications relating to any Lot, however, shall be final as to that Lot, and such approval may not be reviewed or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

(c) Neither Declarant, nor any other member of the Architectural Control Committee, shall be responsible or liable in any way for any defects in any plans or specifications approved by the Architectural Control Committee, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Control Committee. FURTHER, NEITHER DECLARANT, NOR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE SHALL BE LIABLE IN DAMAGES TO ANYONE BY REASON

OF MISTAKE IN JUDGMENT, NEGLIGENCE, MISFEASANCE, MALFEASANCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS OR SPECIFICATIONS OR THE EXERCISE OF ANY OTHER POWER OR RIGHT OF THE ARCHITECTURAL CONTROL COMMITTEE PROVIDED FOR IN THIS DECLARATION. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS TO THE ARCHITECTURAL CONTROL COMMITTEE FOR APPROVAL AGREES, BY SUBMISSIONS OF SUCH PLANS AND SPECIFICATIONS, AND EVERY OWNER OF ANY LOT AGREES, THAT HE WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, THE ASSOCIATION, ITS BOARD MEMBERS OR OFFICERS, OR ANY MEMBER OF THE ARCHITECTURAL CONTROL COMMITTEE, TO RECOVER ANY SUCH DAMAGES AND HEREBY RELEASES, REMISES, QUITCLAIMS, AND COVENANTS NOT TO SUE FOR ALL CLAIMS, DEMANDS, AND CAUSES OF ACTION ARISING OUT OF OR IN CONNECTION WITH ANY LAW WHICH PROVIDES THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS, AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

## **ARTICLE VII** **USE RESTRICTIONS**

**SECTION 7.1. RESIDENTIAL USE OF PROPERTY.** All Lots shall be used for single-family, residential purposes only, and in accordance with all applicable zoning regulations, including but not limited to the City of Charleston Neighborhood District Guidelines.

**SECTION 7.2. SETBACKS AND BUILDING LINES.** Each dwelling which shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback lines required by the City of Charleston and/or Charleston County as shown in more detail on the Plat. The specific placement of each dwelling on a Lot must be approved in writing by the Architectural Control Committee before commencement of lot clearing preparatory to construction unless either a variance shall have been granted by Declarant or Declarant shall have amended the Plat. In no event shall any dwelling be erected and located upon any such Lot in a manner which violates the requirements and provisions of any applicable Charleston County zoning ordinances and/or subdivision regulations. Unless written approval is granted by the Architectural Control Committee and any applicable governmental agencies, no building shall be located on any Lot within any setback area.

**SECTION 7.3. WALLS AND FENCES.** No fence or wall shall be erected, placed, or altered on any Lot nearer to any street than said minimum building setback line unless the same be a retaining wall of masonry construction which does not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced, or stabilized, except that this restriction shall not apply to fences or walls which have been approved by the Architectural Control Committee pursuant to Article VI above. The exposed part of retaining walls shall be made of clay, brick, natural stone, stucco, railroad ties, or veneered with brick or natural stone. Chain link and barb wire fences are prohibited except when the Architectural Control Committee gives written approval. All fences must have Architectural Control Committee (ACC) written approval. Further more:

- a.. Fences are to be constructed of cedar, redwood or pressure treated pine. No vinyl, wrought iron or chain-link fences are allowed.
- b. Fences are to remain “natural” and may not be painted. Clear coats or sealants are allowed and encouraged.
- c. Fences are to be a standard height of either 48in. and are to follow “the lay of the land.”
- d. Fences on property lines abutting corners or lakes (and possibly including wetlands, wetland buffers, ponds, forested areas, HOA areas or any other areas as determined by the ACC) are to be 48 in. high and are to follow “the lay of the land.”
- e. All 72 in. tall fences are to be shadow box or solid, privacy style (see attached detail).
- f. All 48 in. tall fences are to be a traditional (2-4 in. wide picket with 2-4 in. space between the pickets) picket style (see attached detail).
- g. The crossbeam structure and vertical supports must not be visible from any street or adjacent properties (must face inside toward yard making the outside face the finished side).
- h. Gates must be constructed with material that matches fencing material. Appropriate hardware for gates must be used and maintained in like-new condition.
- i. Picket fences may have a negative scallop and said scallop shall not be lower than one foot below the top of the fence. Privacy fences (72 in. tall fences) may not be scalloped.
- j. Fences are not allowed to be installed in “Ingress/Egress Easements” or “Fence/Landscape Easements.”
- k. Fences may not impede the natural water flow. A fence may not obstruct a drainage ditch, catch basin, drainage swale, storm sewer or storm drain. To fence-in a drainage easement, written approval from the City of North Charleston (in the form of an approved Encroachment Permit) is required. The letter from the City granting permission must be attached to the ACC request form when submitted. If the City of North Charleston or any other applicable municipality or entity is required to access a homeowner’s fenced-in drainage easement, the fence will be removed at the expense of the homeowner and the City/municipality will not be responsible for re-installation of the fence.
- l. Fences are to be installed “right on” the property line, no side yard gaps – no setting inside the property line.
- m. Fences are to extend from the rear property line to between one-third and one-half up the side of the house.
- n. Fences in front yards are prohibited.
- o. If the lot adjacent to your lot already has a fence in place, your fence is required to “butt-up” to the existing fence. Be sure that the existing fence is installed “right on” the property line.
- p. Fence installation must be completed within two weeks after initiation.

**SECTION 7.4. SUBDIVISION OF LOT.** One or more Lots or parts thereof may be combined with adjacent Lots to form a single building Lot when approved, in writing, by the Architectural Control Committee, and, in such event, the building line requirements provided herein shall apply to such Lots as re-subdivided or combined and side line easements as shown

on the Plat shall be moved to follow the new side line so that the easement would run along the newly established side line.

SECTION 7.5. TERRACES, EAVES AND DETACHED GARAGES. For the purpose of determining compliance or noncompliance with the foregoing building line requirements, terraces, stoops, eaves, wing-walls, and steps extending beyond the outside of a structure shall not be considered as a part of the structure, subject to any applicable municipal zoning ordinance or approval. No side yard shall be required for any detached garage or accessory outbuilding which has been approved, in writing, by the Architectural Control Committee; provided, all such detached structures must be to the rear of the main dwelling and must not encroach upon the Lot of an adjacent Owner, subject to any applicable municipal zoning ordinance or approval.

SECTION 7.6. DRIVEWAYS AND ENTRANCE TO GARAGE. To the extent allowed by applicable zoning laws, and with the prior written approval of the Architectural Control Committee, there shall be permitted on each Lot a private enclosed garage for up to two (2) cars, provided the use of such garage does not overcrowd the site, and provided further, that such garage is not used for any activity normally conducted as a business. All driveways and entrances to garages shall be of a material approved by the Architectural Control Committee and in compliance with any applicable governmental regulations.

SECTION 7.7. BUILDING REQUIREMENTS. The heated living areas of the main structure, exclusive of open porches, porte cocheres, garages, carports and breezeways, shall be not less than Twelve Hundred (1200) square feet. The exterior of all structures shall be brick, stucco, hardy plank, wood or any other natural material. No aluminum or vinyl siding will be allowed. Vinyl Roof Soffit and Aluminum Fascia will be allowed.

SECTION 7.8. OBSTRUCTIONS TO VIEW AT INTERSECTIONS. No part of any structure, including without limitation fences, nor the lower branches of trees or other vegetation shall be permitted to obstruct the view at street intersections.

SECTION 7.9. RULES AND REGULATIONS. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space of each Lot and the Common Area. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof or for the violation of any covenants and conditions contained in this Declaration.

SECTION 7.10. DELIVERY RECEPTACLES AND PROPERTY IDENTIFICATION MARKERS. The Architectural Control Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials, and of name signs for such receptacles, as well as property identification markers.

SECTION 7.11. USE OF OUTBUILDINGS AND SIMILAR STRUCTURES. No structure of temporary nature (unless approved in writing by the Architectural Control Committee) shall be erected or allowed to remain on any Lot, and no trailer, utility shed, camper,

shack, tent, garage, barn or other structure of a similar nature shall be used as a residence, either temporarily or permanently. This Section shall not be construed to prevent the Declarant and those engaged in construction activities on the Lots from using sheds or other temporary structures during construction. Notwithstanding the above, party tents or similar temporary structures may be erected for special events with the prior written approval of the Board of Directors of the Association or the Declarant.

SECTION 7.12. COMPLETION OF CONSTRUCTION. The Association shall have the right to take appropriate legal action, whether at law or in equity, to compel the immediate completion of any residence not completed within six (6) months from the date of commencement of construction at any time, except with the written approval of the Architectural Control Committee; provided, however, nothing herein shall prevent Declarant or any builder of homes in The Gardens at Whitney Lake Phase 2A approved by Declarant from using any Lot owned by Declarant or such builder of homes for the purpose of carrying on business related to the development, improvement and sale of property in The Gardens at Whitney Lake Phase 2A; and provided further that, to the extent allowed by applicable zoning laws, private offices may be maintained in dwellings located on any of the Lots so long as such use is incidental to the primary residential use of the dwellings.

SECTION 7.13. LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other small household pets, not to exceed a total of two (2) without the prior written consent of the Board of Directors of the Association or the Declarant, may be permitted in a Home, provided that they are not kept, bred, or maintained for any commercial purposes. However, those pets which are permitted to roam free or, in the sole discretion of the Association, endanger health, make offensive noise, cause unsanitary conditions, or constitute a nuisance or inconvenience to the Owners of other Homes or the owner of any portion of the Property shall be removed upon the written request of the Board of Directors. If the Owner fails to honor such request, the pet may be removed by the Board of Directors. Dogs shall be confined on a leash held by a responsible person at all times whenever they are outside a Home. No dog runs or animal pens of any kind shall be permitted on any Lot, however dogs may be permitted in fenced back yards provided they are not a nuisance and the Board of Directors reserves the right to have the pet removed if the pet is determined a nuisance. All excrement from dogs, or other pets, must be cleaned up by the Owner of such dogs or pets immediately, and the Owner of the dog shall not leave the excrement of the dog or other pet behind for any period of time.

SECTION 7.14. OFFENSIVE ACTIVITIES; DISCLOSURES; ONGOING CONSTRUCTION.

(a) Subject to the terms of Subsections (b) and (c) below, no noxious, offensive or illegal activities shall be carried on upon any Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to the Owners of other Lots within the Property.

(b) Each Owner, by acceptance of a deed to a Lot, hereby acknowledges the following:

(i) The Property is located adjacent to a street thoroughfare that may result in traffic and noise from time to time by vehicular traffic thereon and the same may be a nuisance. Neither the Declarant, nor the Association, nor any of their respective directors, officers, employees, contractors, consultants, shareholders, members, affiliates, assignees, successors, nominees, attorneys or agents, shall be liable to any Owner for any inconvenience or damage sustained by such Owner as a result of any such noise emanating from or in proximity to such street thoroughfares, including, but not limited to, such noise as may emanate from persons using any roadways or walkways adjacent thereto;

(ii) The views from a Lot may change over time due to, among other things, additional development and the removal or addition of landscaping. No view easement, express or implied, will be granted to any Owner in connection with the conveyance of a Lot to such Owner;

(iii) No representations are made regarding the zoning of adjacent property, or that the category to which adjacent property is zoned may not change in the future;

(iv) No representations are made regarding the schools that currently, or which may in the future, serve the Property;

(v) Since, in every neighborhood, there are conditions which different people may find objectionable, it is acknowledged that there may be conditions outside of the Property which an Owner may find objectionable and that it shall be the sole responsibility of the Owners to become acquainted with neighborhood conditions which could affect the Lots and the Property.

(c) In addition, each Owner acknowledges, understands, and covenants to inform its lessees that the Property, including the Lots, and the areas adjacent to the Property are subject to further development and expansion, and therefore, there may be certain inconveniences during any period of construction, and Owner waives all claims with respect thereto. Owner agrees that if Owner or Owner's employees, lessees, invitees, guests, contractors, or agents enter onto any area of construction, they do so at their own risk, and neither the Declarant, a Declarant-related entity, the Association, nor their respective contractors, agents or employees shall be liable for any damage, loss or injury to such persons.

SECTION 7.15. SIGNS. No advertising, signs or billboard shall be erected on any Lot. The Association shall be entitled to enter upon the Lot and remove any such advertising, signs or billboard in violation of this Declaration. This restriction shall not apply to signs used to identify and advertise the Property as a whole, nor to signs for selling Lots and/or Homes, provided such signs are approved by the Board of Directors and/or the Architectural Control Committee. Also, the provisions of this Article VII shall not apply to notices posted in connection with judicial or foreclosure sales conducted with respect to a first mortgages.

SECTION 7.16. AESTHETICS, NATURAL GROWTH & SCREENING;

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

SECTION 7.17. ANTENNAE. No radio or television transmission or reception towers or antennae shall be erected on any Home, or within the Property without the prior written approval of the Architectural Control Committee. In no event shall free standing transmission or receiving towers be permitted. Satellite dishes having a diameter of eighteen inches (18") or under will be allowed with proper screening and prior written approval of the Architectural Control Committee. Notwithstanding the foregoing, no radio or television transmission or reception towers or antennae or satellite dishes shall be visible from the street.

SECTION 7.18. TRAILERS. TRUCKS; SCHOOL BUSES; BOATS; BOAT TRAILERS. No house trailers, mobile homes, school buses, trucks over one (1) ton capacity, commercial vehicles, boats or boat trailers, motor homes, motorcycles, campers, and vans or vehicles on blocks shall be kept, stored or parked overnight either on any street or on any Lot, and no vehicle with exterior commercial equipment, lettering or logos may be parked overnight either on any street or on any Lot, except within enclosed garages or screened from the streets and adjoining lots; provided, however, temporary buildings and other structures shall be permitted during the construction period of the Single Family Homes or as a temporary real estate sales office of Declarant for the sale of Homes. In addition, vehicles without current registration may not be kept, stored or parked on any Lot, but may be kept in garages. Notwithstanding the foregoing, passenger automobiles may be parked in driveways. Cars must be parked in driveways and designated parking areas only, and must not be left on streets even where allowed for on-street parking for more than five (5) consecutive days. The foregoing will not be interpreted or construed or applied to prevent the temporary nonrecurring parking of any vehicle, boat or trailer for a period not to exceed forty-eight (48) hours upon any Lot, and service and delivery vehicles may be parked in the Property during the daylight hours for such period of time as is reasonably necessary to provide service or make a delivery to a Home or the Common Area. Except as provided in Section 7.11 above, no garage, outbuilding or other appurtenant structure shall be used for residential purposes, either temporarily or permanently, nor shall any portion of the Property (except as expressly stated in this Section) be used except for residential purposes incidental or necessary thereto. For purposes of this Section, a vehicle shall be considered "stored" if it is put upon blocks or covered with a tarpaulin and remains on blocks or so covered for five (5) consecutive days without the prior approval of the Board.

SECTION 7.19. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers designed for that purpose. All receptacles or other equipment for the storage or disposal of such waste material shall be kept in a clean and sanitary condition. If such litter or other materials is found on any Lot, the same will be removed by the Lot Owner of such Lot, at the Lot Owner's expense, upon written request of the Association. No trash, garbage or other waste may be placed within the Common Area, except in containers approved



by the Board of Directors.

SECTION 7.20. SEWAGE SYSTEM. Sewage disposal shall be through municipal system or type approved by appropriate State and local agencies.

SECTION 7.21. WATER SYSTEM. Water shall be supplied through municipal system or type approved by appropriate State and local agencies.

SECTION 7.22. UTILITY FACILITIES. Declarant reserves the right to approve the necessary construction, installation and maintenance of utility facilities, including but not limited to water, telephone and sewage systems, which may be in variance with these restrictions.

SECTION 7.23. CHANGING ELEVATIONS. No Lot Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grade of surrounding Lots, unless approved in writing by the Architectural Control Committee.

SECTION 7.24. MODEL HOMES. Declarant, as well as any builder of Homes within the Property, shall have the right to construct and maintain model homes on any of the Lots. "Model Homes" shall be defined as those Homes used for the purpose of inducing the sale of other Homes within the Property.

SECTION 7.25. QUIET ENJOYMENT. No obnoxious or offensive activity shall be carried on or upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

SECTION 7.26. NUISANCE. No activity deemed noxious or offensive by the Board shall be carried on upon any Lot or within any Home or the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to Owners of Lots within the Property as determined by the Board. Examples of such offensive activities shall include, but not be limited to, the origination or emission of any loud or disturbing noise or vibrations, the maintenance of an auto repair site, the maintenance of unsightly outdoor storage or personal property (including toys, motorcycles, or other motor vehicles, tricycles, bicycles, wood piles or other miscellaneous items) on porches, patios, terraces, or yards, or similar unsightly activity not in keeping with the aesthetic character and high level of appearance of the Property.

SECTION 7.27. BUSINESS USE. No trade or business may be conducted in or from any Lot or Home, except that a Owner or occupant residing in a Home may conduct business activities within the Home so long as: (a) the existence or operation of the business activity is not apparent or detectible by sight, sound or smell from outside the Home; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming on the Property who do not reside in the Property or door to door solicitation of residents of the Property and does not constitute a nuisance or hazardous or offensive use or threaten the security or safety of other residents with the Property, as may be determined in the sole discretion of the Board. No garage sale, moving sale, rummage sale or similar activity shall be permitted without the prior written approval of the Board.

The terms "business" and "trade" as used in this Section shall be construed as having their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provisions of goods and services to persons other than the provider's family and for which the provider of services receives a fee, compensation or other form of consideration, regardless of whether: (i) such activity in full or part time; (ii) such activity is intended to or does generate a profit; and (iii) a license is required therefore. Notwithstanding the above, the leasing of a Home shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to its development and/or sale of the Property of Declarant's use of any if the Homes which it owns or may own within the Property, including the operation of a time share or similar program.

SECTION 7.28. WETLANDS, LAKES, AND WATER BODIES. All wetlands, lakes, ponds and streams within the Property, if any, shall be aesthetic amenities only, and no other use thereof, including, without limitation, fishing, boating, hunting, swimming or use of personal floatation devices, shall be permitted without the prior written approval of the Board. The Association shall not be responsible for any loss, damage or injury to any person or property arising out of the authorized or unauthorized use of wetlands, lakes, ponds or streams within the Property. No docks, piers or other structures shall be constructed on or over any body of water within the Property, except such that may be constructed by the Declarant. No pumps shall be placed in any wetlands, lake, pond, or creek for removing water for irrigation purposes, except as approved in writing by the Declarant.

SECTION 7.29. FIREARMS. The discharge of firearms within the Property is prohibited. The term "firearm" included without limitation, B-B guns, pellet guns and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section.

SECTION 7.30. WAIVER OF SETBACKS; BUILDING LINES AND BUILDING REQUIREMENTS. The Architectural Control Committee may, for good cause and subject to appropriate waiver from Charleston County, waive violations of the setbacks and building lines provided for in Section 7.2 and the building requirements provided for in Section 7.7. Such waiver shall be in writing and Recorded. A document executed by the Architectural Control Committee shall be, when Recorded, conclusive evidence that the requirements of Sections 7.2 and Section 7.7 have been complied with. The Architectural Control Committee may also handle violations of set back and boundary line by amending the Plat. Nothing contained herein shall be deemed to allow the Architectural Control Committee to waive violations which must be waived by an appropriate governmental authority.

SECTION 7.31. MICELLANOUS PROHIBITIONS. Portable Basketball goals are allowed in Phase 2A of Whitney Lake and need to be approved by the ARB prior to purchasing. All types of portable basketball goals must be stored inside when not in use. No basketball goals are allowed to outside overnight. Above ground pools are prohibited in Phase 2A of Whitney

Lake. The Association has the right to remove basketball goals and above ground pools at the Owner's expense.

SECTION 7.32. OCCUPANTS BOUND. All provisions of the Declaration, Bylaws, and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and/or invitees of any and all Homes. Every Owner shall cause all occupants of his Home to comply with the Declarations, Bylaws, and rules and regulations adopted pursuant thereto, and shall be responsible for all violations and/or losses to the Common Area and/or property of other Owners caused by any such occupants, guests and/or invitees, notwithstanding the fact that such occupants, guests and/or invitees of such Home are fully liable and may be sanctioned for any violation of the Declarations, Bylaws, and rules and regulations adopted pursuant thereto.

## ARTICLE VIII EASEMENTS

SECTION 8.1. GENERAL EASEMENTS RIGHTS. All of the Property, including Lots, Homes and Common Area, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines and other public utilities and other purposes as shall be established by the Declarant or by its predecessors in title, prior to subjecting the Property to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Area conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property. In addition, there is hereby reserved to the Declarant and its agents and employees and easement and right of ingress, egress, and regress across the Common Area, now or hereafter owned by the Association, for the purpose of construction of improvements within the Property, including the right of temporary storage of construction materials on said Common Area.

So long as the Declarant owns any of the Property, Declarant reserves blanket easements and the right to grant such specific easements over all Homes, Lots and Common Area, as may be necessary in conjunction with the orderly development of the Property or any adjacent property (including without limitation the planning, construction, marketing, leasing, management or maintenance of improvements) for access, construction and maintenance of public or private utilities and storm drainage (whether subsurface or surface). However, no such easement may be located within the area beneath any building located thereon.

All Homes shall be subject to easements for the encroachment of initial improvements constructed on adjacent Homes by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves and walls.

Declarant reserves access easements over all Homes for construction, either for that Home or any adjacent property and easements for the installation of public or private utilities and storm drainage (whether subsurface or surface). All rights and easements reserved under this Declaration shall also be reserved to the assigns and successors in the interest of the Declarant.

SECTION 8.2. UTILITIES AND ROADS. Easements for installation and maintenance of utilities (including cable television service) and drainage facilities are reserved as indicated on Recorded plats. Within these easements no structures, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the drainage easements, or which may obstruct or retard the flow of water through drainage channels in the easements. An easement is hereby established for the benefit of Charleston County (and any other appropriate governmental body, person or firm providing services to the Property under agreement with or at the direction of the Association) over all Common Area as may be reasonably necessary for the setting, removal and reading of water meters, and the maintenance and replacement of water, sewer and drainage facilities and for the fighting of fires and collection of garbage. The Association shall have the power and authority to grant and establish upon, over and across the Common Area such additional easements as are necessary or desirable for the providing of service or utilities to the Common Area. The Declarant shall have the power and authority to grant and establish upon, over and across the Lots such additional easements, and to expand, contract and/or reconfigure any existing easements, as are necessary or desirable for the providing of access, ingress, egress, service or utilities to the Lots. Until such time as the Declarant dedicates the roads to the public and Charleston County or another appropriate governmental body formally accepts the maintenance of such roads in writing, all of the Owners shall have a non-exclusive appurtenant easement over and across: (i) Sparkleberry Lane; (ii) Bell Flower Lane; (iii) Valley Oak Road; (iv) Waterleaf Road; (v) Petunia Alley; and (vi) Brittlebrush Lane for access, ingress and egress to the Lots. Until said roads are dedicated to the public for public use and Charleston County or another appropriate governmental body formally accepts the maintenance of such roads in writing, the Declarant (or the Association if and when Declarant transfers title to such roads to the Association) shall maintain said roads and the associated drainage facilities.

SECTION 8.3. SIGN AND LANDSCAPE EASEMENTS. The Declarant reserves easements for the maintenance of signs and landscaping and lighting surrounding same within the Property. Declarant hereby grants, gives and conveys to the Association a perpetual, non-exclusive easement over any portions of Lots designated as "sign easements" or "landscape easements" to maintain, repair and replace the signs which may be located thereon, as well as the lighting fixtures and any landscaping thereon. The costs of all such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. In addition to the easement granted above as to the portion of Lots designated "sign easements", or "landscaping easements", Declarant hereby gives, grants and conveys to the Association the right of ingress, egress and regress over other portions of such Lots as shall be reasonably necessary to effectuate the purposes stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or part of the Property.

SECTION 8.4. DRAINAGE AND ACCESS EASEMENTS. Easements for the construction and maintenance of drainage and Owner access to the Common Areas are reserved as indicated on recorded plats, including without limitation areas designated as "drainage easements". Within these easements no construction, structures, planting or other material shall

be placed or permitted to remain which may obstruct or interfere with the maintenance of drainage and access to the Common Areas. Declarant reserves a perpetual, non-exclusive easement over any portions of Lots designated as "drainage easements" on the Plat, to effectuate the purposes stated above. The costs of all such maintenance, repair and replacement shall be part of the common expenses of the Association, payable by the Owners as set out in Article IV hereof. In addition to the easement granted above as to the portion of Lots designated "drainage easements", Declarant hereby reserves the right of ingress, egress and regress over other portions of such Lots as shall be reasonably necessary to effectuate the purposes stated above. The easements hereby granted shall run with the land in perpetuity and be binding upon and inure to the benefit of all persons and entities now owning or subsequently acquiring all or part of the Property.

**SECTION 8.5. EASEMENTS FOR ADDITIONAL PROPERTY.** There is hereby reserved in the Declarant, its successors, assigns and successors in title to the Additional Property, for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Property, perpetual, non-exclusive rights and easements for: (i) pedestrian and vehicular access, ingress, egress and parking over, across, within and on all sidewalks, streets, trails, parking facilities and lagoons from time to time located on or within the Common Area or within easements serving the Common Area; (ii) the installation, maintenance, repair, replacement and use of security systems and utility facilities and distribution lines, including without limitation drainage systems, storm sewers and electrical, gas, telephone, water, sewer and cable system lines; and (iii) drainage and discharge of surface water onto and across the Property, provided that such drainage and discharge shall not materially damage or affect the Property or any improvements from time to time located thereon.

Declarant and Declarant's agents may be developing the Additional Property and engaging in other construction activities related thereto. Such construction activities may, from time to time, produce certain conditions on the Property, including, without limitation: (i) noise or sound that is objectionable because of its volume, duration, frequency or shrillness; (ii) smoke; (iii) noxious, toxic, or corrosive fumes or gases; (iv) obnoxious odors; (v) dust, dirt or flying ash; (vi) unusual fire or explosion hazards; (vii) temporary interruption of utilities; and/or (viii) other conditions that may threaten the security or safety of persons within the Property. Notwithstanding the foregoing, the Owners agree that such conditions within the Property resulting from construction activities shall not be deemed a nuisance or discomfort to the Owners and shall not cause Declarant and its agents to be deemed in violation of any provision of this Declaration.

## **ARTICLE IX** **DECLARANT'S RIGHTS**

The right is hereby reserved by Declarant, or its agents, to place and maintain on the Property all Model Homes, sales offices, advertising signs and banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by Declarant. There is also reserved unto Declarant, its agents and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Property for such sales purposes. Declarant also reserves the right to maintain on the Property without charge (a) a general construction office for Declarant's contractors and (b) appropriate

parking facilities for the employees of Declarant's agents and contractors. Declarant's aforesaid reserved rights shall exist at any time Declarant is engaged in the construction, sale or leasing of residences on any portion of the Property or on any land adjacent to the Property and no charge shall be made with respect thereto. Notwithstanding any provision herein to the contrary, the rights and easements created under this Declaration are subject to the right of Declarant to execute all documents and do all other acts and things affecting the Property, which in the Declarant's opinion are required to implement any right of Declarant set forth in this Declaration (including the making of any dedication or conveyance to public use), provided any such document or act is not inconsistent with then existing property rights of any Owner. All rights and easements reserved under this Declaration shall also be reserved to the assigns and successors in interest of the Declarant.

## ARTICLE X DISPUTE RESOLUTION AND LIMITATIONS ON LITIGATION

SECTION 10.1. AGREEMENT TO AVOID COSTS OF LITIGATION AND TO LIMIT RIGHTS TO LITIGATE DISPUTES. The Association, Declarant, all persons subject to the Declaration, and any person not otherwise subject to this Declaration who agrees to submit to this Article X (collectively, the "***Bound Parties***") agree to encourage the amicable resolution of disputes involving the Property in order to avoid the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Property, including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the Bylaws, the Association rules, or the Articles (collectively and singularly, "***Claim(s)***"), except for those Claims authorized in Section 10.2 below, shall be resolved using the procedures set forth in Section 10.3 below, in lieu of filing suit in any court or initiating proceedings before any administrative tribunal seeking redress or resolution of such Claim.

SECTION 10.2. EXEMPT CLAIMS. The following Claims ("***Exempt Claims***") shall be exempt from the provisions of Section 10.3 herein below:

- (a) Any suit by the Association against any Bound Party to enforce the provisions of Article IV;
- (b) Any suit by the Association to obtain a restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article VI and Article VII;
- (c) Any suit between Owners (other than Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under federal law or the laws of the State of South Carolina in the absence of a claim based on the Declaration, Bylaws, Articles or rules if the Association, if the amount in controversy exceeds Five Thousand and No/100 Dollars (\$5,000.00);

- (d) Any suit arising out of any written contract between Owners or between the Declarant and any builder, which would constitute a cause of action under the laws of the State of South Carolina in the absence of a claim based on the Declaration, Bylaws, Articles or rules of the Association; and
- (e) Any suit in which all parties are not Bound Parties.

Any Bound Parties having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section 10.3 below, but there shall be no obligation to do so. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures of Section 10.3 below shall require the approval of the Association.

SECTION 10.3. MANDATORY PROCEDURES FOR ALL OTHER CLAIMS. All claims other than Exempt Claims shall be resolved using the following procedures:

(a) Notice. Any Bound Party having a Claim (“*Claimant*”) against any other Bound Party (“*Respondent*”), other than an Exempt Claim, shall notify each respondent in writing of the Claim (the “*Notice*”), stating plainly and concisely:

- i. The nature of the Claim, including date, time, location, persons involved and Respondent’s role in the Claim;
- ii. The basis for the Claim (i.e. the provisions of the Declaration, the Bylaws, the Articles or rules or other authority out of which the Claim arise);
- iii. What Claimant wants Respondent to do or not to resolve the Claim; and
- iv. That Claimant wished to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(b) Negotiation.

- i. Each Claimant and Respondent (the “*Parties*”) shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.
- ii. Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the Property.

(c) Mediation.

- i. If the Parties do not resolve the Claim through negotiation within thirty

(30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("**Termination of Negotiations**"), Claimant shall have thirty (30) additional days within which to submit the Claim to mediation under the auspice of any dispute resolution center or other such independent agency providing similar services in Charleston County, specifically including, but not limited to the National Association of Realtors Alternative Dispute Resolution System (NAR ADR) and in accordance with generally accepted mediation procedures.

- ii. *If Claimant does not submit the Claim to mediation within thirty (30) days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim;* provide, nothing herein shall release or discharge Respondent from any liability to persons not a Party to the foregoing proceedings.
- iii. If the Parties do not settle the Claim within (30) days after submission of the matter to the mediation process or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("**Termination of Mediation**"). The Termination of Mediation notice shall set forth when and where the Parties met, that the Parties are at an impasse, and the date that mediation was terminated.
- iv. Each Party shall, within ten (10) days of the Termination of Mediation, make a written offer of settlement in an effort to resolve the Claim, The Claimant shall make a final written settlement demand ("**Settlement Demand**") to the Respondent. The Respondent shall make a final written settlement offer ("**Settlement Offer**") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(d) Final and Binding Arbitration.

- i. If the Parties do not agree in writing to accept either the Settlement Demand, the Settlement Offer, or otherwise resolve the Claim within fifteen (15) days of the Termination of Mediation, the Claimant shall have fifteen (15) additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in the S.C. Arbitration Statute or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provide, nothing herein shall release or discharge Respondent from any liability to persons not a Party to the foregoing proceedings.



- ii. This Subsection (d) is an agreement of the Bond Parties to arbitrate all Claims, except Exempt Claims and is specifically enforceable under the applicable arbitration laws of the State of South Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

SECTION 10.4. ALLOCATION OF COSTS OF RESOLVING CLAIMS.

(a) Each Party shall bear its own cost incurred prior to and during the proceedings described in Section 10.3(a), (b) and (c) above, including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section 10.3(c) above.

(b) Each Party shall bear its own costs (including attorney's fees or other representation) incurred after the Termination of Mediation under Section 10.3(c) above and shall share equally in the costs of conducting the arbitration proceeding (collectively, the "*Post Mediation Costs*"), except as otherwise provided in Section 10.4(c) below.

(c) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add such Claimant's Post Mediation Costs to the Award, such Costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than Respondent's Settlement Offer to that Claimant shall award to such Respondent its Post Mediation Costs, such Costs to be borne equally by all such Claimants.

SECTION 10.5. ENFORCEMENT OF RESOLUTION. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section 10.3 above and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with the terms of any Award following arbitration, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award, without the need to again comply with the procedures set forth in Section 10.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorney fees and court costs.

SECTION 10.6. COMMENCEMENT OF LITIGATION. Any litigation by the Association other than Exempt Claims shall require an affirmative vote of 2/3 of the Members of the Association prior to the institution of such litigation.

**ARTICLE XI**  
**GENERAL PROVISIONS**

SECTION 11.1. ENFORCEMENT. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the

Declaration, the Articles or Bylaws of the Association. Failure by the Declarant, Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Declarant or the Association shall have the right to request that law enforcement, public safety and animal control officers come on the Property to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

In addition to the rights and remedies hereinabove enumerated, and not as any limitation thereof, if the Association or the Declarant determines that any provision of this Declaration has been violated, the Association or the Declarant may, in its discretion, seek appropriate relief at law or equity to assure that the purposes of this Declaration are fulfilled. After having given fifteen (15) days written notice to the Owner of any Lot involved, setting forth the specific violation or breach of this Declaration and the action required to be taken by the Owner to remedy such violation or breach and if, at the end of such time, reasonable steps to accomplish such action have not been taken by the Owner, the Association or the Declarant can enforce this Declaration by entering upon a Lot to abate or remove any violation, and any such entry shall not be deemed a trespass. Failure to enforce any of this Declaration shall not be deemed a waiver of the right to do so.

The Declarant and the Association, as the case may be, shall have the right to establish, assess and collect reasonable fines and penalties for violations of the Declaration, which may be enforced by the filing of liens against Lots as provided herein. Such fines shall not exceed \$50.00 per violation per day for first time violators, and up to \$100.00 per violation per day for repeated violations. All fines shall be the personal obligation of the Lot Owner.

SECTION 11.2. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

SECTION 11.3. AMENDMENT.

(a) So long as Declarant owns property subject to this Declaration, or has the right to annex property pursuant to this Declaration, and for a period of twenty (20) years thereafter, Declarant hereby reserves and shall have the sole right to:

- i) amend this Declaration or any Supplemental Declaration for the purpose of curing any ambiguity or any inconsistency among the provisions contained herein;
- ii) include in any contract or Deed or other instrument hereafter made any additional covenants and restrictions, including restrictions on use, applicable to any Lot which do not lower the standards of the covenants and restrictions herein contained;
- iii) release any Lot from any part of the covenants and restrictions contained herein which have been violated if the Declarant, in its sole judgment, determines such violation to be a minor or insubstantial violation;

iv) amend this Declaration or any Supplemental Declaration in any manner if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, to make, purchase, insure or guarantee mortgage loans on the Lots; (d) to enable any reputable private insurance company to insure mortgage loans on the Lots; (e) to satisfy the requirements of any local, state or federal governmental agency; and

v) amend this Declaration or any Supplemental Declaration for the purpose of annexing all or any portion of the Additional Property to the terms and conditions of this Declaration; and

vi) amend this Declaration or any Supplemental Declaration without vote or consent of the Owners for any other purpose.

The foregoing amendments may be made without the joinder or approval of any Owner, mortgagee, or the Association.

(b) Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners, representing at least sixty-seven percent (67%) of the total Class "A" votes in the Association, and the consent of the Declarant, so long as the Declarant has an option to subject Additional Property to this Declaration pursuant to Section 11.5.

SECTION 11.4. FEDERAL LENDING REQUIREMENTS. Notwithstanding Section 11.3 above, Declarant may (at Declarant's option) amend and modify this Declaration without obtaining the consent or approval of the Owners if such amendment or modification is necessary to cause this Declaration to comply with the requirements of the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or other similar agency.

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

SECTION 11.5. ANNEXATION OF ADDITIONAL PROPERTY AND WITHDRAWAL OF PROPERTY.

(a) Declarant hereby reserves the option, to be exercised in its sole discretion, to unilaterally annex, subject and submit, at any time, or from time to time, the Additional Property, or a portion or portions thereof, to the provisions of this Declaration and thereby to cause the Additional Property or a portion or portions thereof to become part of the Property and part of the plan and operation of this Declaration, regardless of whether or not such Property is owned by Declarant, its successors and assigns. Declarant reserves the right to plan, design, develop, construct, maintain and manage the Common Area, the Additional Property, and any unsold Lot as Declarant deems necessary or convenient for its purposes, except as otherwise expressly stated

in this Declaration, including without limitation, the right to expand the number, size and density of the unsold Lots, the Common Area, and the Additional Property. This option may be exercised by Declarant in accordance with the following rights, conditions and limitations, which are the only conditions and limitations on such option to add all or any portion of the Additional Property to the Property.

This option to add Additional Property/phase(s) may be exercised from time to time from the date of recordation of this Declaration until January 1, 2023 (“*Option Expiration Date*”); provided, however, that Declarant reserves the right to terminate such option at any time prior to the Option Expiration Date by executing and filing an agreement evidencing such termination in the RMC Office for Charleston County, South Carolina, and, except for such termination by Declarant, no other circumstances will terminate such option prior to the Option Expiration Date.

The additions authorized under this Section shall be made by filing of Record a Supplemental Declaration or Amendment to this Declaration with respect to the Additional Property which shall expressly extend the operation and effect of the covenants and restrictions of this Declaration to such Additional Property. The Supplemental Declaration or Amendment may contain such additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Declarant, to reflect the different character, if any, of the Additional Property.

The Additional Property is located adjacent to, or in the vicinity of, the Property described on Exhibit A; portions of the Additional Property may be added to the Property at different times, and there are no limitations fixing the boundaries of those portions or regulating the order, sequence or location in which any of such portions may be added to the Property. The exercise of the option to submit a portion of the Additional Property to the Declaration shall not bar the further exercise of this option as to other portions or the balance of the Additional Property.

If the Additional Property or any portion thereof is added to the Property, any improvements developed therein and any dwellings constructed thereon will be subject to the standards and restrictions set forth herein, including all assessments set forth herein.

If the Additional Property or any portion thereof is added to the Property, Declarant reserves the right to designate and restrict the boundaries of the Lots to be added to the Property in connection therewith.

Should the option to add the Additional Property or any portion of it not be exercised within the term specified herein or be terminated by Declarant, such option shall in all respects expire and be of no further force and effect. DECLARANT SHALL NOT BE OBLIGATED TO IMPOSE ON THE ADDITIONAL PROPERTY OR ANY PORTION OF IT ANY COVENANTS, CONDITIONS, OR RESTRICTIONS SIMILAR TO THOSE CONTAINED HEREIN, AND THAT PROPERTY NOT SUBMITTED TO THIS DECLARATION WILL BE FREE OF ANY COVENANT OR CONDITIONS WHATSOEVER UNLESS OTHERWISE AFFIRMATIVELY IMPOSED.

The option reserved by Declarant to cause all or any portion of the Additional Property to become part of the Property shall in no way be construed to impose upon Declarant any obligation to add all or any portion of the Additional Property to the Property or to construct thereon any improvements of any nature whatsoever or to restrict or limit its use in any manner.

The option reserved under this Section may be exercised by Declarant only by the execution of an amendment to this Declaration which shall be filed in the RMC Office for Charleston County, South Carolina, together with a revision of or an addition to the Property Plat showing the Additional Property or such portion or portions thereof as are being added to the Property by such amendment, as well as the Lots, Common Area, or other types of property located within the Property.

SUBSEQUENT TO INCLUSION AND/OR RESTRICTION AND IN ITS SOLE DISCRETION, DECLARANT MAY CONVEY TO THE ASSOCIATION THE COMMON AREA DESIGNATED BY DECLARANT OR ANY OTHER PROPERTY OWNED BY THE DECLARANT CONTAINED WITHIN THE PROPERTY OR THE ADDITIONAL PROPERTY OR SUCH PORTION OR PORTIONS OF ANY, EITHER, OR ALL OF THEM, ANY SUCH CONVEYANCE TO BE SUBJECT TO THE LIEN OF TAXES NOT YET DUE AND PAYABLE, ALL EASEMENTS AND RESTRICTIONS OF RECORD, UTILITY EASEMENTS SERVING OR OTHERWISE ENCUMBERING THE PROPERTY, AND/OR THE ADDITIONAL PROPERTY, AND ANY EXCEPTIONS WHICH WOULD BE DISCLOSED BY AN ACCURATE SURVEY OR PHYSICAL INSPECTION OF SUCH PARCEL(S).

Any such amendment shall expressly submit the Additional Property or such portion of it to all the provisions of this Declaration, and upon the exercise, if any, of such option or options, the provisions of this Declaration shall then be construed as embracing the real property described in Exhibit A and the Additional Property or such portion or portions thereof so submitted to the terms hereof, together with all improvements thereon. If the Additional Property or any portion or portions of it is added to the Property, then from and after the addition to the Property of the Additional Property or such portion or portions by such amendment to this Declaration, the number of votes in the Association shall be modified to include the Lots to be located on the Additional Property or such portion or portions of it as are added, so that there shall continue to be one vote in the Association per Lot owned by a Class "A" Member in the Property and four votes in the Association per Lot owned by a Class "B" Member in the Property, and the total number of votes in the Association shall be increased by the number of Lots added as determined by the formula provided in this document for the voting rights for any Lot or Declarant-owned property located on the Additional Property or such portion or portions thereof as are added.

(b) With the exception of the Additional Property, which may be annexed in the Declarant's sole discretion, the Association may annex any other real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in

accordance with Section 11.3.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the RMC Office for Charleston County. Any such Supplemental Declaration shall be signed by the president and secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

(c) The Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the Property from the coverage of this Declaration. Such amendment shall not require the consent of any person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal. Removal or withdrawal of all or any portion of the Property shall be accomplished by Recording a Supplemental Declaration in the RMC Office for Charleston County. Any such removal or withdrawal shall be effective upon the Recording of the Supplemental Declaration unless otherwise provided therein.

(d) This Article XI shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibit A or has the right to annex property pursuant to Section 11.5.

SECTION 11.6. AMPLIFICATION. The provisions of this Declaration are amplified by the Articles and Bylaws; but no amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarant intends that the provisions of this Declaration on one hand, and the Articles and Bylaws on the other be interpreted, construed, and applied to avoid inconsistencies and conflicting results. If such conflict necessarily results, however, Declarant intends that the provisions of this Declaration control anything in the Articles or Bylaws to the contrary.

SECTION 11.7. TOTAL OR PARTIAL DESTRUCTION OF IMPROVEMENTS. In the event of a total or partial destruction of any improvements on the Common Area, and if available proceeds of insurance carried pursuant to this Declaration are sufficient to cover eighty-five percent (85%) of the repair or reconstruction, the Common Area shall be promptly repaired and rebuilt unless within one hundred twenty (120) days from the date of such destruction, seventy-five percent (75%) or more of the owners entitled to vote at a duly called meeting, determine that such reconstruction shall not take place. If the insurance proceeds are less than eighty-five percent (85%) of the cost of reconstruction, reconstruction may nevertheless take place if, within one hundred twenty (120) days from the date of destruction, the Owners of seventy-five percent (75%) of the Lots elect to rebuild.

SECTION 11.8. FHA/VA APPROVAL. If applicable, so long as there is Class "B" Membership, the following actions require the prior approval of the Federal Housing Administration or the Veterans Administration: (a) annexation of Additional Property, (b) dedication of Common Area, and (c) amendment of this Declaration.

SECTION 11.9. DOCUMENTS. All papers and instruments required to be filed with or submitted to the Declarant, the Association, or the Architectural Control Committee shall initially be delivered personally or be sent by Certified or Registered Mail Return Receipt Requested to the Declarant, Southeastern Recapitalization Group, LLC, Attn. Victor J. Mills, 2743 Perimeter Parkway, Building 100, Suite 370, Augusta, Georgia 30909, or at such other address as the Declarant or the Association may specify.

SECTION 11.10. REGISTRATION OF MAILING ADDRESS. Each member shall register his mailing address with the secretary of the Association from time to time, and notices or demands intended to be served upon or given to a Member shall be personally delivered to or sent by mail, postage prepaid, addressed in the name of the Member at such registered mailing address. If a Member does not reside within the Property, such Member shall register his address of residence or the address where such Member receives mail on a regular basis.

SECTION 11.11. NOTICE. All notices or requests required shall be in writing. Notice to any Member shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by Certified Mail, return receipt requested, to the address of such Member on file in the records of the Association at the time of such mailing. Notice to the Boards, the Association, the Architectural Control Committee, or the Manager shall be considered delivered and effective upon personal delivery, or three days after posting, when sent by Certified Mail, return receipt requested, to the Association, the Board, the Architectural Control Committee, or the Manager, at such address as shall be established by the Association from time to time by notice to the Members. General notices to all Members or any classification thereof need not be Certified, but may be sent regular first class mail.

SECTION 11.12. LIMITATION OF LIABILITY. Neither the Association, the Architectural Control Committee, nor any officer or member of the Board shall be liable to any party for any action or for any failure to act with respect to any matter arising by, through, or under this Declaration if the action or failure to act was made in good faith. The Association shall indemnify all of the Committee members and officers and Board members with respect to any act taken in their official capacity to the extent provided in this Declaration and by law and in the Articles and Bylaws of the Association.

SECTION 11.13. ASSIGNMENT. Declarant may assign all or any part of its rights and reservations hereunder to any successor. Such successor shall be identified and the particular rights being assigned shall be specified in a written instrument duly Recorded.

SECTION 11.14. REFERENCES TO GENDER AND NUMBER TERMS. In construing this Declaration, feminine or neuter pronouns shall be substituted for those masculine in form and vice versa, and plural terms shall be substituted for singular and singular for plural in any place in which the context so requires.

SECTION 11.15. DEFINED TERMS. Any term or terms not defined herein shall have the meaning ascribed to said term or terms pursuant to the Master Declaration.

IN WITNESS WHEREOF, the undersigned has caused these presents to be executed in its company name by its member thereunto duly authorized on this the 10<sup>th</sup> day of July, 2012.

IN WITNESS WHEREOF:

DECLARANT:

SOUTHEASTERN RECAPITALIZATION GROUP, LLC  
a South Carolina limited liability company

[Signature]

By: [Signature]

Print Name: JASON LONG

[Signature]

Its: AUTHORIZED SIGNATORY

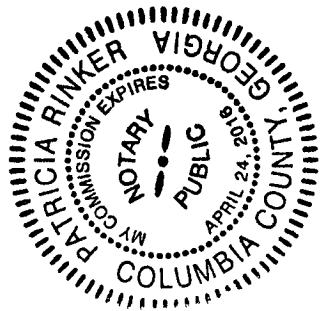
STATE OF GEORGIA            )  
  )  
COUNTY OF Columbia    )

**ACKNOWLEDGMENT**

The foregoing was acknowledged before me this 10 day of July, 2012, by Southeastern Recapitalization Group, LLC, by Jason Long, its

authorized signatory.

Patricia Rinker  
Notary Public for GA  
My Commission Expires: 4-24-16







**EXHIBIT A****TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
EASEMENTS FOR THE GARDENS AT WHITNEY LAKE PHASE 2A****(Description of Property)**

ALL those certain pieces, parcels or lots of land situate, lying and being on Johns Island, City of Charleston, Charleston County, South Carolina, known and designated as Lots: 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 267, 268, 269, 270, 271, 272, 273, 274 "Sparkleberry Lane"; "Bell Flower Lane", "Valley Oak Road", "Waterleaf Road", "Petunia Alley", "Brittlebrush Lane", "50' Buffer (Type E)", "H.O.A. Open Area/Greenway", "Wetland Buffer", "20' Public Storm Drain Easement", "20' Public Drain Easement" or "Phase 2A H.O.A. Open Space" "HOA 1", "HOA 2", "HOA 3", "HOA 4", "HOA 5", "HOA 6", "HOA 7", "HOA 8", "HOA 9", "HOA 10" and "HOA 11", and all areas shown and designated as "HOA" as more particularly shown on plats entitled:

FINAL SUBDIVISION PLAT THE GADENS AT WHITNEY LAKE PHASE 2A JOHNS ISLAND, CITY OF CHARLESTON, CHARLESTON COUNTY, SOUTH CAROLINA" dated May 25, 2012, prepared for Blanchard & Calhoun Commercial, prepared by Thomas & Hutton and recorded in the RMC Office for Charleston County on June 6, 2012, in Plat Book L12 at Page 0157:

Said lots of land having such size, shape, buttings and boundings as will by reference to said plat more fully appear.

**THE GARDENS AT WHITNEY LAKE PHASE 2A.**

<b>TMS</b>	<b>Lot</b>
<b>3120000671</b>	<b>245</b>
<b>3120000672</b>	<b>246</b>
<b>3120000673</b>	<b>247</b>
<b>3120000674</b>	<b>248</b>
<b>3120000675</b>	<b>249</b>
<b>3120000676</b>	<b>250</b>
<b>3120000677</b>	<b>251</b>
<b>3120000678</b>	<b>252</b>
<b>3120000679</b>	<b>253</b>
<b>3120000680</b>	<b>254</b>
<b>3120000681</b>	<b>255</b>
<b>3120000682</b>	<b>256</b>
<b>3120000683</b>	<b>257</b>
<b>3120000684</b>	<b>258</b>
<b>3120000685</b>	<b>259</b>
<b>3120000686</b>	<b>260</b>
<b>3120000687</b>	<b>261</b>
<b>3120000688</b>	<b>262</b>
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<b>3120000690</b>	<b>264</b>
<b>3120000691</b>	<b>265</b>
<b>3120000692</b>	<b>266</b>
<b>3120000693</b>	<b>267</b>
<b>3120000694</b>	<b>268</b>
<b>3120000695</b>	<b>269</b>
<b>3120000696</b>	<b>270</b>
<b>3120000697</b>	<b>271</b>
<b>3120000698</b>	<b>272</b>
<b>3120000699</b>	<b>273</b>
<b>3120000700</b>	<b>274</b>
<b>3120000701</b>	<b>All HOA</b>

**EXHIBIT B**

TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
EASEMENTS FOR THE GARDENS AT WHITNEY LAKE PHASE 2A

(Articles of Incorporation – The Gardens at Whitney Lake Phase 2A Homeowners Association,  
Inc.)

*SEE ATTACHED*

**EXHIBIT C**

TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND  
EASEMENTS FOR THE GARDENS AT WHITNEY LAKE PHASE 2A

(Bylaws – The Gardens at Whitney Lake Phase 2A Homeowners Association, Inc.)

*SEE ATTACHED*

# RECORDER'S PAGE



**NOTE:** This page **MUST** remain with the original document

*dh*  
*DW*

**Filed By:**

DODDS & HENNESSY, L.L.P.  
ATTORNEYS AT LAW  
973 HOUSTON NORTHCUTT BLVD.  
MT. PLEASANT SC 29464

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Charlie Lybrand, Register Charleston County, SC		

RMC BK 0263 Pg 646 : pg 46 \*

**MAKER:**

GARDENS @ WHITNEY LAKE

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Note:

**RECIPIENT:**

NA

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