

**EXHIBIT C**  
(Community Charter for the Hampton Lake Community)

102  
108  
BUD PB

Upon recording, please return to:

BEAUFORT COUNTY SC - ROD  
BK 02347 PGS 1593-1694  
FILE NUM 2008025898  
03/31/2008 04:18:14 PM  
REC'D BY P BAXLEY RCPT# 407504  
RECORDING FEES 108.00

COMMUNITY CHARTER  
  
FOR  
  
THE  
  
HAMPTON LAKE COMMUNITY

TABLE OF CONTENTS

	<u>Page</u>
<b>PREAMBLE.....</b>	<b>1</b>
<b>DECLARATION OF COVENANT .....</b>	<b>1</b>
<b>PART ONE: INTRODUCTION TO THE HAMPTON LAKE COMMUNITY .....</b>	<b>2</b>
<b>Chapter 1    Governing Documents.....</b>	<b>2</b>
1.1.Scope and Applicability .....	3
1.2.Other Applicable Documents .....	3
1.3.General Plan of Development.....	3
1.4.Additional Covenants .....	4
1.5.Conflicts.....	4
1.6.Definitions .....	4
1.7.Interpretation of Certain References.....	5
<b>Chapter 2    Community Administration .....</b>	<b>5</b>
2.1.The Declarant .....	5
2.2.The Community Association.....	6
2.3.The Board.....	7
2.4.The Owners .....	7
2.5.Builders .....	7
2.6.Neighborhood Associations .....	8
2.7.Lake Maintenance Corporation .....	8
2.8.Private Amenities .....	9
2.9.Mortgagees .....	9
2.10.Road Association .....	9
2.11.Buckwalter Property Owners Association, Inc.....	9
2.12.Hwy 278/Bluffton Pkwy Connector Road Association, Inc.....	10
<b>Chapter 3    Community Structure and Organization .....</b>	<b>10</b>
3.1.Designations of Properties Comprising the Community .....	10
3.2.Service Areas.....	11
<b>Chapter 4    Community Association Membership and Voting Rights .....</b>	<b>11</b>
4.1.Membership .....	11
4.2.Voting .....	12
<b>PART TWO: COMMUNITY STANDARDS.....</b>	<b>13</b>
<b>Chapter 5    Architecture, Landscaping, and Aesthetic Standards .....</b>	<b>13</b>
5.1.General.....	13
5.2.Design Review Authority .....	13
5.3.Guidelines and Procedures .....	14
5.4.No Waiver of Future Approvals .....	16
5.5.Variances .....	16

**TABLE OF CONTENTS**  
(continued)

	<u>Page</u>
5.6.Limitation of Liability .....	17
<b>Chapter 6 Maintenance, Repair, and Replacement .....</b>	<b>17</b>
6.1.Maintenance by Owners .....	17
6.2.Maintenance of Neighborhood Association Property .....	18
6.3.Responsibility for Repair and Replacement .....	18
6.4.Maintenance and Repair of Party Walls and Similar Structures.....	19
<b>Chapter 7 Use and Conduct .....</b>	<b>19</b>
7.1.Use, Occupancy, and Transfer of Interests in Units .....	19
7.2.Rulemaking Authority and Procedures.....	21
7.3.Protection of Owners and Others .....	22
7.4.Owners' Acknowledgment and Notice to Purchasers .....	23
<b>Chapter 8 Compliance and Enforcement .....</b>	<b>23</b>
8.1.Compliance .....	23
8.2.Remedies for Non-Compliance .....	23
8.3.Board Decision to Pursue Enforcement Action.....	25
8.4.Attorneys' Fees and Costs .....	26
8.5.Enforcement of Ordinances .....	26
<b>PART THREE: COMMUNITY ASSOCIATION OPERATIONS .....</b>	<b>26</b>
<b>Chapter 9 Property Management.....</b>	<b>26</b>
9.1.Acceptance and Control of Community Association Property.....	26
9.2.Maintenance of Area of Common Responsibility .....	27
9.3.Discontinuation of Operation .....	27
9.4.Restoring Damaged Improvements .....	28
9.5.Relationships with Other Properties .....	29
9.6 Prohibition of Mining Activities.....	29
<b>Chapter 10 Provision of Services .....</b>	<b>29</b>
10.1. Provision of Services to Units .....	29
10.2. Provision of Services to Service Areas.....	29
10.3. Community Technology .....	30
<b>Chapter 11 Community Association Insurance.....</b>	<b>30</b>
11.1. Required Coverages .....	30
11.2. Deductibles.....	32
11.3. Policy Requirements .....	32
11.4. Insurance Premiums .....	33
<b>Chapter 12 Community Association Finances .....</b>	<b>33</b>
12.1. Community Association Expenses .....	33
12.2. Budgeting for and Allocating Community Association Expenses .....	34



**TABLE OF CONTENTS**  
(continued)

	<u>Page</u>
12.3. Special Assessments .....	36
12.4. Specific Assessments .....	36
12.5. Authority to Assess Owners; Time of Payment .....	37
12.6. Obligation for Assessments .....	37
12.7. Lien for Assessments .....	38
12.8. Declarant Subsidization .....	39
12.9. Exempt Property .....	40
12.10. Capitalization of Community Association .....	40
12.11. Use and Consumption Fees .....	40
12.12. Community Enhancement Fee .....	40
<b>PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE HAMPTON LAKE COMMUNITY .....</b>	<b>42</b>
<b>Chapter 13 Easements .....</b>	<b>42</b>
13.1. Easements in Common Area .....	42
13.2. Easements for Utilities and Other Infrastructure .....	43
13.3. Easements to Serve Additional Property .....	43
13.4. Easements for Maintenance, Emergency, and Enforcement .....	44
13.5. Easements Over Private Roadways .....	44
<b>Chapter 14 Disclosures and Waivers .....</b>	<b>45</b>
14.1. Facilities and Services Open to the Public .....	45
14.2. Safety and Security .....	46
14.3. Changes in Master Plan .....	46
14.4. View Impairment .....	47
14.5. Notices and Disclaimers as to Community Systems .....	47
<b>Chapter 15 Rights of Lenders .....</b>	<b>47</b>
15.1. Notices of Action .....	47
15.2. Special FHLMC Provision .....	48
15.3. Other Provisions for First Lien Holders .....	49
15.4. Amendments to Documents .....	49
15.5. No Priority .....	50
15.6. Notice to Community Association .....	50
15.7. Failure of Mortgagee to Respond .....	50
15.8. Construction of Chapter 15 .....	50
<b>PART FIVE: COMMUNITY DEVELOPMENT .....</b>	<b>51</b>
<b>Chapter 16 Expansion of the Hampton Lake Community .....</b>	<b>51</b>
16.1. Expansion by Declarant .....	51
16.2. Expansion by the Community Association .....	51
16.3. Additional Covenants and Easements .....	51
16.4. Effect of Filing a Supplement .....	52

**TABLE OF CONTENTS**  
(continued)

	<u>Page</u>
<b>Chapter 17 Additional Rights Reserved to the Declarant.....</b>	<b>52</b>
17.1. Withdrawal of Property .....	52
17.2. Conveyance of Common Area .....	52
17.3. Acceptance of Common Area .....	54
17.4. Property Transfer Accounting Procedures .....	54
17.5. Marketing and Sales Activities .....	54
17.6. Right to Make Improvements, Replat .....	54
17.7. Right to Approve Changes in the Hampton Lake Community Standards .....	55
17.8. Additional Covenants and Restrictions.....	55
17.9. Exclusive Rights to Use Name of Development .....	55
17.10. Community Systems.....	55
17.11. Easement to Inspect and Right to Correct .....	55
17.12. Right to Notice of Design or Construction Claims.....	56
17.13. Right to Transfer or Assign the Declarant's Rights .....	56
17.14. Termination of Rights .....	56
17.15. Founder Members.....	56
 <b>PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS .....</b>	 <b>57</b>
<b>Chapter 18 Dispute Resolution and Limitation on Litigation .....</b>	<b>57</b>
18.1. Agreement to Encourage Resolution of Disputes Without Litigation .....	57
18.2. Dispute Resolution Procedures .....	58
18.3. Initiation of Litigation by Community Association .....	59
<b>Chapter 19 Changes in the Common Area .....</b>	<b>60</b>
19.1. Assignment and Reassignment of Limited Common Area .....	60
19.2. Condemnation.....	60
19.3. Partition.....	61
19.4. Transfer or Dedication of Common Area .....	61
<b>Chapter 20 Termination and Amendment of Community Charter .....</b>	<b>61</b>
20.1. Term and Termination .....	61
20.2. Amendment.....	62
 <b>INDEX TO DEFINED TERMS.....</b>	 <b>65</b>

TABLE OF EXHIBITS

<u>Exhibit</u>	<u>Title</u>	<u>Page First Mentioned</u>
A	Initial Property	1
B	Expansion Property	7
C	Initial Rules	4
D	By-Laws of Hampton Lake Community Association, Inc.	4

**COMMUNITY CHARTER  
FOR THE  
HAMPTON LAKE COMMUNITY**

**PREAMBLE**

This Community Charter (the "Charter") establishes a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance, and preservation of the Hampton Lake Community as a master planned development. Hampton Lake, LLC, a South Carolina limited liability company, intends to develop the Hampton Lake Community as a primarily residential subdivision and by this Charter desires to impose beneficial restrictions under a general plan of improvement, upon, and for the benefit of, all owners within the Hampton Lake Community (the "Community"). An integral part of the development plan is the formation of Hampton Lake Community Association, Inc., a South Carolina nonprofit corporation, to own, operate and/or maintain various common areas and community improvements and to administer and enforce this Charter and the other Governing Documents referenced in this Charter.

**DECLARATION OF COVENANT**

Hampton Lake, LLC, its successors and assigns (the "Declarant"), by executing and recording this Charter, declares that the property described in Exhibit "A" and any additional property made subject to this Charter in the future by amendment or supplement, shall constitute the Community. This Charter shall run with the title to such property, shall govern the development and use of such property, and shall be binding upon the Declarant and the future owners of any portion of the property, their respective heirs, successors, successors-in-title, and assigns, and any other person or entity that now or hereafter has any legal, equitable, or beneficial interest in any portion of such property. This Charter shall also be binding upon Hampton Lake Community Association, Inc., its successors and assigns (the "Community Association").

## PART ONE: INTRODUCTION TO THE HAMPTON LAKE COMMUNITY

### Chapter 1

#### Governing Documents

GOVERNING DOCUMENTS	
<b>Community Charter:</b> (recorded)	this Community Charter for the Community, which creates obligations that are binding upon the Community Association and all present and future owners of property in the Community
<b>Supplement:</b> (recorded)	a recorded Supplement to this Charter, which may submit additional property to this Charter, create easements over the property described in the Supplement, impose additional obligations or restrictions on such property, designate service areas as described in Chapter 3 or any of the foregoing
<b>Articles of Incorporation:</b> (filed with South Carolina Secretary of State)	the Articles of Incorporation of Hampton Lake Community Association, Inc., as they may be amended (" <b>Articles</b> "), which establish the Community Association as a nonprofit corporation under South Carolina law
<b>By-Laws:</b> (attached as Exhibit "D")	the By-Laws of Hampton Lake Community Association, Inc. adopted by its Board of Directors, as they may be amended (" <b>By-Laws</b> "), which govern the Community Association's internal affairs, such as voting, elections, meetings, etc.
<b>Design Guidelines:</b> (Declarant adopts)	the design standards and architectural and aesthetics guidelines adopted pursuant to Chapter 5, as they may be amended, which govern new construction and modifications to lots and homes, including structures, landscaping, and other items on lots
<b>Rules:</b> (initial set attached as Exhibit "C")	the rules of the Community Association adopted pursuant to Chapter 7, which regulate use of property, activities, and conduct within the Community
<b>Board Resolutions:</b> (Board adopts)	the resolutions which the Board adopts to establish rules, policies, and procedures for internal governance and Community Association activities and to regulate the operation and use of property which the Community Association owns or controls

Table 1.1 - Governing Documents

### 1.1. Scope and Applicability

The Community has been established and is administered pursuant to various documents that have a legal and binding effect on all owners and occupants of property in the Community, as well as on anyone else that may now or in the future have an interest in any portion of the property comprising the Community. Such documents, referred to in this Charter as the "Governing Documents," include this Charter and the other documents described in Table 1.1, as they may be amended. All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Governing Documents.

### 1.2. Other Applicable Documents

The Community is also subject to additional documents which govern the use of the lake, wetlands, and portions of the trail system within the Hampton Lake area, which documents are described in Table 1.2, as they may be amended (the "Lake Maintenance Governing Documents"). All owners and occupants, as well as their tenants, guests, and invitees, are required to comply with the Lake Maintenance Governing Documents. Further, the Community is subject to various covenants granting rights to members of the Community and creating certain maintenance easement and other obligations in the Community as set forth below.

### 1.3. General Plan of Development

The Declarant intends to transfer title to the Common Area (as defined in Section 3.1) to the Community Association on or before the termination of the Declarant Control Period, as defined

OTHER APPLICABLE DOCUMENTS	
Buckwalter Property Owners' Association, Inc. Covenants	Covenants governing certain portions of the Buckwalter Planned Unit Development
Declaration of Covenants, Conditions and Restrictions for Hwy 278/Bluffton Pkwy Connector Road Association, Inc.	These Covenants provide for easement rights, landscaping and maintenance rights on Hampton Parkway
Declaration of Easements and Covenants for Hampton Lake Shared Road	These Covenants provide for easement and landscaping rights for the roadway from Bluffton Parkway to Hampton Lake for owners of lots to Hampton Lake Community.
Covenants for Joint Use and Maintenance of Hampton Lake	the "Lake Covenant" creates obligations that are binding on the Lake Maintenance Corporation and all present and future owners of property in the Community and other lakelront property
Lake Rules: (attached as exhibit to Lake Covenant)	the rules of the Lake Maintenance Corporation, which regulate use of the lake, wetlands, trails, and other amenities and recreational facilities owned or operated by the Lake Maintenance Corporation

Table 1.2 - Other Applicable Documents

in Section 2.1, pursuant to the procedures set forth in Sections 17.2, 17.3, and 17.4. The Declarant is not precluded from conveying property to the Community Association prior to the termination of the Declarant Control Period. Once conveyed to the Community Association, these properties shall become Common Area. Declarant shall not be required to follow any predetermined sequence or order of improvement and development and may bring within the plan of this Charter and develop additional lands before completing the development of the Community. Such conveyances shall be for no consideration, and the Common Area shall be debt free at the time of conveyance. However, the Common Area shall be conveyed subject to reimbursement for transfer of inventory and merchandise as set forth in Section 17.4, and any equipment leases (term or capital) that may exist at that time.

#### **1.4. Additional Covenants**

The owner of any property within the Community may impose additional covenants on its property with such approval as may be required pursuant to Chapter 17. If the provisions of any such additional covenants are more restrictive than the provisions of this Charter, the more restrictive provisions control. The Community Association shall have standing and the power, but not the obligation, to enforce any such additional covenants.

#### **1.5. Conflicts**

If there are conflicts between any of the Governing Documents and South Carolina law, South Carolina law shall control. If there are conflicts between or among any of the Governing Documents, then the Charter, the Articles, and the By-Laws (in that order) shall control. If there is a conflict between the Governing Documents and any additional covenants recorded on any property within the Community (or the rules or policies adopted pursuant to any such additional covenants), the Governing Documents shall control.

The Governing Documents use diagrams, tables, and keynotes (text set apart in boxes with "key" icons) to illustrate concepts and assist the reader. If there is a conflict between any diagram and the text of the Governing Documents, the text shall control.

If any court determines that any provision of this Charter is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision in other instances.

#### **1.6. Definitions**

Capitalized terms used in the Governing Documents have the meaning described in the paragraph where they first appear in bold print. An index to defined terms may be found at the end of this Charter. All other terms used in the Governing Documents have their natural, commonly accepted definitions.

### 1.7. Interpretation of Certain References

**Community-Wide Standard.** Where the Governing Documents require compliance with the "Community-Wide Standard," the standard to be applied is the highest of: (a) the standard of use, conduct, architecture, landscaping, or aesthetic matters generally prevailing in the Community, or (b) the minimum standards described in this Charter, the Design Guidelines, the Rules, and Board resolutions. The Community-Wide Standard may contain objective elements, such as specific maintenance requirements, and subjective elements, such as matters subject to the discretion of the Board or the Reviewer (as defined in Chapter 5) discretion. The Community-Wide Standard may or may not be set out in writing. The Declarant initially shall establish such standard; however, the Community-Wide Standard may evolve as development progresses and as the Community matures.

**Consent or Approval.** All references in the Governing Documents to "consent" or "approval" shall refer to permission or approval, which unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

**Discretion and Determination.** All references in the Governing Documents to "discretion" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act. Unless otherwise expressly limited in the Governing Documents or by law, any one authorized in the Governing Documents to exercise its discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action, or inaction.

**Maintenance.** All references in this Charter to "maintenance" shall refer to maintenance, repair, and replacement.

**Person.** References in the Governing Documents to a "Person" or "Persons" shall refer to an individual, a corporation, a partnership, a limited liability company, or any other legal entity.

**Recording.** All references in the Governing Documents to a "recorded" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed or the filing of a legal instrument in the official records of Beaufort County, South Carolina or such other place designated as the official location for filing documents affecting title to real estate in Beaufort County in order to make them a matter of public record.

## Chapter 2

### Community Administration

#### 2.1. The Declarant

The Declarant has established the vision for the Community and, through the Governing Documents, has set forth the founding principles that will guide the Community during the initial



period of development and sale and thereafter. The Declarant's proposed plan for development is described in the land use plan(s) for the Community prepared by Wood+Partners Inc. Landscape Architects Land Planners, as it may be supplemented and amended, which encompasses all of the property described in Exhibit "A" and all or a portion of the property described in Exhibit "B" (the "Master Plan"). However, the Declarant is not obligated to submit property shown on the Master Plan to this Charter. In addition, the Declarant may submit property to this Charter that is not shown on the Master Plan.

The Declarant has reserved various rights in the Governing Documents with respect to development and administration of the Community. The Declarant may exercise certain of these rights throughout the "Development and Sale Period," which is the period of time during which the Declarant or any "Declarant Affiliate" owns real property in the Community or has an unexpired option to expand the Community pursuant to Chapter 16. A "Declarant Affiliate" is any Person that controls, is controlled by, or is under common control with the Declarant, and any Person that is an owner, a member, a partner, or a shareholder of the Declarant.

The Declarant has reserved other rights that may be exercised only during the "Declarant Control Period," which is the period of time that the Declarant is entitled to appoint a majority of the members of the Community Association's board of directors ("Board"). The Declarant Control Period begins on the date of the Community Association's incorporation and terminates upon the first of the following to occur:

- (a) when 95% of the total number of Units permitted by applicable zoning for the property described in the Master Plan, as amended from time to time, have certificates of occupancy issued thereon and have been conveyed to persons other than Builders holding title for purposes of construction and resale;
- (b) December 31, 2021; or
- (c) after 75% of the units planned for the community have been conveyed to third parties, in its discretion, the Declarant so determines and declares in a recorded instrument.

The Declarant has certain approval rights for a limited period as provided in the By-Laws after the termination of the Declarant Control Period.

The Declarant may assign its status and rights as the Declarant under the Governing Documents to any person who takes title to any portion of the property described in Exhibit "A" or "B" for the purpose of development and/or sale. Such assignment shall be made only in a recorded instrument signed by both parties.

## 2.2. The Community Association

The Declarant has established the Community Association as the primary entity responsible for administering the Community in accordance with the Governing Documents. The Community Association may exercise all rights and powers which the Governing Documents and South Carolina law expressly grant to it, as well as any rights and powers that may reasonably be implied

under the Governing Documents. It may also take any action reasonably necessary to effectuate any such right or privilege.

#### **2.3. The Board**

On most matters, the Community Association acts through the Board. However, in some instances the Governing Documents or applicable law limit the Board's ability to act without the approval of the Community Association's members. Unless the Governing Documents or South Carolina law specifically provide otherwise, the Board may exercise the Community Association's rights and powers without a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Community Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, as defined in Section 3.1, enforcement of the Governing Documents, or any other civil claim or action. However, the Board has no legal duty to institute litigation or any other proceeding on behalf of or in the name of the Community Association or its members.

In exercising the Community Association's rights and powers, making decisions on the Community Association's behalf (including, without limitation, deciding whether to file a lawsuit or take other legal action under any circumstances) and conducting the Community Association's affairs, Board members and the Community Association's officers are required to comply with, and shall be judged by, the standards set forth in the By-Laws.

#### **2.4. The Owners**

Each Person that holds record title to a Unit, as defined in Section 3.1, is referred to in the Governing Documents as an "Owner." However, a Person who holds title merely as security for the performance of an obligation (such as a lender holding a mortgage or similar security instrument) is not considered an "Owner." If a Unit has more than one Owner, all Co-Owners are jointly and severally obligated to perform the responsibilities of the Owner under the Governing Documents.

Every Owner has a responsibility to comply with the Governing Documents and uphold the community standards described in Part Two of this Charter. Each Owner also has an opportunity to participate in the administration of the Community through membership in the Community Association and through service to the Community in various committee and leadership roles, as described in Chapters 3 and 4 of the By-Laws.

#### **2.5. Builders**

Much of the responsibility and credit for helping to create the Community rests with the "Builders" -- those Persons designated by the Declarant who purchase one or more unimproved lots or parcels of land within the Community for further subdivision or development and resale in the ordinary course of their business. The Builders have the same privileges and responsibilities as

Owners during the time that they own Units for construction and resale, including the privileges of membership in the Community Association. In addition, the Declarant may extend any of the rights it has reserved under the Governing Documents with respect to development, marketing, and sale of property in the Community to such Builders as it may designate.

#### **2.6. Neighborhood Associations**

Portions of the Community may be developed under a condominium form of ownership or may have special requirements that lead the Builder to establish a separate condominium or homeowners association to administer additional covenants applicable to that particular area ("Neighborhood Association"). However, nothing in this Charter requires the creation of a Neighborhood Association, and the jurisdiction of any Neighborhood Association shall be subordinate to that of the Community Association.

Any Neighborhood Association shall be responsible for administering the additional covenants applicable to the property within its jurisdiction and for maintaining, in accordance with the Community-Wide Standard, any property which it owns or which its covenants designate as being for the common benefit of its members.

#### **2.7. Lake Maintenance Corporation**

As part of its overall development activity, the Declarant will construct or cause to be constructed within a portion of the Buckwalter Planned Unit Development a lake ("Lake"), wetlands, and trails. The Declarant has created or shall create the Lake Maintenance Corporation, a South Carolina nonprofit corporation for the purpose of performing the maintenance obligations for certain property that benefits the various uses and areas surrounding the Lake that is now or will be owned by the Lake Maintenance Corporation (such areas shall be known as the "Area of Lake Maintenance Responsibility"). The covenant creating the Lake Maintenance Corporation provides for an equitable allocation of the cost of such maintenance between and among the various users surrounding the Lake, and for easements relating to maintenance and use of, and access to, such Area of Lake Maintenance Responsibility.

The Lake Maintenance Corporation's board of directors shall administer the Lake Maintenance Corporation's affairs as provided in its by-laws. The Lake Maintenance Corporation's rights and responsibilities are or shall be described in the Lake Maintenance Governing Documents.

The Community Association and all Owners are subject to the Lake Maintenance Governing Documents and to the Lake Maintenance Corporation's jurisdiction. In the event of a conflict between the Governing Documents and the Lake Maintenance Governing Documents with respect to the Lake Maintenance Corporation's rights and responsibilities, the Lake Maintenance Governing Documents shall control.

## **2.8. Private Amenities**

Any property and facilities located within, adjacent to, or near the Community which Persons other than the Community Association own and operate for recreational and related purposes are "Private Amenities." The Private Amenities shall include, without limitation, the Lake, wetlands, and certain trails not owned or maintained by the Community Association. Membership in the Community Association provides no rights in the Private Amenities except as set forth in the Covenant.

It is the Declarant's intention that the Community Association and the Private Amenity shall cooperate to the maximum extent possible. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines. Furthermore, the Community Association shall cooperate to the maximum extent possible with the Lake Maintenance Corporation on all matters.

## **2.9. Mortgagees**

If a Unit is made subject to a mortgage or other form of security instrument affecting title to a Unit ("Mortgage"), then the holder or beneficiary of that Mortgage ("Mortgagee") also has an interest in the administration of the Community. The Governing Documents contain various provisions for the protection of Mortgagees, including those set forth in Chapter 15.

## **2.10. Road Association**

If a government of any state, county, or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory, or administrative functions of or pertaining to government ("Governmental Authority") has not assumed responsibility for the construction of the 278 Connector, as evidenced by a writing to such effect executed by the applicable Governmental Authority and reasonably acceptable to the Declarant, the Community Association shall be a member of and make payment to the Hampton Lake Road Association, Inc., a South Carolina nonprofit corporation (the "Road Association"), for the purpose of maintaining the entrance road to the Community, as provided in that certain Declaration of Easements and Covenant to Share Costs Hampton Lake Shared Entry Road, recorded or to be recorded in the Beaufort County records (the "Road Declaration").

## **2.11 Buckwalter Property Owners Association, Inc.**

Buckwalter Property Owners Association, Inc. is the Property Owners Association formed to hold certain real property located within the Buckwalter Planned Unit Development. Most of the property located within the Buckwalter Planned Unit Development is subject to these Covenants. The purpose of the Covenants and the Property Owners Association is to maintain the signage located at the intersection of Buckwalter Parkway and U.S. Highway 278 and, to the extent that the

Property Owners Association feels that it is in their best interest to supplement landscaping and maintenance along Buckwalter Parkway.

**2.12 Hwy 278/Bluffton Pkwy Connector Road Association, Inc.**

This Association was formed to hold real property comprising the right-of-way known as Hampton Parkway, from U.S. Highway 278 to Bluffton Parkway. The property is along Hampton Parkway as well as some property located within the Buckwalter Planned Unit Development are subjected to these Covenants. The purpose of the Covenants and the Association is to provide maintenance for the roadway and to handle landscape and maintenance obligations along the road right-of-way.

### **Chapter 3**

## **Community Structure and Organization**

### **3.1. Designations of Properties Comprising the Community**

The properties comprising the Community are designated as follows:

(a) **Units.** The Governing Documents refer to the homes and homesites in the Community as "Units." A Unit is a portion of the Community depicted as a separately identified lot or parcel on a recorded subdivision plat, survey, or condominium instrument, which may be independently owned and conveyed and is zoned or otherwise intended for development, use, and occupancy as a residence for a single family. The term "Unit" refers to the land, if any, which is part of the Unit, as well as to any structures or other improvements on the Unit. In the case of a building within a condominium or other structure containing multiple dwellings, each dwelling shall be deemed to be a separate Unit. A parcel of land is considered a single Unit until a subdivision plat, survey, or condominium instrument is recorded subdividing it into more than one Unit. The term does not include Common Areas, as defined below, common property of any Neighborhood Association, property owned by the Lake Maintenance Corporation or the Hwy 278/Bluffton Pwy Connector Road Association, Inc, or property dedicated to the public.

(b) **Common Area.** Any property and facilities that the Community Association owns or in which it otherwise holds possessory or use rights for the common use or benefit of more than one Unit is referred to as "Common Area." The Common Area also includes any property that the Community Association holds under a lease and any easements in favor of the Community Association.

(c) **Limited Common Area.** Certain portions of the Common Area may be designated as "Limited Common Area" and assigned for the exclusive use or primary benefit of less than all Units. Limited Common Areas might include such things as entry features, recreational facilities, parks, landscaped medians, cul-de-sacs, and areas for boat or recreational vehicle storage, among other things.

The Declarant may designate property as Limited Common Area and assign it to particular Units on the recorded plat depicting such property, in the deed conveying such property to the Community Association, or in the Supplement by which the property is submitted to the terms of

this Charter. At any time during the Development and Sale Period, the Declarant may assign use of the same Limited Common Area to additional Units.

(d) *Area of Common Responsibility.* All of the properties and facilities for which the Community Association has responsibility under the Governing Documents, or for which the Community Association otherwise agrees to assume responsibility, are collectively referred to in the Governing Documents as the "Area of Common Responsibility," regardless of who owns them. The Area of Common Responsibility includes all of the Common Area and may also include Units or portions of Units and property dedicated to the public, such as public rights-of-way. The initial Area of Common Responsibility is described in Chapter 9.

### 3.2. Service Areas

Units may also be part of one or more "Service Areas" in which the Units share Limited Common Areas or receive special benefits or services from the Community Association that it does not provide to all Units within the Community. A Unit may be assigned to more than one Service Area, depending on the number and types of special benefits or services it receives. A Service Area may be comprised of Units of more than one housing type and may include Units that are not contiguous.

The Declarant may initially designate Service Areas (by name or other identifying designation) and assign Units to a particular Service Area either in Exhibit "A" or in a Supplement. During the Development and Sale Period, the Declarant may unilaterally amend this Charter or any Supplement to change Service Area boundaries.

In addition, the Board may, by resolution, designate Service Areas and assign Units to them upon petition of Owners of at least 67% of the Units affected by the proposed designation pursuant to Section 10.2.

The Owners of Units within each Service Area may elect a "Service Area Committee" in accordance with the By-Laws to represent and act on behalf of the Owners with respect to the services and benefits that the Community Association provides to the Service Area. References to Service Areas in the Governing Documents shall also refer to such Service Area Committees, if appropriate from the context.

## Chapter 4

### Community Association Membership and Voting Rights

#### 4.1. Membership

The Community Association initially has two classes of membership: the Owner membership, which is comprised of all Owners, including Builders, and the Declarant membership, which consists solely of the Declarant.

(a) *Owner Membership.* Every Owner is automatically a member of the Community Association. However, there shall be only one membership per Unit. Thus, if a Unit has more than one Owner, all co-Owners of the Unit shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth below and in the By-Laws. Further, the Board shall have the right to set rules regarding the use of the Community Property for multiple Co-owners of a Unit. If an Owner is a corporation, a partnership, or other legal entity, its membership rights may be exercised by any officer, director, partner, or trustee, or by an individual the Owner designates from time to time in a writing to the Community Association's Secretary, except that only the individuals residing in the Unit shall be entitled to use any Common Area recreational facilities available for use by Owners.

(b) *Declarant Membership.* The Declarant holds the sole Declarant Membership. The Declarant Membership shall terminate two years after expiration of the Declarant Control Period, or on such earlier date as the Declarant determines and declares in a recorded instrument.

The Declarant may, by Supplement, create additional classes of membership comprised of the owners of Units within any portion of the additional property submitted to this Charter. The Declarant shall specify in any such Supplement the rights, privileges, and obligations of the members of any class of membership created by that Supplement.

#### 4.2. Voting

Each Unit is assigned one equal vote, subject to the limitations on voting set forth in this Charter and the other Governing Documents. No vote shall be exercised for any property exempt from assessment under Section 12.9. Further, during such time as there is a Declarant Membership, no vote shall be exercised for Units that the Declarant owns; rather, the Declarant's consent shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Governing Documents.

If there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners holding a majority of the ownership interest in the Unit determine among themselves. Any co-Owner may cast the vote for the Unit and majority agreement shall be conclusively presumed unless another co-Owner of the Unit protests promptly to the President or other person presiding over the meeting or the balloting, in the case of a vote taken outside of a meeting. In the absence of majority agreement, the Unit's vote shall be suspended if two or more co-Owners seek to exercise it independently.

## PART TWO: COMMUNITY STANDARDS

### Chapter 5

#### **Architecture, Landscaping, and Aesthetic Standards**

##### **5.1. General**

All site work, landscaping, structures, improvements, and other items placed on a Unit in a manner or location, including the construction of boat slips and docks visible from outside of any existing structures on the Unit ("Improvements") are subject to standards for design, landscaping, and aesthetics adopted pursuant to this Chapter ("Design Guidelines") and the approval procedures set forth in this Chapter, except as this chapter or the Design Guidelines may otherwise specify.

No prior approval is necessary to repaint the exterior of existing structures using the most recently approved color scheme or to rebuild or restore any damaged structures in a manner consistent with the plans and specifications most recently approved for such structures. Generally, no approval is required for work done to the interior of a structure; however, modifications to the interior of screened porches, atriums, patios, and any other portions of a structure visible from outside of the structure do require prior approval.

Any dwelling constructed on a Unit shall be designed by and built in accordance with the plans and specifications signed by a licensed architect or engineer unless the Declarant or its designee in its sole discretion otherwise approves.

Approval under this Chapter is not a substitute for any approvals or reviews required by Beaufort County or any municipality or governmental agency or entity having jurisdiction over architectural or construction matters. Construction in or alteration to any lake banks or wetlands within the Unit boundaries are subject to any applicable federal, state, or county regulations.

This Chapter shall not apply to the Declarant's design and construction activities or to the Community Association's activities during the Declarant Control Period.

##### **5.2. Design Review Authority**

(a) *Declarant.* The Declarant shall have exclusive authority to review and act upon all applications for review of proposed Improvements until the later of (i) the expiration of the Development and Sale Period, or (ii) such time as all Units planned for the property described in Exhibits "A" and "B" have been improved with dwellings for which a certificate of occupancy has been issued by the appropriate governmental agency or other evidence of completion acceptable to the Board. The Declarant may designate one or more persons to act on its behalf in reviewing any application. In reviewing and acting upon any request for approval, the Declarant and its designee act solely in the Declarant's interest and owe no duty to any other Person.



From time to time, the Declarant may delegate any or all of its rights under this Chapter to other Persons, committees, or boards, including the board appointed pursuant to Section 5.2(b). Any such delegation shall be in writing, shall specify the scope of responsibilities delegated, and shall be subject to (i) the Declarant's right to revoke such delegation at any time and reassume its prior control, and (ii) the Declarant's right to veto any decision which it determines, in its discretion, to be inappropriate or inadvisable. So long as the Declarant has any rights under this Chapter, the jurisdiction of others shall be limited to such matters as the Declarant specifically delegates.

(b) *Architectural Review Board.* Upon the Declarant's delegation of authority pursuant to Section 5.2(a), or upon expiration or termination of the Declarant's rights under this Chapter, the Board shall appoint an Architectural Review Board ("Architectural Review Board" or "ARB") to assume jurisdiction over matters within the scope of the delegated authority or this Chapter, respectively. The ARB shall consist of at least three, but not more than seven, persons, who shall serve and may be removed and replaced in the Board's discretion. ARB members need not be Owners or representatives of Owners. The ARB may, but need not, include architects, engineers, or similar professionals. The Community Association may compensate ARB members in such manner and amount, if any, as the Board may determine appropriate.

Until expiration of the Declarant's rights under this Chapter, the ARB shall notify the Declarant in writing within three business days of any action (*i.e.*, approval, partial approval, or disapproval) it takes under this Chapter. A copy of the application and any additional information the Declarant may require shall accompany the notice. The Declarant shall have 10 business days after receipt of such notice to veto any such action, in its discretion, by written notice to the ARB.

Unless and until such time as the Declarant delegates all or a portion of its reserved rights to the ARB or the Declarant's rights under this chapter terminate, the Community Association shall have no jurisdiction over architectural matters.

(c) *Reviewer.* For purposes of this Chapter, the entity having jurisdiction in a particular case shall be referred to as the "Reviewer."

(d) *Fees; Assistance.* The Reviewer may establish and charge reasonable fees for its review of applications and may require that such fees be paid in advance. Such fees may also include reasonable costs incurred in having professionals review any application. The Board may include the compensation of such persons in the Community Association's annual operating budget.

### 5.3. Guidelines and Procedures

(a) *Design Guidelines.* The Declarant may prepare the initial Design Guidelines, which may contain general provisions applicable to all of the Community as well as specific provisions that vary among uses, housing types, or locations. The Design Guidelines are intended to provide guidance to Owners and contractors regarding matters of particular concern to the Reviewer. The Design Guidelines are not the exclusive basis for the Reviewer's decisions, and compliance with the Design Guidelines does not guarantee approval.

The Declarant shall have sole and full authority to amend the Design Guidelines for so long as it has review authority under Section 5.2(a). The Declarant's right to amend the Design Guidelines shall continue even if it delegates reviewing authority to the ARB, unless the Declarant also delegates the power to amend to the ARB. Upon termination or delegation of the Declarant's right to amend, the ARB may amend the Design Guidelines with the Board's consent.

Amendments to the Design Guidelines shall apply prospectively only. They shall not require modifications to or removal of any structures previously approved once the approved construction or modification has begun. However, any new work on such structures must comply with the Design Guidelines as amended. There shall be no limitation on the scope of amendments to the Design Guidelines, and such amendments may eliminate requirements previously imposed or otherwise make the Design Guidelines less restrictive.

The Reviewer shall make the Design Guidelines available to Owners and their contractors upon request.

(b) **Procedures.** Unless the Design Guidelines provide otherwise, no activities within the scope of this Chapter (as described in Section 5.1) may begin on any property within the Community until a written application is submitted to and approved by the Reviewer. The application must be accompanied by plans and specifications and such other information as the Reviewer or the Design Guidelines require.

In reviewing each application, the Reviewer may consider any factors it deems relevant. Decisions may be based on purely aesthetic considerations. Each Owner acknowledges that such determinations are purely subjective and that opinions may vary as to the desirability and/or attractiveness of particular improvements.

The Reviewer shall have the sole discretion to make final, conclusive, and binding determinations on matters of aesthetic judgment, and such determinations shall not be subject to the procedures in Chapter 18 or judicial review so long as they are made in good faith and in accordance with required procedures.

The Reviewer shall make a determination on each application after receipt of a completed application with all required information. The Reviewer may permit or require that an application be submitted or considered in stages, in which case a final decision shall not be required until after the final, required submission. The Reviewer may (i) approve the application with or without conditions; (ii) approve a portion of the application and disapprove other portions; or (iii) disapprove the application.

The Reviewer shall notify the applicant in writing of the final determination on any application no later than 30 business days after its receipt of a completed application and all required submissions; however, with respect to any ARB determination subject to the Declarant's veto right under Section 5.2(b), the Reviewer shall notify the applicant of the final determination within 40 business days after its receipt of the final determination and all required submissions. Notice shall be deemed given at the time the envelope containing the response is deposited in the U.S. mail. Hand delivery, facsimile, electronic mail, or similar delivery of such written notice also shall be sufficient and shall be deemed given at the time of confirmed delivery to the applicant.

If the Reviewer fails to respond in a timely manner, approval shall be deemed given. However, no approval, whether expressly granted or deemed granted, shall be inconsistent with the Design Guidelines unless a written variance has been granted pursuant to Section 5.5.

As part of any approval, the Reviewer may require that construction commence within a specified time period. If construction does not commence within the required period, the approval shall expire, and the Owner must reapply for approval before commencing any activities. Once construction is commenced, it shall be diligently pursued to completion. All work shall be completed within one year of commencement unless otherwise specified in the notice of approval or unless the Reviewer, in its discretion, grants an extension in writing.

The Reviewer may exempt certain activities from the application and approval requirements of this Chapter if such activities are undertaken in compliance with the Design Guidelines and the Community-Wide Standard.

(c) *Appeals Process.* After the Board's appointment of the ARB, an applicant may appeal any disapproval by the ARB of its application to the Board. To request an appeal, the applicant must submit to the Community Association's Secretary, no later than 15 days after the delivery of the notification of disapproval, a copy of the original application, the notification of disapproval, and a letter requesting review of the decision. The appeal request shall also contain a response to any specific concerns or reasons for disapproval listed in the notification of disapproval. The Board may (i) affirm the ARB's decision, (ii) affirm a portion and overturn a portion of the ARB's decision, or (iii) overturn the ARB's entire decision; provided, any decision of the Board shall still be subject to the Declarant's veto right under Section 5.2(b) until the expiration of the Declarant's rights under this Chapter.

The Board shall notify the applicant and the ARB in writing of its decision no later than 30 days after its receipt of the request for appeal with all required information. The Board's decision shall include a description of its reasons for overturning the ARB's decision. During the appeal process the Owner shall not commence any work requiring approval hereunder.

#### **5.4. No Waiver of Future Approvals**

The people reviewing applications under this chapter will change from time to time, and opinions on aesthetic matters, as well as interpretation and application of the Design Guidelines, may vary accordingly. It may not always be possible to identify objectionable features until work is completed. In such cases, the Reviewer may elect not to require changes to objectionable features. However, the Reviewer may refuse to approve similar proposals in the future. Approval of applications or plans shall not constitute a waiver of the right to withhold approval as to any similar applications, plans, or other matters subsequently or additionally submitted for approval.

#### **5.5. Variances**

The Reviewer may authorize variances from compliance with any of the Design Guidelines and any procedures when it determines that circumstances such as topography, natural obstructions,

hardship, or aesthetic or environmental considerations justify such a variance, however, the Reviewer shall under no circumstances be obligated to grant variances. No variance shall (a) be effective unless in writing; (b) be contrary to this Charter; or (c) prevent the Reviewer from denying a variance in other circumstances. Any material variance from this Charter or the Design Guidelines requires the Declarant's written consent during the Development and Sale Period and, thereafter, requires the Board's written consent.

#### **5.6. Limitation of Liability**

This Chapter establishes standards and procedures as a mechanism for maintaining and enhancing the overall aesthetics of the Community; they do not create any duty to any Person. Review and approval of any application pursuant to this Chapter may be based purely on aesthetic considerations. The Reviewer is not responsible for the structural integrity or soundness of approved construction or modifications, for compliance with building codes and other governmental requirements, or for ensuring that all dwellings are of comparable quality, value, size, or design, or are aesthetically pleasing or otherwise acceptable to other Owners.

The Declarant, the Community Association, its officers, the Board, any committee, and member of any of the foregoing shall not be liable for (a) soil conditions, drainage, or other general site work; (b) any defects in plans revised or approved hereunder; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any contractor or its subcontractors, employees, or agents, whether or not the Declarant has approved or featured such contractor as a Participating Builder; or (d) any injury, damages, or loss arising out of the manner or quality or other circumstances of approved construction on or modifications to any Unit. In all matters, the Community Association shall defend and indemnify the Board, the ARB, and the members of each, as provided in the By-Laws.

### **Chapter 6**

#### **Maintenance, Repair, and Replacement**

##### **6.1. Maintenance by Owners**

Each Owner shall maintain his or her Unit, including all structures, landscaping, bulkhead and other improvements and lake banks comprising the Unit, in a manner consistent with the Governing Documents and the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Community Association, Neighborhood Association or service area pursuant to this Charter, any Supplement, or by law.

Each Owner shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the Unit boundary and any wall, fence, or curb located on the Common Area or public right-of-way within 10 feet of the Unit boundary. However, Owners may not remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Chapter 5.

**6.2. Maintenance of Neighborhood Association Property**

A Neighborhood Association shall maintain its common property and any other property for which it has maintenance responsibility in a manner consistent with the Governing Documents, the Community-Wide Standard, and all applicable covenants.

Any Neighborhood Association shall also be responsible for maintaining and irrigating the landscaping within that portion of any adjacent Common Area or public right-of-way lying between the boundary of its common property and any wall, fence, or curb located on the Common Area or public right-of-way within 12 feet and up to 50 feet of its boundary. A Neighborhood Association shall not remove trees, shrubs, or similar vegetation from this area without prior approval pursuant to Chapter 5.

The Community Association may assume maintenance responsibility for any Neighborhood Association property, either upon designation of the Neighborhood Association as a Service Area pursuant to Section 3.2 or upon the Board's determination, pursuant to Chapter 8, that the level and quality of maintenance then being provided is not consistent with the Community-Wide Standard. The Community Association need not treat all similarly situated Neighborhood Associations the same.

**6.3. Responsibility for Repair and Replacement**

Unless otherwise specifically provided in the Governing Documents or in other instruments creating and assigning maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement necessary to maintain the property to a level consistent with the Community-Wide Standard.

Within 90 days after any damage to or destruction of a structure on a Unit, the Owner shall promptly repair or reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved pursuant to Chapter 5 unless the Board, in its discretion, agrees to extend such period. Alternatively, the Owner shall clear the Unit of debris and maintain it in a neat and attractive landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs that insurance proceeds do not cover.

Additional recorded covenants applicable to any Neighborhood Association or Limited Common Area may establish additional insurance requirements and more stringent standards for rebuilding or reconstructing structures on Units and for clearing and maintaining the Units in the event the structures are not rebuilt or reconstructed.

This Section shall apply to a Neighborhood Association with respect to common property of the Neighborhood Association in the same manner as if the Neighborhood Association was an Owner and the common property was a Unit.

#### 6.4. Maintenance and Repair of Party Walls and Similar Structures

Except as may otherwise be provided by law, a written agreement between Owners of adjacent Units, or other recorded documents applicable to adjacent Units:

- (a) Each wall, fence, driveway, or similar structure built as part of the original construction on the Units that serves and/or separates any two adjoining Units shall be considered a party structure. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who use the party structure.
- (b) If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.
- (c) The right to and the obligation of contribution for party walls and similar structures between Owners, as provided in this Section, shall be appurtenant to the land and shall pass to such Owner's successor-in-title.
- (d) To the extent not inconsistent with the provisions of this section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to any party structure. Any dispute concerning a party structure shall be subject to the provisions of Chapter 18.

### Chapter 7

#### Use and Conduct

##### 7.1. Use, Occupancy, and Transfer of Interests in Units

- (a) ***Residential and Related Uses.*** Units may be used only for residential and related purposes, except as the Declarant may otherwise authorize with respect to construction, marketing, and sale activities of the Declarant and Builders it designates. A business activity shall be considered "related" to a residential use and thus permitted under this Section only if conducted by a person or persons residing in the Unit and only if the business activity:
  - (i) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;
  - (ii) complies with applicable zoning requirements;
  - (iii) does not involve more than light visitation of the Unit by employees who do not reside in the Unit, clients, customers, suppliers, or other business invitees, or door-

to-door solicitation within the Community and, to the extent that there is any visitation, off-street parking is available for all visitors;

(iv) Does not have inventory to sell, ship or otherwise deal with; and

(v) is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

"Business" shall have its ordinary, generally accepted meaning and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing a Unit for residential purposes shall not be considered a "business" within the meaning of this Section, provided that the Owner and any other Owners with whom such Owner is affiliated do not collectively lease or offer for lease more than one Unit at any time. This provision shall not preclude an institutional lender from leasing a Unit upon taking title following foreclosure of its security interest in the Unit or upon acceptance of a deed in lieu of foreclosure.

(b) *Leasing.* For purposes of this Charter, the terms "Lease" and "Leasing" shall refer to the regular, exclusive occupancy of a Unit by any Person other than the Owner, for which the Owner receives any consideration or benefit. Any dwelling that is leased shall be leased only in its entirety; separate rooms, floors, or other areas within a dwelling may not be separately leased; however, any detached "in-law suite" or "guest house" approved pursuant to Chapter 5 may be leased separate from the main dwelling.

All leases shall be in writing and shall disclose that the tenants and all occupants of the leased Unit are bound by and obligated to comply with the Governing Documents. However, the Governing Documents shall apply regardless of whether such a provision is specifically set forth in the lease.

Within 10 days of a lease being signed, the Owner of the leased Unit shall notify the Board or the Community Association's managing agent of the lease and provide any additional information the Board may reasonably require. The Owner must give the tenant copies of the Governing Documents. In addition to, but consistent with this subsection, the Community Association or the Board may adopt Rules governing leasing and subleasing.

Declarant shall have the right to designate certain areas within the Community as areas where short and long term leases are permissible. Such areas are designated as "Short Term Leasing Area" and subject to additional rules and regulations, promulgated by Declarant, its successors and assigns.

(c) *Transfer of Title.* Any Owner desiring to sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require.

(d) **Subdivision and Combination of Units.** No Person other than the Declarant and Builders whom the Declarant may authorize shall subdivide or change the boundary lines of any Unit or combine Units without the Board's prior written approval. Any such action that the Board approves shall be effective only upon recording of a plat or other legal instrument reflecting the subdivision or new boundaries of the affected Unit(s). In the absence of such recorded instrument, adjacent Units owned by the same Owner shall continue to be treated as separate Units for purposes of voting and assessment, even though such Units may be improved with a single dwelling.

(e) **Timesharing.** No Unit shall be used for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years, unless such program is established by the Declarant or with the Declarant's prior written approval.

(f) **Signs.** No sign of any kind, banner, flag, pennant, or the like that is visible from outside of a Unit shall be erected, placed, or permitted to remain on any Unit without the written consent of the Board, except as may be required by legal proceedings; provided, Declarant, Builders designated by Declarant, and the Board shall have the right to erect reasonable and appropriate signs throughout the Community. Further, the displaying of the U.S. Flag, State Flag and Holiday Banners is permitted.

## **7.2. Rulemaking Authority and Procedures**

The Governing Documents establish a framework of covenants and conditions that govern the Community. The initial Rules attached as Exhibit "C" are a part of that framework. However, within that framework, the Community Association must be able to respond to unforeseen issues and changes affecting the Community. Therefore, the Board and the Owners are authorized to change the Rules in accordance with the following procedures, subject to the limitations set forth in Section 7.3.

(a) **Board Authority.** Subject to the notice requirements in Section 7.2(c) and the Board's duty to exercise judgment and reasonableness on behalf of the Community Association and its members, the Board may adopt new Rules and modify or rescind existing Rules by majority vote of the directors at any Board meeting.

(b) **Membership Authority.** Subject to the notice requirements in Section 7.2(c), the Owners representing a majority of the votes in the Community Association may also adopt new Rules and modify or rescind existing Rules at any meeting of the Community Association duly called for such purpose, regardless of the manner in which the original Rule was adopted. However, as long as the Declarant membership exists, any such action shall also be subject to the Declarant's approval.

(c) **Notice.** The Board shall send notice to all Owners concerning any proposed Rule change at least five business days prior to the meeting of the Board or the Owners at which such action is to be considered. At any such meeting, Owners shall have a reasonable opportunity to be heard before the proposed action is put to a vote.



This notice requirement does not apply to administrative and operating policies that the Board may adopt relating to the Common Areas, such as hours of operation of a recreational facility, speed limits on private roads, and the method of allocating or reserving use of a facility (if permitted) by particular individuals at particular times, notwithstanding that such policies may be published as part of the Rules.

(d) *Effective Date.* A Rules change adopted under this section shall take effect 30 days after the date on which written notice of the Rules change is given to the Owners.

(e) *Conflicts.* No action taken under this Section shall have the effect of modifying or repealing the Design Guidelines or any provision of this Charter other than the Rules. In the event of a conflict between the Design Guidelines and the Rules, the Design Guidelines shall control. In the event of a conflict between the Rules and any provision of this Charter (exclusive of the Rules), the Charter shall control.

### 7.3. Protection of Owners and Others

Except as may be set forth in this Charter (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," all Rules shall comply with the following provisions:

(a) *Similar Treatment.* Similarly situated Units shall be treated similarly; however, the Rules may vary by Service Area or housing type.

(b) *Household Composition.* No Rule shall interfere with an Owner's freedom to determine household composition, except that the Community Association may impose and enforce reasonable occupancy limitations and conditions based on Unit size and facilities and its fair share use of the Common Area.

(c) *Activities Within Dwellings.* No Rule shall interfere with the activities carried on within a dwelling, except that the Community Association may prohibit activities not normally associated with residential property. It may also restrict or prohibit activities that create monetary costs for the Community Association or other Owners, that create a danger to anyone's health or safety, that generate excessive noise or traffic, that create unsightly conditions visible from outside the dwelling, or that are an unreasonable source of annoyance.

(d) *Allocation of Burdens and Benefits.* No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Community Association. Nothing in this provision shall prevent the Community Association from changing the Common Area available, from adopting generally applicable rules for use of Common Area, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Governing Documents. This provision does not affect the right to increase the amount of assessments as provided in Chapter 12.

(e) *Leasing and Transfer of Units.* No Rule shall prohibit leasing or transfer of any Unit or require approval prior to leasing or transferring a Unit; however, the Rules may require a

minimum lease term of up to 6 months. Minimum lease terms may vary by Service Area, or housing type. The Rules may also require that Owners use Board-approved lease forms (or include specific lease terms), and may impose a reasonable review or administrative fee in connection with the Board's review of a lease.

(f) *Abridging Existing Rights.* No Rule shall require that an Owner dispose of personal property kept in or on a Unit in compliance with the Rules in effect at the time such personal property was brought onto the Unit. This exemption shall apply only during the period of such Owner's ownership of the Unit and shall not apply to subsequent Owners who take title to the Unit after adoption of the Rule.

(g) *Reasonable Rights to Develop.* No Rule may unreasonably interfere with the Declarant's ability to develop, market, and sell property in the Community.

(h) *Interference with Easements.* No Rule may unreasonably interfere with the exercise of any easement.

#### 7.4. Owners' Acknowledgment and Notice to Purchasers

By accepting a deed, each Owner acknowledges and agrees that the use, enjoyment, and marketability of his or her Unit is limited and affected by the Rules, which may change from time to time. All Unit purchasers are hereby notified that the Community Association may have adopted changes to the Rules and that such changes may not be set forth in a recorded document.

A copy of the current Rules and all administrative policies are available from the Community Association upon request. The Community Association may charge a reasonable fee to cover its reproduction cost.

## **Chapter 8**

### **Compliance and Enforcement**

#### 8.1. Compliance

Every Owner, occupant, and visitor to a Unit must comply with the Governing Documents and shall be subject to sanctions for violations as described in this Chapter. In addition, each Owner shall be responsible for, and may be sanctioned for, all violations of the Governing Documents by the occupants, tenants, guests, or invitees to their Units, and for any damage to the Area of Common Responsibility that such Persons may cause.

#### 8.2. Remedies for Non-Compliance

The Community Association, the Declarant and every affected Owner shall have the right to file suit at law or in equity to enforce the Governing Documents. In addition, the Board may impose sanctions for violation of the Governing Documents, including those sanctions listed below and any others described elsewhere in the Governing Documents.

(a) ***Sanctions Requiring Prior Notice and Hearing.*** After written notice and an opportunity for a hearing in accordance with the By-Laws, the Board may:

(i) impose reasonable monetary fines, which shall constitute a lien upon the violator's Unit. In the event that any occupant, tenant, guest, or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine may, but need not, first be assessed against the violator; provided, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board);

(ii) suspend an Owner's right to vote;

(iii) suspend any Person's right to use any Common Area facilities (A) for any period during which any charge against such Owner's Unit remains delinquent, and (B) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation; provided, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;

(iv) suspend services the Community Association provides;

(v) exercise self-help or take action to abate any violation of the Governing Documents in a non-emergency situation (including removing personal property that violates the Governing Documents);

(vi) without liability to any Person, preclude any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of Chapter 5, including the Design Guidelines, from continuing or performing any further activities in the Community;

(vii) levy Specific Assessments to cover costs the Community Association incurs in bringing a Unit into compliance with the Community-Wide Standard or other requirements under the Governing Documents; and

(viii) record a notice of violation with respect to any Unit on which a violation exists.

(b) ***Other Sanctions.*** The Board may take the following actions to obtain compliance with the Governing Documents without prior notice or a hearing:

(i) exercise self-help or take action to abate a violation on a Unit in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations);

(ii) exercise self-help or take action to abate a violation on the Common Area under any circumstances;

(iii) require an Owner or a Neighborhood Association, at its own expense, to perform maintenance or to remove any structure or improvement on such Owner's Unit or on the

Neighborhood Association's property, respectively, that is in violation of the Community-Wide Standard or other requirements under the Governing Documents and to restore the property to its previous condition;

(iv) enter the property and exercise self-help to remove or cure a violating condition if an Owner or Neighborhood Association fails to take action as required pursuant to Section 8.2(b)(iii) within 10 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

(v) bring suit at law for monetary damages or in equity to stop or prevent any violation, or both.

(c) *Additional Powers Relating to Neighborhood Associations.* In addition to the foregoing sanctions, the Community Association shall have the power to veto any action that a Neighborhood Association proposes to take if the Board reasonably determines the proposed action to be adverse to the interests of the Community Association or its members or inconsistent with the Community-Wide Standard. The Community Association also shall have the power to require specific action to be taken by any Neighborhood Association in connection with its obligations and responsibilities, such as requiring specific maintenance or repairs or aesthetic changes to be effectuated and requiring that a proposed budget include certain items and that expenditures be made therefore.

A Neighborhood Association shall take appropriate action required by the Community Association in a written notice within the reasonable time frame set by the Community Association in the notice. If the Neighborhood Association fails to comply, the Community Association shall have the right to effect such action on behalf of the Neighborhood Association and levy Specific Assessments to cover the costs, as well as an administrative charge and sanctions.

### 8.3. Board Decision to Pursue Enforcement Action

The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. For example, the Board may determine that, in a particular case:

(a) the Community Association's position is not strong enough to justify taking any or further action;

(b) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law;

(c) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Community Association's resources; or

(d) that it is not in the Community Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

A decision not to enforce a particular provision shall not prevent the Community Association from enforcing the same provision at a later time or prevent the enforcement of any other covenant, restriction, or rule.

#### **8.4. Attorneys' Fees and Costs**

In any action to enforce the Governing Documents, if the Community Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action.

#### **8.5. Enforcement of Ordinances**

The Community Association, by contract or other agreement, may enforce applicable town and county ordinances. In addition, Beaufort County or the Town of Bluffton may enforce ordinances within the Community.

### **Part Three: Community Association Operations**

#### **Chapter 9**

---

#### **Property Management**

##### **9.1. Acceptance and Control of Community Association Property**

(a) *Transfers and Conveyances by Declarant.* The Declarant and its designees may transfer or convey to the Community Association interests in real or personal property within or for the benefit of the Community, and the Community Association shall accept such transfers and conveyances. Such property may be improved or unimproved and may consist of fee simple title, easements, leases, licenses, or other real or personal property interests.

Upon the Declarant's written request, the Community Association shall reconvey to the Declarant any unimproved real property that the Declarant originally conveyed to the Community Association for no payment, to the extent conveyed in error or needed to make minor adjustments in property lines or accommodate changes in the development plan.

(b) *Management and Control.* The Community Association is responsible for management, operation, and control of the Common Area, subject to any covenants set forth in the deed or other instrument transferring the property to the Community Association. The Community Association may enter into leases, licenses, or operating agreements with respect to portions of the Common Area, for payment or no payment, as the Board deems appropriate. The Community Association may permit use of Common Area facilities by persons other than Owners and occupants of Units and may charge use fees, in such amount as the Board may establish, for such use.

**9.2. Maintenance of Area of Common Responsibility**

The Community Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility includes, but is not limited to:

- (a) the Common Area;
- (b) landscaping within public rights-of-way within or abutting the Community to the extent that responsible governmental authorities do not maintain it to the Community-Wide Standard;
- (c) such portions of any additional property as may be dictated by the Declarant, this Charter, any Supplement, or any covenant or agreement for maintenance entered into by, or otherwise binding on the Community Association; and
- (d) any property and facilities that the Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Community Association and its members. The Declarant shall identify any such property and facilities by written notice to the Community Association, and they shall remain part of the Area of Common Responsibility until the Declarant revokes such privilege of use and enjoyment by written notice to the Community Association.

The Community Association shall also be responsible for proper functioning of the stormwater drainage system serving the Community, including maintenance, repair and replacement, as needed, of pipes, culverts, and other structures and equipment comprising the system, except for any portions of the stormwater drainage system which are the Lake Maintenance Corporation's responsibility to maintain under the Lake Covenant. It shall have no responsibility for landscaping or other maintenance of Units burdened by stormwater drainage easements unless otherwise specifically set forth in a Supplement or in a recorded agreement or plat.

The Community Association shall also be responsible for proper maintenance of the entry gate and guardhouse.

The Community Association may maintain other property it does not own, including, without limitation, Units, property dedicated to the public, or property owned or maintained by a Neighborhood Association, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard. The Community Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property it does not own except to the extent that it has been negligent in performing its maintenance responsibilities.

**9.3. Discontinuation of Operation**

The Community Association shall maintain the Common Area facilities in continuous operation unless the Declarant, during the Development and Sale Period, and Owners representing a

majority of the total votes in the Community Association, consent in writing to discontinue such operation. If the property is Limited Common Area, any discontinuation shall also require the approval in writing of at least a majority (or such higher percentage as a Supplement may require) of the Owners to whom such Limited Common Area is assigned. This Section shall not apply to restrict the Board's ability to establish reasonable operating hours, which may vary by season, nor to preclude temporary closures or interruptions in operation as the Board may determine appropriate to perform maintenance or repairs.

#### **9.4. Restoring Damaged Improvements**

In the event of damage to or destruction of portions of the Area of Common Responsibility for which the Community Association has insurance responsibility, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially its condition prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Community Association shall repair or reconstruct damaged Common Area improvements unless the Declarant, during the Development and Sale Period, and Owners representing at least 75% of the total votes in the Community Association, decide within 60 days after the loss not to repair or reconstruct. If the damage is to Limited Common Area or Units within a Service Area, any decision not to restore the damaged improvements shall also require the approval of at least 75% of the Owners of Units in the affected Service Area. If either the insurance proceeds or estimates of the loss, or both, are not available to the Community Association within such 60-day period, then the period shall be extended until such funds or information are available. No Mortgagee shall have the right to participate in determining whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Community Association in a neat and attractive condition consistent with the Community-Wide Standard.

The Community Association shall retain and place in a capital improvements account for the benefit of all Owners, or the Owners of Units within the affected Service Area, as appropriate, any insurance proceeds remaining after paying the costs of repair or reconstruction or after such settlement as is necessary and appropriate. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Owners, levy Special Assessments to cover the shortfall against those Owners responsible for the premiums for the applicable insurance coverage under Section 11.1.

**9.5. Relationships with Other Properties**

The Community Association may contract with the owner of any neighboring property, the Lake Maintenance Corporation, the Road Association, or any Private Amenity to provide for sharing of costs associated with (a) maintenance and operation of mutually beneficial properties or facilities, or (b) provision of mutually beneficial services.

**9.6. Prohibition of Mining**

No mining activities shall be conducted on the Property.

**Chapter 10**

---

**Provision of Services**

**10.1. Provision of Services to Units**

The Community Association may arrange for or provide services to Owners and their Units, directly or through contracts with the Declarant or other third parties. The Community Association may enter into bulk service agreements by which a particular service is provided to all Units, or it may offer various services at the option of each Owner, or both. By way of example and not limitation, such services might include such things as cable television, utilities, fire protection, security, trash collection, landscape maintenance, pest control and technology services.

Any Community Association contract for services may require individual Owners or occupants to execute separate agreements directly with the Persons providing components or services in order to gain access to or obtain specified services. Such contracts and agreements may contain terms and conditions that, if violated by the Owner or occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit as a Common Expense or Service Area Expense pursuant to Chapter 12.

In its discretion, the Board may discontinue offering particular services and may modify or cancel existing contracts for services subject to the contract terms and any provision that may exist elsewhere in the Governing Documents requiring the Community Association to provide such services.

**10.2. Provision of Services to Service Areas**

(a) *Service Areas Designated by Declarant.* The Community Association shall provide services to Units within any Service Area designated by the Declarant pursuant to Section 3.2 as required by the terms of any Supplement applicable to the Service Area.

(b) *Service Areas Designated by Board.* In addition to Service Areas which the Declarant may designate pursuant to Section 3.2, any group of Owners may petition the Board to designate their



Units as a Service Area for the purpose of receiving from the Community Association (i) special benefits or services which are not provided to all Units, or (ii) a higher level of service than the Community Association otherwise provides. Any such petition shall be signed by Owners of a majority of the Units within the proposed Service Area. Upon receipt of such petition, the Board shall investigate the terms upon which the requested benefits or services might be provided and notify the Owners in the proposed Service Area of such terms and the initial fees for providing the requested service, which may include a reasonable administrative charge. If Owners of at least 67% of the Units within the proposed Service Area approve the proposal in writing, the Board shall designate the Units as a Service Area and include the fees for such service as a line item in the Service Area budget pursuant to Section 12.2(c).

### 10.3. Community Technology

(a) *Community Systems.* Without limiting the generality of Sections 10.1 and 10.2, the Community Association is specifically authorized to provide, or to enter into contracts with other Persons to provide, central telecommunication receiving and distribution systems (e.g., cable television, high speed data/Internet/intranet services, and security monitoring) and related components, including associated infrastructure, equipment, hardware, and software, to serve the Community ("Community Systems"). Any such contracts may provide for installation, operation, management, maintenance and upgrades or modifications to the Community Systems as the Board determines appropriate. The Community Association shall have no obligation to utilize any particular provider(s). However, except for cause (as defined by written agreement with the provider), the Community Association may not, without the Declarant's consent, terminate or refuse to renew any contract entered into during the Declarant Control Period.

(b) *Opportunities for Community Interaction.* The Community Association may make use of computers, the Internet, and expanding technology to facilitate community interaction and encourage participation in Community Association activities. For example, the Community Association may sponsor a community cable television channel, create and maintain a community intranet or Internet home page, maintain an "online" newsletter or bulletin board, and offer other technology-related services and opportunities for Owners and residents to interact and participate in Community Association-sponsored activities. To the extent South Carolina law permits, and unless otherwise specifically prohibited in the Governing Documents, the Community Association may send notices by electronic means, hold Board or Community Association meetings and permit attendance and voting by electronic means, and send and collect assessment and other invoices by electronic means.

## Chapter 11

### Community Association Insurance

#### 11.1. Required Coverages

The Community Association shall obtain and maintain in effect the following insurance coverage, if reasonably available, or if not reasonably available, the most nearly equivalent coverage as is reasonably available:

(a) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on

(i) the Common Area; and

(ii) other portions of the Area of Common Responsibility, to the extent that the Community Association has responsibility for repair or replacement in the event of a casualty; and

(iii) any Service Area, to the extent specified or authorized by any applicable Supplement.

If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. The limits of Community Association property insurance policies shall be sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes.

In addition, if a Supplement so specifies, the Community Association shall obtain and maintain property insurance on the insurable improvements within a Service Area, which insurance shall comply with the above requirements.

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Community Association and its members for damage or injury caused by the negligence of the Community Association or any of its members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage. Such coverage may be provided through a combination of primary and umbrella policies. However, if additional coverage and higher limits are available at reasonable cost that a reasonably prudent person would obtain, the Community Association shall obtain such additional coverages or limits;

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

(d) Directors and officers liability coverage; and

(e) Commercial crime insurance, including fidelity insurance covering all Persons responsible for handling Community Association funds in an amount determined in the Board's business judgment but not less than an amount equal to 1/4 of the annual Base Assessments on all Units plus reserves on hand. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation.

The Community Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the metropolitan Beaufort area. In the exercise of its business judgment, the Board may obtain additional insurance coverage and higher limits than this Section requires.

### 11.2. Deductibles

The Community Association's policies may contain a reasonable deductible, which shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 11.1. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Service Area Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

### 11.3. Policy Requirements

All Community Association policies shall provide for a certificate of insurance to be furnished to the Community Association and, upon request, to each Owner.

To the extent available at reasonable cost and terms, all Community Association insurance shall:

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

(b) be written in the name of the Community Association as trustee for the benefited parties.

All policies shall be for the benefit of the Community Association and its members, except that policies on Limited Common Area shall be for the benefit of the Owners of Units within the Service Area to which the Limited Common Area is assigned and their Mortgagees, as their interests may appear;

(c) not be brought into contribution with insurance purchased by Owners, occupants, or their Mortgagees individually;

(d) contain an inflation guard endorsement;

(e) include an agreed amount endorsement, if the policy contains a co-insurance clause;

(f) provide that each Owner is an insured person with respect to liability arising out of such Owner's status as a member of the Community Association;

(g) provide a waiver of subrogation against any Owner or household member of an Owner; and

(h) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any act or omission of one or more Owners, unless acting on the Community Association's behalf within the scope of their authority, or on account of any curable defect or violation, without prior written demand to the Community Association and allowance of a reasonable time to cure the defect or violation.

In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insureds and provide:

- (a) a waiver of subrogation as to any claims against the Community Association's directors, officers, employees, and manager;
- (b) a waiver of the insurer's right to repair and reconstruct instead of paying cash;
- (c) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (d) an endorsement requiring at least 30 days' prior written notice to the Community Association of any cancellation, substantial modification, or non-renewal;
- (e) a cross liability provision; and
- (f) a provision vesting in the Board exclusive authority to adjust losses. However, Mortgagees having an interest in such losses may not be precluded from participating in the settlement negotiations, if any, related to the loss.

#### 11.4. Insurance Premiums

Premiums for all Community Association insurance shall be a Common Expense, except that premiums for property insurance on Units within, or Limited Common Areas assigned to, a particular Service Area shall be a Service Area Expense, unless the Board reasonably determines that other treatment of the premiums is more appropriate.

## Chapter 12

### Community Association Finances

#### 12.1. Community Association Expenses

(a) **Common Expenses.** Except as the Governing Documents otherwise specifically provide, all of the expenses that the Community Association incurs, or expects to incur, in connection with the ownership, maintenance, and operation of the Area of Common Responsibility, and otherwise for the general benefit of the Owners, are considered "Common Expenses." Common Expenses include such operating reserves and reserves for repair and replacement of capital items within the Area of Common Responsibility as the Board finds necessary or appropriate

Common Expenses shall not include any expenses incurred during the Declarant Control Period for initial development or original construction costs unless Owners (other than Declarant appointees) representing a majority of the total vote in the Community Association approve such expenditure. Payments due under leases of capital improvements such as street lights shall not be considered an initial development or original construction cost.

The characterization of a particular expense as a "Common Expense" shall not preclude the Community Association from seeking reimbursement for, or a contribution toward, such expenses from other Persons who may be responsible for the expenses incurred or for sharing such expenses pursuant to this Charter, any Supplement, or any other recorded covenants or agreements.

(b) *Service Area Expenses.* All expenses that the Community Association incurs or expects to incur in connection with the ownership, maintenance, and operation of Limited Common Areas, or in providing other benefits and services to a Service Area, including any operating reserve or reserve for repair and replacement of capital items maintained for the benefit of the Service Area, are considered "Service Area Expenses." Service Area Expenses may include a reasonable administrative charge in such amount as the Board deems appropriate, provided that any such administrative charge is applied at a uniform rate per Unit among all Service Areas receiving the same service.

#### 12.2. Budgeting for and Allocating Community Association Expenses

(a) *Preparation of Budget.* At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. In addition, the Board shall prepare a separate budget for each Service Area reflecting the estimated Service Area Expenses that the Community Association expects to incur for the benefit of such Service Area in the coming year.

The estimated expenses in each budget shall include, in addition to any operating reserves, a reasonable contribution to a reserve fund for repair and replacement of any capital items to be maintained as a Common Expense or as a Service Area Expense of the Service Area for which the budget is prepared, as applicable. In determining the amount of such reserve contribution, the Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost, and the contribution required to fund the projected needs by annual contributions over the useful life of the asset.

Each budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units (including amounts to which the Community Association is entitled pursuant to any covenant or agreement to share costs), and the amount to be generated through the levy of Base Assessments and Service Area Assessments pursuant to Sections 12.2(b) and (c).

(b) *Calculation of Base Assessments.* The total budgeted Common Expenses, less any surplus in the Common Expense budget from prior years and any income anticipated from sources other

than assessments against the Units, shall be allocated equally among all Units subject to assessment under Section 12.5 and levied as a "Base Assessment." The Base Assessment shall not exceed \$3500.00 for the Year 2007.

(c) *Calculation of Service Area Assessments.* The total Service Area Expenses budgeted for each Service Area, less any surplus in such Service Area budget from prior years, shall be allocated among all Units in the Service Area that are subject to assessment under Section 12.5 and levied as a "Service Area Assessment." Unless otherwise specified in any Supplement applicable to a Service Area, Service Area Assessments shall be set at a uniform rate per Unit in the Service Area, except that any portion of the assessment intended for exterior maintenance of structures, insurance on structures, or replacement reserves which pertain to particular structures may be levied on each of the benefited Units in proportion to the benefit received, as the Board may reasonably determine.

All amounts the Community Association collects as Service Area Assessments shall be held in trust for and expended solely for the benefit of the Service Area for which they were collected and shall be accounted for separately from the Community Association's general funds.

(d) *Declarant's Subsidy Option.* The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Declarant under Section 12.6(b)). Any such subsidy may be treated as a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Community Association and the Declarant.

(e) *Notice of Budget and Assessment; Right to Disapprove.* The Board shall send a copy of each applicable budget, together with notice of the amount of the Base Assessment and any Service Area Assessment to be levied pursuant to such budgets, to each Owner at least 30 days prior to the due date of the assessments to be levied pursuant to such budget. The Common Expense budget shall automatically become effective unless disapproved at a meeting by Owners representing at least 75% of the total votes in the Community Association and by the Declarant Member, if such exists. Each Service Area budget shall automatically become effective unless disapproved at a meeting by Owners of at least 67% of the Units within the Service Area, except that the right to disapprove a Service Area budget shall apply only to those line items which are attributable to services or benefits requested by the Service Area and shall not apply to any item which the Governing Documents require to be assessed as a Service Area Expense.

There shall be no obligation to call a meeting for the purpose of considering any budget except, in the case of the Common Expense budget, on petition of the Owners as provided for special meetings in the By-Laws, and in the case of a Service Area budget, on petition of Owners of at least 2/3 of the Units within the Service Area. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(f) **Budget Revisions.** The Board may revise the budget and adjust the Base Assessment or Service Area Assessments anytime during the year, subject to the same notice requirements and rights to disapprove set forth in this Section.

#### 12.3. Special Assessments

The Community Association may levy "Special Assessments" to cover Common Expenses or Service Area Expenses that are non-routine, unanticipated, or in excess of those anticipated in the applicable budget. Except as otherwise specifically provided in this Charter, any Special Assessment for Common Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the votes attributable to Units subject to assessment under Section 12.5 and shall be allocated equally among all such Units. Any Special Assessment for Service Area Expenses shall require the affirmative vote or written consent of Owners representing more than 50% of the total votes allocated to Units in the benefited Service Area and shall be allocated in the same manner as Service Area Assessments under Section 12.2(c). In addition, as long as the Declarant membership exists, any Special Assessment shall also be subject to the Declarant's written consent. Special Assessments shall be payable in such manner and at such times as the Board determines and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

#### 12.4. Specific Assessments

The Community Association may levy "Specific Assessments" against a particular Unit as follows:

- (a) to cover the costs, including overhead and administrative costs, of providing services to the Unit upon request of the Owner pursuant to any menu of optional services which the Community Association may offer (which might include the items identified in Section 10.1). Specific Assessments for optional services may be levied in advance of the provision of the requested service;
- (b) to cover costs incurred in bringing the Unit into compliance with the Governing Documents or costs incurred as a consequence of the conduct of the Owner or occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; however, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this Section; and
- (c) to cover the Unit's pro rata share of any costs that the Community Association incurs in bringing the Service Area of which the Unit is a part into compliance with the provisions of the Governing Documents; however, the Board must give prior written notice to the Owners of Units in the Service Area and an opportunity for such Owners to be heard before levying any such assessment.

#### 12.5. Authority to Assess Owners; Time of Payment

The Declarant hereby establishes and the Community Association is hereby authorized to levy assessments as provided for in this Chapter and elsewhere in the Governing Documents. The obligation to pay assessments shall commence as to each Unit on the first day of the month following: (a) the date on which the Unit is made subject to this Charter, or (b) the month in which the Board first determines a budget and levies assessments pursuant to this Chapter, whichever is later; provided, the obligation to pay assessments shall commence as to each Unit owned by a Builder designated by the Declarant on: (i) the date one year from the transfer of the Unit from the Declarant to a Builder; (ii) the date on which a certificate of occupancy is issued for a dwelling on the Unit; or (iii) the date of transfer of the Unit from a Builder to an Owner in the ordinary course of its business, whichever is earlier.

The first annual Base Assessment and Service Area Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, the Base Assessment and any Service Area Assessment shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

#### 12.6. Obligation for Assessments

(a) *Personal Obligation.* By accepting a deed, each Owner covenants and agrees to pay all assessments authorized in the Governing Documents. No assessments are due for years preceding 2007. Assessments shall begin January 1, 2007. All assessments, together with interest (computed from its due date at a rate of 18% per annum or such higher rate as the Board may establish, subject to the limitations of South Carolina law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

The Board's failure to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Service Area Assessments at the rate established for the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Community Association may retroactively assess any shortfall.



No Owner may exempt himself or herself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or non-use of services provided to all Units or to all Units within the Service Area to which the Unit is assigned. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Community Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

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

(b) *Declarant's Financial Obligations to Community Association.* The Declarant shall be liable for assessments on any Units: (i) it owns that are subject to assessment under Section 12.5, and (ii) any Units owned by Exempt Owners (meaning certain owners that the Declarant has waived the assessment obligation in its sole discretion) until (A) January 1, 2011, or (B) termination of the Declarant Control Period, whichever is earlier; provided, during the Declarant Control Period, the Declarant may satisfy its obligation to pay Base Assessments and Special Assessments for Common Expenses on Units it owns and Units owned by Exempt Owners either by paying such assessments in the same manner as any other Owner, or by paying (i) any shortfall under the Common Expense budget resulting from events other than failure of other Owners to pay their assessments, and (ii) any budgeted contributions to reserves in accordance with the applicable budget.

Unless the Declarant otherwise notifies the Board in writing at least 30 days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. After termination of the Declarant Control Period, the Declarant shall pay Base Assessments on any Units it owns that are subject to assessment under Section 12.5 in the same manner as any other Owner liable for such assessments.

In other words, during the Declarant Control Period, the Declarant may choose to pay the difference between the Association's budgeted and actual expenses, rather than paying assessments on the Units it owns.

Regardless of the Declarant's election under this subsection (b), any of the Declarant's financial obligations to the Community Association may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these.

#### 12.7. Lien for Assessments

(a) *Existence of Lien.* The Community Association shall have a lien against each Unit to secure payment of assessments, as well as interest, late charges (subject to the limitations of South

Carolina law), and costs of collection (including attorneys' fees and expenses), including any Units owned by Exempt Owners, notwithstanding the fact that the Declarant may be liable for such assessments pursuant to Section 12.6(b). Such lien shall be superior to all other liens, except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (ii) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages are foreclosed under South Carolina law.

Although no further action is required to create or perfect the lien, the Community Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums due the Community Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Community Association to execute and record any such document shall not affect the validity, enforceability, or priority of the lien.

(b) **Enforcement of Lien.** The Community Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Community Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Community Association. The Community Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) **Effect of Sale or Transfer.** Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to the Mortgagee's foreclosure. The subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 12.5, including such acquirer, its successors and assigns.

#### 12.8. Declarant Subsidization

Declarant agrees that for so long as it maintains its Declarant Membership voting rights set forth in Section 4.1(b), in lieu of assessments on its Units, it shall pay to the Community Association the difference between the costs and expenses incurred by the Community Association and the amounts levied against the members subject to assessments. Such subsidization shall not extend to amounts properly levied against members but not collected therefrom. At the termination of the Declarant Control Period, Declarant's Units will no longer be exempt from assessments but shall be subject to the annual assessment with respect to Units it owns multiplied times a factor of 20%. This same percentage shall also apply to any Special Assessments levied by the Community Association. This Section may not be amended without the consent of Declarant or Declarant's assigns.

#### 12.9. Exempt Property

The following property shall be exempt from payment of Base Assessments, Service Area Assessments, and Special Assessments:

- (a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility;
- (b) Any property dedicated to and accepted by any governmental authority or public utility;
- (c) Property owned by any Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common; and
- (d) Any property owned by the Lake Maintenance Corporation or the Road Association.

In addition, the Community Association may, by resolution, grant exemptions to certain Persons qualifying for tax-exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Charter for purposes listed in Section 501(c) of the Internal Revenue Code.

#### 12.10. Capitalization of Community Association

The first Owner of each Unit other than the Declarant or Builders designated by the Declarant, shall make a contribution to the working capital of the Community Association in an amount equal \$875.00 per Unit. This amount shall be in addition to, not in lieu of, the annual Base Assessment and any Service Area Assessment levied on the Unit and shall not be considered an advance payment of such assessments. This amount shall be due and payable to the Community Association immediately upon transfer of title, for its use in covering initial start-up expenses, operating expenses and other expenses which it incurs pursuant to this Charter and the By-Laws.

#### 12.11. Use and Consumption Fees

The Board may charge use, consumption, and activity fees to any Person using Community Association services, facilities, or property or participating in Community Association-sponsored activities. The Board may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (e.g., Owners and non-Owners).

#### 12.12. Community Enhancement Fee

- (a) *Authority.* As an additional funding source, the Board may establish and collect a "Community Enhancement Fee" upon each transfer of title to a Unit. The fee shall be charged to

the seller of the Unit, shall be payable to the Community Association at the closing of the transfer, and shall be secured by the Community Association's lien for assessments under Section 12.7.

(b) **Fee Limit.** The Board shall have the sole discretion to determine the amount of and method of calculating the Community Enhancement Fee. The fee may be based upon a sliding scale that varies in accordance with the "Gross Selling Price" of the property or any other factor the Board deems appropriate. However, the Community Enhancement Fee may not exceed 0.5% of the Unit's Gross Selling Price. The "Gross Selling Price" is the total cost to the purchaser of the Unit, excluding transfer taxes and title fees imposed by the Town of Bluffton, Beaufort County, and/or South Carolina.

(c) **Purpose.** The Community Enhancement Fees shall be placed in a segregated account and used to provide funding for activities and such other purposes as the Board deems beneficial to the general good and welfare of the Community. For example, Community Enhancement Fees might be used in funding:

(i) the capital reserves of the Community Association for the repair and replacement of improvements in the Common Area;

(ii) programs and activities which enhance the welfare, benefit, and lifestyle of residents within and outside of the Community.

(iii) the preservation and maintenance of natural areas, wildlife preserves, or similar conservation areas and sponsorship of educational programs and activities that contribute to the overall understanding, appreciation, and preservation of the natural environment within and surrounding the Community;

(iv) programs, services, and activities which serve to promote a sense of camaraderie within the Community, such as recreational leagues, cultural programs, educational programs, festivals and holiday celebrations and activities, a community computer network, and recycling programs; and

(v) social services, educational programs, community outreach programs, and other charitable causes.

(d) **Exempt Transfers.** Notwithstanding the above, no Community Enhancement Fee shall be levied upon transfer of title to a Unit:

(i) by or to the Declarant;

(ii) by or to the Lake Maintenance Corporation or the Road Association;

(iii) by or to a Builder designated by the Declarant who held title solely for purposes of development and resale;

(iv) by a co-owner to any Person who was a co-owner immediately prior to such transfer;

(v) to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner;

(vi) to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law; provided, upon any subsequent transfer of an ownership interest in such entity, the Community Enhancement Fee shall become due;

(vii) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage; or

under circumstances which the Board, in its discretion, deems to warrant classification as an exempt transfer (e.g., a transfer made solely for estate planning purposes may be, but is not required to be, deemed exempt from payment of the Community Enhancement Fee).

#### **PART FOUR: RELATIONSHIPS WITHIN AND OUTSIDE THE HAMPTON LAKE COMMUNITY**

### **Chapter 13**

#### **Easements**

##### **13.1. Easements in Common Area**

The Declarant grants to each Owner a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Community Association;
- (c) Certain Owners' rights to the exclusive use of those portions of the Common Area designated as Limited Common Area;
- (d) The Lake Maintenance Corporation's right to regulate use of any portion of the Common Area lying within the Area of Lake Maintenance Responsibility and to suspend as Owner's right to use the same; and
- (e) The Board's right to:
  - (i) adopt rules regulating Common Area use and enjoyment, including rules limiting the number of guests who may use the Common Area and to charge use fees for such use;
  - (ii) suspend an Owner's right to use Common Area facilities;

(iii) dedicate or transfer all or any part of the Common Area, subject to such approval requirements as may be set forth in this Charter;

(iv) impose reasonable membership requirements and charge reasonable admission or other use fees for the use of any recreational facility situated upon the Common Area;

(v) rent any portion of any clubhouse or other Common Area recreational facilities on an exclusive or non-exclusive short-term basis to any Person;

(vi) permit use of any recreational facilities situated on the Common Area by the general public, which use may be subject to admission charges, membership fees, or other user fees established in the Board's discretion;

(vii) permit use of any Common Area facilities, at such charge or no charge as the Board may determine appropriate, for the purpose of offering and conducting classes or other activities for interested Owners and occupants, whether offered on a for-profit or nonprofit basis; and

(viii) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Any Owner may extend his or her right of use and enjoyment to the members of his or her immediate family, lessees, and guests, as applicable, subject to reasonable Board regulation. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

#### 13.2. Easements for Utilities and Other Infrastructure

(a) *Installation and Maintenance.* The Declarant reserves for itself, during the Development and Sale Period, and grants to the Community Association and all utility providers, for perpetual duration, non-exclusive easements throughout the Community (but not through a structure) to the extent reasonably necessary to:

(i) install utilities and infrastructure, other Community Systems, security and similar systems, and drainage systems;

(ii) install walkways, pathways and trails, street lights, and signage on property the Declarant, any Builder, or the Community Association owns or within public rights-of-way or easements reserved for such purpose on a recorded plat;

(iii) inspect, maintain, repair, and replace the utilities, infrastructure, and other improvements described above; and

(iv) access and read utility meters.

Notwithstanding the above, the Declarant reserves the right to deny access to any utility or service provider, to the extent permitted by law, or to condition such access on negotiated terms.

(b) *Specific Easements.* The Declarant also reserves the non-exclusive right and power to grant and record such specific easements consistent with Section 13.2(a) as it deems necessary to develop the property described in Exhibits "A" and "B." The location of the specific easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

(c) *Minimal Interference.* All work associated with the exercise of the easements described in Sections 13.2(a) and (b) shall be performed so as to minimize interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to the condition existing prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

### 13.3. Easements to Serve Additional Property

The Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Charter. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. The Person exercising such easement rights shall be responsible for any damage caused to the Common Area as a result of their actions in connection with development of such property. If the above easement grants permanent access to any property which is not submitted to this Charter, the Declarant, or its successors or assigns, shall enter into a reasonable agreement with the Community Association to share the cost of maintenance that the Community Association provides for the benefit of the easement holder. The shared maintenance costs may include maintenance to or along any roadway providing access to the benefited property.

### 13.4. Easements for Maintenance, Emergency, and Enforcement

By this Charter, the Declarant grants to the Community Association easements over the Community as necessary to enable the Community Association to fulfill its maintenance responsibilities under Section 6.2 and its enforcement rights under Section 8.2. The Community Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance, to inspect for compliance with the Governing Documents, and to enforce the Governing Documents. Any member of the Board and its duly authorized agents and assignees and all emergency personnel in the performance of their duties may exercise such right. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner.

### 13.5. Easements Over Private Roadways

(a) Not later than the expiration of the Development and Sale Period, the Declarant will transfer the private roadways within the Community ("Roadways") to the Community Association as Common Area and/or to the Road Association subject to the easements for access described in this Charter, and such additional easements as the Declarant deems appropriate. Use of such Roadways shall be subject to and in accordance with any rights and easements shown on the recorded subdivision plats of the Community and such reasonable Rules as the Community Association may adopt from time to time consistent with this Charter, the recorded subdivision plats, and any law, ordinance, or regulation governing the Community.

(b) The Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the Roadways for law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; utility providers, and for vehicles, equipment, and personnel providing garbage collection service to the Community; however, such easement shall not authorize any such Persons to enter the Community except while acting in their official capacities. The Community Association shall have the right to limit access for garbage collection purposes to such days of the week as the Board may specify.

(c) Declarant reserves for itself and Declarant Affiliates a perpetual, non-exclusive easement of access to and use of the Roadways and Common Areas for 30 years from the date of recording of this Charter in connection with the marketing and sale of other communities which Declarant or any Declarant Affiliate may be developing and marketing, in order to show the Community as an example of the Declarant's developments.

(d) The existence of the easements described in this Section shall not preclude the Community Association from maintaining gates or other devices or systems designed to limit general vehicular access to the Community, provided that the Community Association at all times maintains systems and/or procedures to permit entry of persons authorized to exercise the easements granted in this subsection without unreasonable interference or delay.

## Chapter 14

### Disclosures and Waivers

#### 14.1. Facilities and Services Open to the Public

Certain facilities and Private Amenities areas within the Community may be open for use and enjoyment by persons other than Owners. Such facilities and areas may include, by way of example: greenbelts, trails and paths, parks, and other neighborhood spots conducive to gathering and interaction, roads, sidewalks, and medians. The Declarant may designate such facilities and amenity areas as open to the public at the time the Declarant makes them a part of the Area of Common Responsibility, or the Board may so designate at any time thereafter.



#### 14.2. Safety and Security

As stated in Section 9.2(d), the Community Association shall be responsible for proper maintenance of the entry gate and guardhouse, if any. However, each Owner and occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Community. The Community Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to promote or enhance the level of safety or security which each person provides for himself or herself and his or her property. However, neither the Community Association nor the Declarant, nor any successor Declarant, shall in any way be considered insurers or guarantors of safety or security within the Community, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

No representation or warranty is made that any systems or measures, including security systems or any mechanism or system for limiting access to the Community including, without limitation, any fire protection system, any burglar alarm system, or any entry gate or guard house, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss by fire, smoke, burglary, robbery, theft, hold-up, or otherwise or provide the detection or protection for which the system is designed or intended. All Owners and occupants of any Unit and all tenants, guests, and invitees of any Owner, further acknowledge and understand that they have not relied upon any representations or warranties, expressed or implied, including any warranty of merchantability or fitness for any particular purpose, relative to any guard-houses, card gates, fire and/or burglar alarm systems or other security systems recommended or installed or any security measures undertaken within the property.

Each Owner and occupant of any Unit, and all tenants, guests, and invitees of any Owner acknowledge, understand, and shall be responsible for informing any tenants, guests, invitees and other occupants of such Owner's Unit that the Community Association, its Board and committees, and the Declarant or any successor Declarant are not insurers or guarantors of security or safety and that each Person within the Community assumes all risks of personal injury and loss or damage to property, including to Units and the contents of Units, resulting from acts of third parties.

#### 14.3. Changes in Master Plan

Each Owner acknowledges that the Community is a master planned community, the development of which is likely to extend over many years, and agrees that neither the Community Association nor any Neighborhood Association shall engage in, or use Community Association funds to support, any protest, challenge, or other form of objection to (a) changes in uses or density of property within the Community, or (b) changes in the Master Plan as it relates to property outside the Community, without the Declarant's prior written consent.

#### 14.4. View Impairment

Neither the Declarant nor the Community Association guarantee or represent that any view over and across the Units, the Lake, any open space within the Community, or any other Private Amenity will be preserved without impairment. The Declarant, Declarant Affiliates, the Community Association, the Lake Maintenance Corporation and any Private Amenity owner shall have no obligation to relocate, prune, or thin trees or other landscaping except to maintain the Community-Wide Standard or as otherwise required under a separate covenant or agreement. The Community Association (with respect to the Common Area), the Lake Maintenance Corporation (with respect to the Area of Lake Maintenance Responsibility), and Private Amenity owners (with respect to any Private Amenity) have the right to add trees and other landscaping from time to time, subject to applicable law. There shall be no express or implied easements for view purposes or for the passage of light and air.

#### 14.5. Notices and Disclaimers as to Community Systems

Each Owner acknowledges that interruptions in cable television and other Community Systems and services will occur from time to time. The Declarant, Declarant Affiliates, or any of their respective successors or assigns shall not be liable for, and no Community System or service user shall be entitled to refund, rebate, discount, or offset in applicable fees for, any interruption in Community Systems and services, regardless of whether such interruption is caused by reasons within the service provider's control.

### Chapter 15

#### Rights of Lenders

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units in the Community. The provisions of this Chapter apply to both this Charter and to the By-Laws, notwithstanding any other provisions contained therein.

#### 15.1. Notices of Action

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

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Unit on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder; and
- (b) Any delinquency in the payment of assessments or charges owed by a Unit subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days,

or any other violation of the Governing Documents relating to such Unit or the Owner or occupant which is not cured within 60 days.

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

(d) Any proposed action which would require the consent of a specified percentage of Eligible Holders.

#### 15.2. Special FHLMC Provision

If a condominium has been established in the Community, then so long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of the foregoing. Unless at least 67% of the first Mortgagees or members representing at least 67% of the total votes in the Community Association consent, the Community Association shall not:

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer all or any portion of the real property comprising the Common Area which the Community Association owns, directly or indirectly (the granting of easements for utilities or other similar purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this subsection);

(b) Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Unit (a decision, including contracts, by the Board or provisions of any declaration subsequently recorded on any portion of the Community regarding assessments for Limited Common Areas or other similar areas shall not be subject to this provision where such decision or subsequent declaration is otherwise authorized by this Charter);

(c) By act or omission change, waive, or abandon any scheme of regulations or enforcement pertaining to architectural design, exterior appearance, or maintenance of Units and the Common Area (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this provision);

(d) Fail to maintain insurance, as required by this Charter; or

(e) Use hazard insurance proceeds for any Common Area losses for other than the repair, replacement, or reconstruction of such property.

First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of a Community Association policy, and first Mortgagees making such payments shall be entitled to immediate reimbursement from the Community Association.

**15.3. Other Provisions for First Lien Holders**

To the extent not inconsistent with South Carolina law, if a condominium has been established in the Community, then:

- (a) Any restoration or repair of the Community after a partial condemnation or damage due to an insurable hazard shall be performed substantially in accordance with this Charter and the original plans and specifications unless the approval is obtained of the Eligible Holders of first Mortgages on Units to which at least 51% of the votes of Units subject to Mortgages held by Eligible Holders are allocated, in addition to the approval required by Section 20.1 and 9.4, respectively.
- (b) Any election to terminate the Community Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first Mortgages on Units to which more than 50% of the votes of Units subject to Mortgages held by Eligible Holders are allocated.
- (c) Any election to terminate the Community Association under other circumstances shall require (i) the consent of members representing at least 67% of the total votes in the Community Association and of the Declarant, so long as it owns any land subject to this Charter, and (ii) the approval of the Eligible Holders of first Mortgages on Units to which at least 67% of the votes of Units subject to a Mortgage are allocated.

**15.4. Amendments to Documents**

If a condominium has been established in the Community, then the consent of members representing at least 67% of the total votes in the Community Association and of the Declarant, so long as it owns any land subject to this Charter, and the approval of Eligible Holders of first Mortgages on at least 51% of the Units subject to a Mortgage held by an Eligible Holder, shall be required materially to amend any provisions of the Charter, By-Laws, or Articles of Incorporation, or to add any material provisions thereto which establish, provide for, govern, or regulate any of the following:

- (i) voting;
- (ii) assessments, assessment liens, or subordination of such liens;
- (iii) reserves for maintenance, repair, and replacement of the Common Area;
- (iv) insurance or fidelity bonds;
- (v) rights to use the Common Area;
- (vi) responsibility for maintenance and repair of property in the Community;

(vii) expansion or contraction of the Community or the addition, annexation, or withdrawal of property to or from the Community Association's jurisdiction, except by the Declarant as otherwise provided in Chapter 16;

(viii) boundaries of any Unit;

(ix) leasing of Units;

(x) imposition of any right of first refusal or similar restriction of the right of any Owner to sell, transfer, or otherwise convey his or her Unit;

(xi) establishment of self-management by the Community Association where professional management has been required by an Eligible Holder; or

(xii) any provisions included in the Governing Documents which are for the express benefit of holders, guarantors, or insurers of first Mortgages on Units.

#### **15.5. No Priority**

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

#### **15.6. Notice to Community Association**

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

#### **15.7. Failure of Mortgagee to Respond**

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

#### **15.8. Construction of Chapter 15**

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

## **PART FIVE: COMMUNITY DEVELOPMENT**

### **Chapter 16**

#### **Expansion of the Hampton Lake Community**

---

##### **16.1. Expansion by Declarant**

From time to time, the Declarant may submit to the terms of this Charter all or any portion of the property described in Exhibit "B" and/or property located within five (5) miles of the boundary of the Community by recording a Supplement describing the additional property to be submitted. The Declarant may record such a Supplement without the consent of any Person except the owner of such property, if not the Declarant.

The Declarant's right to expand the Community under this Section expires 30 years after this Charter is recorded, whichever is earlier. Until then, the Declarant may transfer or assign this right to any Person who is the developer of at least a portion of the real property described in Exhibit "A", Exhibit "B" or property submitted to the terms of this Charter. Any such transfer shall be described in a recorded instrument executed by the Declarant.

Nothing in this Charter shall require the Declarant or any successor to submit additional property to this Charter or to develop any of the property described in Exhibit "B" in any manner whatsoever.

##### **16.2. Expansion by the Community Association**

The Community Association also may submit additional property to this Charter by recording a Supplement describing the additional property. Any Supplement which the Community Association records must be approved by the Owners representing more than 50% of the total votes in the Community Association at a meeting duly called for such purpose and by the owner of the property to be submitted. In addition, during the Development and Sale Period, the Declarant's consent is required. The Community Association's President and Secretary, the owner of the property, and the Declarant, if the Declarant's consent is required, shall sign the Supplement.

##### **16.3. Additional Covenants and Easements**

Any Supplement that the Declarant records may impose additional covenants and easements on the property described in such Supplement, such as covenants obligating the Community Association to maintain and insure such property and authorizing the Community Association to recover its costs through Service Area Assessments. Such provisions may be included in a Supplement submitting new property to this Charter or may be set forth in a separate Supplement applicable to property previously submitted to this Charter. If someone other than the Declarant owns the property, then the Supplement must be signed by such owner evidencing such owner's consent. Any Supplement may add to, create exceptions to, or otherwise modify the terms of this

Charter as it applies to the property described in the Supplement, in order to reflect the different character and intended use of such property.

#### **16.4. Effect of Filing a Supplement**

A Supplement shall be effective upon recording unless otherwise specified in the Supplement. On the effective date of the Supplement, any additional property made subject to this Charter shall be assigned voting rights in the Community Association and assessment liability in accordance with the provisions of this Charter.

### **Chapter 17**

#### **Additional Rights Reserved to the Declarant**

##### **17.1. Withdrawal of Property**

During the Development and Sale Period, the Declarant may amend this Charter to remove any unimproved portion of the Community from the coverage of this Charter, provided such withdrawal does not reduce the total number of Units then subject to the Charter by more than 10%. "Unimproved" means that no permanent structure has yet been completed on the property. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Community Association shall consent to such withdrawal.

##### **17.2. Conveyance of Common Area**

As stated in Section 1.2, Declarant intends to transfer title to the Common Area to the Community Association on or before the end of the Declarant Control Period. Prior to such transfer, the Community Association and its members shall be responsible for the maintenance and upkeep of all areas that are designated for common use or enjoyment by members, notwithstanding the fact that title has not yet been conveyed to the Community Association. Upon transfer of title of the Common Area to the Community Association, the Community Association shall have the sole responsibility to maintain, repair, and govern the Common Area. Turnover shall proceed as follows:

- (a) Before the conveyance of any improved Common Area to the Community Association, the Declarant shall appoint a nominating committee, which shall nominate members of the "Property Transfer Committee." Declarant has the right to approve or disapprove any individual nominated.
- (b) Declarant may from time to time convey to the Community Association certain portions of the Common Area. In addition, the Declarant may from time to time convey real property or grants of easements to the persons other than the Owners as may be required by governing authorities in accordance with this Charter.

(c) The Declarant may, at Declarant's sole discretion, modify, alter, increase, or change the Common Area to be conveyed to the Community Association in accordance with this Charter at any time prior to conveyance of such Common Area to the Community Association.

(d) In addition to the property described in subsection (b), the Declarant may convey to the Community Association such other real and personal property as the Declarant may determine to be necessary for the completion of the Community.

(e) The Community Association hereby covenants and agrees to accept all such conveyances of Common Area. If the Declarant conveys any improved Common Area to the Community Association, the procedures contained in this subsection shall be followed. Upon conveyance of any such Common Area or upon completion of the improvements, whichever is later, the Declarant shall notify the Property Transfer Committee. Within 60 days after said notification, the Declarant or its representative and the Property Transfer Committee shall jointly inspect the Common Area to the extent hereinafter provided. The Declarant and the Property Transfer Committee shall each be entitled to designate a qualified engineer and/or architect, or any other such expert to accompany them during the inspection of the Common Area.

Such inspection shall not include wear and tear since the date such improvements were constructed and shall be limited to a visual inspection of the Common Area, it being understood that under no circumstances shall any latent defects be required to be detected. Promptly after the completion of such inspection, the Property Transfer Committee shall submit a written report ("Inspection Report") to the Declarant stating whether the Common Area has been constructed in a workmanlike manner in accordance with reasonable building standards and specifying the respects, if any, in which such construction does not conform with such standards.

The Inspection Report shall constitute conclusive evidence that, except as otherwise set forth in such report, the Declarant has constructed the Common Area in a workmanlike manner in accordance with reasonable building standards and thereafter the Declarant shall have no further liability, duty, or obligation with respect to the Common Area except to perform the work called for by the Inspection Report. The reasonable fees and expenses of any experts hired by the Property Transfer Committee in connection with the inspection and re-inspection provided for by this subsection (e) shall be born by the Community Association

During the Development and Sale Period, the Declarant may amend this Charter to remove any unimproved portion of the Community from the coverage of this Charter, provided such withdrawal does not reduce the total number of Units then subject to the Charter by more than 10%. "Unimproved" means that no permanent structure has yet been completed on the property. Such amendment shall not require the consent of any Person other than the Owner(s) of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Community Association shall consent to such withdrawal.



### **17.3 Acceptance of Common Area**

Once Common Area is accepted by the Community Association through the Property Transfer Committee and any items are corrected as set forth above, the Declarant shall have no further liability or responsibility of any kind with respect to such Common Area.

### **17.4. Property Transfer Accounting Procedures**

As referenced in Section 1.3, the Declarant's general intent is to transfer all Common Area to the Community Association, including personal property. At the termination of the Declarant Control Period, the Declarant will deliver to the Community Association a special purpose statement of net assets consisting of all assets (including real estate, buildings, furniture, fixtures, equipment, leases, and intangible assets) of the Community Association and all liabilities of the Community Association. The special purpose statement of net assets will be prepared in accordance with accounting principles generally accepted in the United States. Certified public accountants acceptable to the Declarant and the Community Association, shall audit such special purpose statement of net assets. This provision is intended to relate solely to tangible goods and is not intended to pertain to the actual Common Area itself, all of which shall be transferred to the Community Association by Declarant at no cost and debt free, but subject to any equipment leases (term or capital) that may exist at that time.

### **17.5. Marketing and Sales Activities**

Notwithstanding anything in the Governing Documents to the contrary, during the Development and Sale Period, the Declarant and its designees or assigns may construct, use, and maintain upon portions of the Common Area and other property they own, such facilities and activities as, in the Declarant's opinion, may reasonably be required, convenient, or incidental to the construction or sale of Units. Such permitted facilities and activities shall include business offices, signs, flags (whether hung from flag poles or attached to a structure), model homes, sales offices, holding or sponsoring special events, and exterior lighting features or displays. In addition, if reasonably required, convenient, or incidental to construction or sales activities, the Declarant and its employees, agents, and designees may park vehicles in designated parking areas.

### **17.6. Right to Make Improvements, Replat**

During the Development and Sale Period, the Declarant and its employees, agents, and designees shall have a right of access and use and an easement over and upon all of the Common Area for the purpose of making, constructing, and installing such improvements to the Common Area and to the Exhibit "B" property as it deems appropriate.

In addition, during the Development and Sale Period, the Declarant may replat property that it owns and convert Units it owns into Common Area.

**17.7. Right to Approve Changes in the Hampton Lake Community Standards**

During the Development and Sale Period, no amendment to or modification of any Rules or Design Guidelines shall be effective without prior notice to and the written approval of the Declarant.

**17.8. Additional Covenants and Restrictions**

During the Development and Sale Period, no one other than the Declarant may record any additional covenants or restrictions affecting any portion of the Community without the Declarant's written consent. Any instrument recorded without the required consent shall be void and of no force and effect.

**17.9. Exclusive Rights to Use the Name of the Development**

Subject to certain rights to use derivations of the name "Hampton Lake" granted to Intrawest/Bluffton Development Company, LLC, no Person shall use the name "Hampton Lake" or any derivative of such names or any logo or depiction associated with Hampton Lake in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the name "Hampton Lake" in printed or promotional matter where such term is used solely to specify that particular property is located within Hampton Lake, and the Community Association shall be entitled to use the word "Hampton Lake" in its name.

**17.10. Community Systems**

The Declarant reserves for itself, Declarant Affiliates, and their respective successors and assigns, a perpetual right and easement over all property in the Community to install and operate such Community Systems as the Declarant, in its discretion, deems appropriate to serve any portion of the Community. Such right shall include, without limitation, the Declarant's right to select and contract with companies licensed to provide telecommunications, cable television, and other Community Systems services in the region. The Declarant also has the right to charge individual users a reasonable fee not to exceed the maximum allowable charge for such service, as from time to time is defined by the laws, rules, and regulations of the relevant government authority, if applicable.

Notwithstanding the above, there is no guarantee or representation that any particular Community System will be made available.

**17.11. Easement to Inspect and Right to Correct**

The Declarant reserves for itself and others it may designate the right, but not the obligation, to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may

exist on any portion of the property within the Community, including Units, and a perpetual nonexclusive easement of access throughout the Community to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner, and no entry into an enclosed structure shall be permitted without the Owner's consent. The person exercising this easement shall promptly repair, at such person's own expense, any damage he or she causes. Nothing in this Section shall relieve an Owner of the responsibility for the maintenance and repair of his or her Unit.

**17.12. Right to Notice of Design or Construction Claims**

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within the Community in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless the Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection.

**17.13. Right to Transfer or Assign the Declarant's Rights**

Any or all of the Declarant's special rights and obligations set forth in this Charter or the By-Laws may be transferred in whole or in part to other Persons. However, such a transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Charter or the By-Laws. No such transfer or assignment shall be effective unless it is in a recorded instrument the Declarant signs. The foregoing sentence shall not preclude the Declarant from permitting by written authorization other Persons to exercise, on a one-time or limited basis, any right reserved to the Declarant in this Charter where the Declarant does not intend to transfer such right in its entirety. In such case, it shall not be necessary to record any written assignment unless necessary to evidence the Declarant's consent to such exercise.

**17.14. Termination of Rights**

The rights contained in this Chapter shall not terminate until the earlier of (a) termination of the Development and Sale Period; or (b) the Declarant's recording of a written statement that all sales activity has ceased.

**17.15. Founder Members**

Declarant shall have the ability to designate up to Twenty (20) Founder Members who shall have all of the privileges of membership, including accessibility with guests to the Property and the facilities of the Community Association but who shall not be obligated to pay any annual, special assessments or any other assessed dues or fees, including, but not limited to boating fees, pool fees, etc., or any other type of user fee or activity fees, but shall pay charges incurred for food, beverages and special Community Association events. Founder Memberships are expressly non-revocable during the lifetime of the Founder Member and the lifetime of his/her surviving spouse. Upon the death of a Founder Member his or her surviving spouse shall continue to be considered a Founder

Member until his or her death. Under no circumstances will there be more than Twenty(20) Founder Members as described herein. The immediate family of the Founder Members shall have the same benefits of the Founder Member. Said Founder Members shall be designated in writing by Declarant to the Community Association prior to the earlier of (i) January 1, 2016 or (ii) twelve (12) months after the Turnover Date.

## **PART SIX: PROCEDURES FOR AND LIMITATIONS ON CERTAIN ACTIONS**

### **Chapter 18**

#### **Dispute Resolution and Limitation on Litigation**

---

##### **18.1. Agreement to Encourage Resolution of Disputes Without Litigation**

(a) **Bound Parties.** The Declarant, the Community Association and its officers, directors, and committee members, all Persons subject to this Charter, and any Person not otherwise subject to this Charter who agrees to submit to this chapter (collectively, "Bound Parties"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving the Community without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to a Claim described in Section 18.1(b), unless and until it has first submitted such Claim to the alternative dispute resolution procedures set forth in Section 18.2 in a good faith effort to resolve such Claim.

(b) **Claims.** As used in this chapter, the term "Claim" shall refer to any claim, grievance, or dispute arising out of or relating to:

- (i) the interpretation, application, or enforcement of the Governing Documents;
- (ii) the rights, obligations, and duties of any Bound Party under the Governing Documents; or
- (iii) the design or construction of Improvements within the Community, other than matters of aesthetic judgment under Chapter 5, which shall not be subject to review and shall not be subject to this Chapter.

(c) The following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 18.2:

- (i) any suit by the Community Association to collect assessments or other amounts due from any Owner;
- (ii) any suit by the Community Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to

maintain the status quo and preserve the Community Association's ability to enforce the provisions of Part Two of this Charter (relating to creation and maintenance of community standards);

(iii) any suit that does not include the Declarant or the Community Association as a party, if such suit asserts a Claim that would constitute a cause of action independent of the Governing Documents;

(iv) any dispute which affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 18.2; and

(v) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 18.2(a), unless the party or parties against whom the Claim is made agree to toll, or extend, the Claim's statute of limitations to comply with this chapter.

#### **18.2. Dispute Resolution Procedures**

(a) **Notice.** The Bound Party asserting a Claim ("Claimant") against another Bound Party ("Respondent") shall give written notice ("Notice") by mail or personal delivery to each Respondent and to the Board, stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim;

(ii) the legal basis of the Claim (*i.e.*, the specific authority out of which the Claim arises);

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss, in good faith, ways to resolve the Claim.

(b) **Negotiation.** The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

(c) **Mediation.** If the parties have not resolved the Claim through negotiation within 30 days of the date of the Notice (or within such other agreed upon period), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Community Association (if the Community Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the Beaufort County, South Carolina area. Each Bound Party shall present the mediator with a written summary of the Claim.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for and participate in good faith in the mediation when scheduled, the Claimant shall be deemed to

have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

If the parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate.

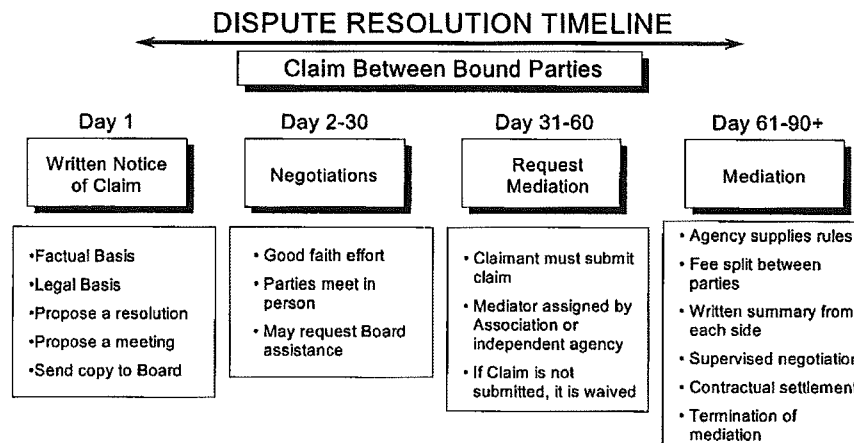
Each Bound Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall pay an equal share of the mediator's fees.

(d) **Settlement.** Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to comply again with the procedures set forth in this section. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys fees and court costs.

### 18.3. Initiation of Litigation by Community Association

In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, the Community Association shall not initiate any judicial or administrative proceeding unless first approved by a vote of Owners entitled to cast 75% of the total votes in the Community Association, except that no such approval shall be required for actions or proceedings:

(a) initiated during the Declarant Control Period;



- (b) initiated to enforce the provisions of this Charter, including collection of assessments and foreclosure of liens;
- (c) initiated to challenge *ad valorem* taxation or condemnation proceedings;
- (d) initiated against any contractor, vendor, or supplier of goods or services arising out of a contract for services or supplies; or
- (e) to defend claims filed against the Community Association or to assert counterclaims in proceedings instituted against it.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

## **Chapter 19**

### **Changes in the Common Area**

#### **19.1. Assignment and Reassignment of Limited Common Area**

The Board may designate a portion of the Common Area as Limited Common Area, and may reassign Limited Common Area, upon approval of the Board and the vote of Owners representing a majority of the total votes in the Community Association, including a majority of the votes attributable to Units to which the Limited Common Area is proposed to be assigned or reassigned. During the Development and Sale Period, any such assignment or reassignment shall also require the Declarant's written consent.

Upon approval of a majority of Owners of Units to which any Limited Common Area is assigned, the Community Association may permit Owners of other Units to use all or a portion of such Limited Common Area upon payment of reasonable user fees, which fees shall be used to offset the Limited Common Area Expenses attributable to such Limited Common Area.

#### **19.2. Condemnation**

If any part of the Common Area is taken by any authority having the power of condemnation or eminent domain, or conveyed by the Community Association in lieu of and under threat of condemnation with such approval as may be required under Section 19.4, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds from such conveyance. Such award or proceeds shall be payable to the Community Association to be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Community Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking the Declarant, during the Development and Sale Period, and Owners representing at

least 75% of the total votes in the Community Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 9.4 regarding funds for restoring improvements shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as proceeds from the sale of Common Area under Section 19.4.

#### **19.3. Partition**

Except as permitted in this Charter, the Common Area shall remain undivided, and no Person shall bring any action to partition any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property or from acquiring and disposing of real property that may or may not be subject to this Charter, with such approval as may be required under Section 19.4.

#### **19.4. Transfer or Dedication of Common Area**

The Community Association may dedicate portions of the Common Area to Beaufort County, South Carolina, the Town of Bluffton, or to any other local, state, or federal governmental or quasi-governmental entity, may subject Common Area to a security interest, or may transfer or convey Common Area as follows:

(a) if Common Area other than Limited Common Area, upon the written direction of Owners representing at least 75% of the total votes in the Community Association, and the Declarant during the Development and Sale Period; or

(b) if Limited Common Area, upon written approval of Owners of at least 75% of the Units to which such Limited Common Area is assigned.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Community Association to be used as the Board determines. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Units to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

No conveyance or encumbrance of Common Area may deprive any Unit of rights of access or support.

### **Chapter 20**

#### **Termination and Amendment of Community Charter**

##### **20.1. Term and Termination**



This Charter shall be effective for a minimum of 21 years from the date it is recorded. After 21 years, this Charter shall be extended automatically for successive 10-year periods unless at least 75% of the then Owners sign a document stating that the Charter is terminated and that document is recorded within the year before any extension. In such case, this Charter shall terminate on the date specified in the termination document.

If any provision of this Charter would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can affect title to property, that provision shall expire 21 years after the death of the last survivor of the now living descendants of George W. Bush, President of the United States of America.

This Section shall not permit termination of any easement created in this Charter without the consent of the holder of such easement.

## 20.2. Amendment

(a) *By Declarant.* In addition to specific amendment rights granted elsewhere in this Charter, until termination of the Declarant Control Period, the Declarant may unilaterally amend this Charter for any purpose.

Thereafter, the Declarant may unilaterally amend this Charter if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state, or federal governmental agency. However, any amendment under this Section shall not adversely affect the title to any Unit unless the Owner shall consent in writing.

After the Declarant Control Period, during the Development and Sale Period, the Declarant may unilaterally amend this Charter for any other purpose, provided the amendment has no material adverse effect upon the rights of more than 5% of the Owners.

(b) *By Owners.* Except as otherwise specifically provided above and elsewhere in this Charter, this Charter may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing 75% of the total votes in the Community Association, including 75% of the total votes held by Owners other than the Declarant. In addition, during the Development and Sale Period, any such amendment shall also require the Declarant's written consent.

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

(c) *Validity and Effective Date.* No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Declarant Member without the written consent of the Declarant or the Declarant Member, respectively (or the assignee of such right or privilege). In addition, the approval requirements set forth in Chapter 15 shall be met, if applicable.

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

Any amendment shall become effective upon recording unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Charter.

(d) *Exhibits.* Exhibits "A" and "B" are incorporated by this reference, and this Chapter shall govern amendment of those exhibits. Exhibit "C" is incorporated by this reference and may be amended under Chapter 7 or pursuant to this Section. All other exhibits are attached for informational purposes and may be amended as provided in those exhibits or in the provisions of this Charter that refer to such exhibits.

THIS COMMUNITY CHARTER is made by Hampton Lake, LLC, a South Carolina limited liability corporation, as Declarant, and in witness thereof, it has executed this Charter this 24th day of March, 2006.

DECLARANT: HAMPTON LAKE, LLC, a South Carolina limited liability company

By: Reed Development, Inc.,  
Manager

By: John P. Reed  
Its: President

Karen B. Murphy  
[Signature]

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT ) ACKNOWLEDGEMENT

I, the undersigned Notary Public do certify that John P. Reed, President of Reed Development, Inc., Manager of Hampton Lake, LLC, a South Carolina limited liability company, personally appeared before me, and having satisfactorily proven to be the person whose name is subscribed above, has acknowledged the due execution of the within Community Charter.

Witness my official seal this the 24 day of March, 2006.

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 3-3-2014

## INDEX TO DEFINED TERMS

Approval, 5  
Area of Common Responsibility, 11  
Area of Lake Maintenance Responsibility, 9  
Articles, 3  
Base Assessment, 39  
Board, 7  
Bound Parties, 64  
Builders, 8  
By-Laws, 3  
Charter, 1  
Claim, 64  
Claimant, 65  
Common Area, 11  
Common Expenses, 38  
Community, 1  
Community Association, 1  
Charter, 3  
Community Enhancement Fee, 44  
Community Systems, 34  
Community-Wide Standard, 5  
Consent, 5  
Design Guidelines, 3, 15  
Architectural Review Board or ARB, 16  
Development and Sale Period, 7  
Discretion, 5  
Eligible Holder, 53  
Declarant, 1  
Declarant Affiliate, 7  
Declarant Control Period, 7  
Declarant Designees, 61

Declarant Membership, 13  
Governing Documents, 3  
Governmental Authority, 10  
Gross Selling Price, 44  
Improvements, 15  
Inspection Report, 59  
Lake, 9  
Lake Covenant, 4  
Lake Maintenance Corporation, 9  
Lake Maintenance Governing Documents, 4  
Lease and Leasing, 22  
Limited Common Area, 11  
Maintenance, 5  
Master Plan, 7  
Mortgage, 10  
Mortgagee, 10  
Neighborhood Association, 9  
Notice, 65  
Owner, 8  
Owner Membership, 13  
Person, 5  
Persons, 5  
Private Amenities, 9  
Property Transfer Committee, 58  
Recorded, 5  
Respondent, 65  
Reviewer, 16  
Road Association, 10  
Road Declaration, 10  
Roadways, 50  
Rules, 3  
Service Area Assessment, 39  
Service Area Committee, 12

Service Area Expenses, 38

Service Areas, 12

Special Assessments, 40

Specific Assessments, 40

Supplement, 3

Units, 11

**EXHIBIT "A"**  
**Land Initially Submitted**

All those certain pieces, parcels and/or lots of land lying and being in Hampton Lake, Beaufort County, South Carolina, being shown and described as Lots 1-318, said property having dimensions, metes and bounds as shown on the Plat entitled "A Plat of Hampton Lake Phase I Lots, Beaufort County, South Carolina", said plat dated October 31, 2005, said plat prepared by Thomas & Hutton Engineering Co., Savannah, Georgia, Boyce L. Young, S.C.R.I.S. No. 11079 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 111 at Page 18. This description is inclusive of all lots, rights-of-way, common area and all other property depicted and shown on the plat. For a more detailed description as to the courses, metes and bounds of the above-mentioned property, reference is had to said plat of record.

**Service Area Designation:**

Initial service area is the Bulkhead area lots. Included in the service area are Lots 1 through 11; 29 through 38; 57 through 63; 69 through 76; and 298 through 304.





**EXHIBIT "C"**  
**Initial Rules**

The purpose of Rules is not to anticipate all acceptable or unacceptable behavior in advance and eliminate all improvements or activities that fall outside of "the norm." In fact, it is expressly intended that the Reviewer under Chapter 4, and the Board, as appropriate, have discretion to approve or disapprove items, or to enforce or not enforce technical violations of the Governing Documents, based upon aesthetic or other considerations consistent with the established guidelines. As such, while something may be approved or permitted for one Unit under one set of circumstances, the same thing may be disapproved for another Unit under a different set of circumstances. The exercise of discretion in approving or enforcement shall not be construed as a waiver of approval or enforcement rights, nor shall it preclude the Board from taking enforcement action in any appropriate circumstances.

The following shall apply to all of the Hampton Lake Community until such time as they are modified pursuant to the Charter.

1. **General.** The Community shall be used only for residential, recreational, and related purposes (which may include, without limitation, an information center and/or a sales office for any real estate broker retained by the Declarant or a Builder designated by the Declarant to assist in the sale of property described in Exhibit "A" or "B," offices for any property manager retained by the Community Association, or business offices for the Declarant or the Community Association) consistent with this Charter and any Supplement.

2. **Restricted Activities.** Unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board, the following activities are prohibited within the Community:

(a) Except as may be permitted under the Covenant or by the Lake Maintenance Corporation; parking any vehicles on public or private streets or thoroughfares, or parking of commercial vehicles or equipment, mobile homes, recreational vehicles, boats and other watercraft, trailers, stored vehicles, or inoperable vehicles in places other than enclosed garages or other designated enclosures; provided, construction, service and delivery vehicles shall be exempt from this provision during normal business hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Unit or the Common Area. Motorcycle use shall be restricted so as to allow an Owner to enter and exit the Property by riding the motorcycle in a direct route to and from the entrance of Hampton Lake and the Owner's lot;

(b) Raising, breeding, or keeping animals except that a reasonable number of dogs, cats, or other usual and common household pets may be permitted in a Unit. However, those pets which are permitted to roam free, or, in the Board's sole discretion, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the occupants of other Units shall be removed upon the Board's request. If the pet owner fails to honor such request, the Board may remove the pet. Dogs shall be kept on a leash, inside an "invisible fence" area or otherwise confined in a manner acceptable to the Board whenever outside the dwelling, except within designated dog walks or dog parks. Pets shall be registered, licensed, and inoculated as required by law. Excluded from the definition of household pets are those obnoxious animals, such as cows, horses, snakes, swine, goats and fowl, all of which are specifically prohibited. Also

specifically prohibited are all "pit bull dog" breeds, including, but not limited to, Stafford Shire Bull Terrier, Bull Terrier, Pit Terriers and American Pit Bull Terriers and Rotweiler ("pure bred canines");

(c) Any activity that emits foul or obnoxious odors outside the Unit or creates noise or other conditions that tend to disturb the peace or threaten the safety of the occupants of other Units;

(d) Any activity that violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation;

(e) Pursuit of hobbies or other activities that tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Unit;

(f) Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Units;

(g) Outside burning of trash, leaves, debris, or other materials, except during the normal course of constructing a dwelling on a Unit as may be permitted by the Declarant;

(h) Using or discharging of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;

(i) Using and discharging of firecrackers and other fireworks;

(j) Accumulating rubbish, trash, or garbage except between regular garbage pick ups, and then only in approved containers;

(k) Discharging firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;

(l) On-site storage of fuel, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of boats, lawn mowers, and similar devices, tools or equipment, and the Community Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank or above-ground propane tank authorized pursuant to Chapter 5;

(m) Any activities that materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Community or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(n) Converting any garage to finished space for use as an apartment or other integral part of the living area on any Unit without prior approval pursuant to Chapter 5;

(o) Modifying or installing any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except in strict compliance with the provisions of Chapter 5 of the Charter. This shall include, without limitation, signs, basketball hoops, and swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; above-ground swimming pools; docks, piers, and similar structures; hedges, walls, dog runs, animal pens, or fences of any kind; and satellite dishes and antennas, except that:

(i) an antenna designed to receive direct broadcast satellite services, including direct-to-home satellite services, that is one meter or less in diameter; or

(ii) an antenna designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services, that is one meter or less in diameter or diagonal measurement; or

(iii) an antenna that is designed to receive television broadcast signals;

(collectively, "Permitted Antennas") shall be permitted on Units, subject to such reasonable requirements as to location and screening as may be set forth in the Design Guidelines, consistent with applicable law, in order to minimize obtrusiveness as viewed from streets and adjacent property. The Declarant and/or the Community Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus for a master antenna, cable, or other communication system for the benefit of all or a portion of the Community, should any master system or systems be utilized by the Community Association and require such exterior apparatus.

(p) Water. Declarant has made arrangements for a central sewage disposal system and central water supply system. No potable water or irrigation wells may be drilled or maintained on the lot by anyone other than Declarant or the Association, provided that this prohibition does not intend to prevent the Declarant, delegate or ARB, from approving heating and cooling systems, which include a closed loop-ground water well system.

3. **Prohibited Conditions.** The following shall be prohibited at the Community:

(a) Plants, animals, devices, or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Community;

(b) Docks or boat slips not in accordance with standards promulgated in the Design Guidelines. However, boat slips may be constructed within the Community if such boat slips are constructed and maintained in accordance with the Design Guidelines. Owners of boat slips or docks are responsible for maintenance of bulkheads and all other maintenance requirements that an owner of a boat slip reasonably should undertake; and

(c) Structures, equipment, or other items on the exterior portions of a Unit which have become rusty, dilapidated, or otherwise fallen into disrepair.

4. Permitted Activities. The following shall be permitted within the Community:

(a) Golf carts may be used on the private roads within the Community so long as such golf carts are operated by a person with a driver's license and all traffic rules are obeyed. The use of golf carts on any public roads within the Community are subject to any Beaufort County or the Town of Bluffton ordinances, which may prohibit such use.

**EXHIBIT 'D'**

**By-Laws of Hampton Lake Community Association, Inc.**

(vji)

**BY-LAWS OF  
HAMPTON LAKE COMMUNITY ASSOCIATION, INC.**

**Article 1**

**Name, Principal Office, and Definitions**

**1.1. Name.**

The name of the corporation is Hampton Lake Community Association, Inc. (the "Community Association").

**1.2. Principal Office.**

The Community Association's principal office shall be located in Beaufort County, South Carolina. The Community Association may have such other offices, either within or outside of South Carolina, as the Board of Directors may determine or as the Community Association's affairs may require.

**1.3. Definitions.**

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Community Charter for the Hampton Lake Community recorded in the public records of Beaufort County, South Carolina, as it may be amended (the "Charter"). The term "majority," as used in these By-Laws, means those votes, Owners, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

**Article 2**

**Membership: Meetings, Quorum, Voting, Proxies**

**2.1. Membership.**

The Association shall have two classes of membership, Owner Membership and Declarant Membership, as more fully set forth in the Charter. Provisions of the Charter pertaining to membership are incorporated by this reference.

**2.2. Place of Meetings.**

The Community Association shall hold meetings at the Community Association's principal office or at such other suitable place the Board may designate.

**2.3. Community Association Meetings.**

(a) *General.* The first Community Association meeting, whether a regular or special meeting, shall be held within one year after the Community Association's incorporation.

(b) *Annual Meetings.* The Board shall schedule regular annual meetings of the Members to occur within 90 days before or after the close of the Community Association's fiscal year, on such date and at such time and place as the Board shall determine. Annual meetings may be conducted electronically i.e., via the Internet, intranet, or teleconference) if, and to the extent, permitted by law.

(c) *Special Meetings.* The President may call special meetings. In addition, the President or the Secretary shall call a special meeting if so directed by Board resolution or upon a written petition of Owners representing at least five percent of the total votes in the Community Association describing the purpose or purposes for which the special meeting is to be held. Notice of any special meeting called upon petition of the Owners shall be delivered to the Members within 30 days after the Secretary receives the petition.

**2.4. Notice of Meetings.**

The President, the Secretary, or the officers or other persons calling a meeting of the Community Association shall deliver or cause to be delivered to each Owner entitled to vote at such meeting a written notice stating the place, day, and hour of the meeting. In the case of a special meeting or when otherwise required by statute, the Charter, or these By-Laws, the purpose or purposes for which the meeting is called shall also be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice. In addition, the Association shall give notice of a matter a Member intends to raise at any annual, regular, or special meeting if: (i) requested to do so in writing by the Member, and (ii) the request is received by the President or Secretary at least 10 days before the meeting notices are sent to the Members.

Such notice shall be delivered by such means as permitted under Section 10.5, at least 10 but not more than 50 days before the date of such meeting. If notice is sent other than by first class, registered, or certified mail, notice shall be delivered no less than 30 days before the date of the meeting.

**2.5. Waiver of Notice.**

Waiver of notice of a Community Association meeting shall be deemed the equivalent of proper notice. Any Owner may waive, in writing, notice of any Community Association meeting, either before or after such meeting. Attendance at a meeting by an Owner or the Owner's appointed proxy shall be deemed a waiver by such Owner of notice of the *time*, date, and place thereof, unless the Owner or proxy specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

**2.6. Adjournment of Meetings.**

If any Community Association meeting cannot be held because a quorum is not present, Owners representing a majority of the votes present at such meeting may adjourn the meeting to a time at least five but not more than 30 days from the scheduled date of the original meeting. At the reconvened meeting, if a quorum is present, any business may be transacted that might have been transacted at the

meeting originally called. If those in attendance at the original meeting do not fix a time and place for reconvening the meeting, or if for any reason a new date is fixed for reconvening the meeting after adjournment, the Board shall provide notice to the Owners of the time and place for reconvening the meeting in the manner prescribed for regular meetings.

Owners present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Owners or their proxies to leave less than a quorum, provided at least a majority of the votes required to constitute a quorum must approve any action taken.

#### **2.7. Proxies.**

Owners may vote in person or by proxy, subject to the limitations of South Carolina law and subject to any specific provision to the contrary in the Charter or these By-Laws.

Every proxy shall be in writing, shall identify the Unit for which it is given, shall be signed by the Owner or the Owner's duly authorized attorney-in-fact, and shall be dated and filed with the Community Association's Secretary prior to the meeting for which it is to be effective. Unless the proxy specifically provided otherwise, a proxy shall be presumed to cover all votes which the Owner giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

A proxy is effective only for the specific meeting for which it was originally given, as such meeting lawfully may be adjourned and reconvened, and automatically expires 90 days after the date of the meeting for which it was originally given. Every proxy is revocable at any time at the pleasure of the Owner who executes the proxy.

#### **2.8. Quorum.**

Except as these By-Laws or the Charter otherwise provide, the presence of Owners, in person or by proxy, representing 20% of the total votes in the Community Association shall constitute a quorum at all Community Association meetings, and the vote of Owners representing a majority of the total eligible votes cast at such meetings shall constitute the action of the Members.

#### **2.9. Conduct of Meetings.**

The President or a Board-approved designee shall preside over all Community Association meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions adopted and all other transactions occurring at such meetings are kept with the Community Association's books.

#### **2.10. Action Without a Meeting.**

(a) *Action by Written Consent* Any action required or permitted by the Charter, the Articles, or South Carolina law to be taken at a meeting of the Owners may be taken without a meeting, without prior notice, and without a vote if approved by Owners representing at least 80% of the votes in the Community Association. Such approval shall be evidenced by one or more written consents specifically authorizing the proposed action, dated and signed by Owners holding the requisite votes. The

Community Association need not give prior notice before soliciting such consent; however, the Community Association must send written consent forms to all Owners for action authorized pursuant to this subsection to be valid. Owners shall sign, date, and deliver such consents to the Community Association within 60 days after the Community Association's receipt of the earliest dated consent. The Community Association's Secretary shall file (or cause to be filed) such consents with the Community Association's minutes and the consents shall have the same force and effect as a vote of the Owners at a meeting. Written notice of Member approval pursuant to this subsection must be given to all Members who did not sign a written consent. Member approval pursuant to this subsection is effective 10 days after such written notice of approval is given.

(b) *Action by Written Ballot* Any action that may be taken by the Members at any annual, regular, or special meeting may be taken without a meeting if the Association delivers a written ballot to every Member entitled to vote on the matter. The written ballot shall set forth each proposed action and provide an opportunity to vote for or against each proposed action. All solicitations for votes by written ballot shall: (i) indicate the number of responses needed to meet the quorum requirements; (ii) state the percentage of approvals necessary to approve each matter other than election of directors; and specify the time by which a ballot must be received by the Association in order to be counted. Approval by written ballot pursuant to this subsection is valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present if a meeting authorizing the action were held and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. Once delivered to the Association, a written ballot may not be revoked.

### **Article 3**

#### **Board of Directors: Selection, Meetings, Powers**

A. Composition and Selection.

##### **3.1. Governing Body; Qualifications.**

The Board shall govern the Community Association's affairs. Each director shall have one vote. Except with respect to directors appointed by the Declarant Member, directors shall be Owners or spouses of Owners. However, no Owner and spouse representing the same Unit may serve on the Board at the same time.

If an Owner is not an individual, any officer, director, partner, or any trust officer of such Owner shall be eligible to serve as a director unless a written notice to the Community Association



signed by the Owner specifies otherwise. However, no Owner may have more than one such representative on the Board at a time except in the case of directors the Declarant Member appoints.

**3.2. Number of Directors.**

The Board shall consist of three to seven directors, as provided in Section 3.3.

**3.3. Selection of Directors; Term of Office.**

(a) *Initial Board.* The initial Board shall consist of the three directors identified in the Articles of Incorporation, who shall serve until their successors are appointed or elected as provided in this Section.

(b) *Directors During Declarant's Control Period.* Except as otherwise provided in this subsection, the Declarant may appoint, remove and replace Board members until termination of the Declarant Control Period. During such period, the Owners shall be entitled to elect a minority of the total number of directors according to the following schedule (directors elected by the Owners are referred to as "Owner Directors"):

(i) Within 60 days after the time that Owners other than Builders own 50% of the maximum number of Units permitted by the applicable zoning for the property described in the Master Plan or whenever the Declarant earlier determines, the President shall call for an election by which the Owners shall be entitled to elect one of the three directors. The remaining directors shall be appointees of the Declarant. The Owner Director shall be elected for a term of two years or until the happening of the event described in Section 3.3(b)(ii), whichever is shorter. If such director's term expires prior to the happening of the event described in Section 3.3(b)(ii), a successor shall be elected for a like term.

(ii) Within 60 days after the time that Owners other than Builders own 80% of the maximum number of Units permitted by the applicable zoning for the property described in the Master Plan or whenever the Declarant earlier determines, the Board shall be increased to five directors and the President shall call for an election by which the Owners shall be entitled to elect two of the five directors. The Declarant shall appoint the remaining three directors. The Owner Directors shall be elected for a term of two years or until the happening of the event described in Section 3.3(c)(i), whichever is shorter. If such directors' terms expire prior to the happening of the event described in Section 3.3(c)(i), successors shall be elected for a like term.

*(c) Directors After the Declarant Control Period*

(i) Not later than termination of the Declarant Control Period, the Board shall be increased to seven directors. The President shall call for an election by which the Owners shall be entitled to elect six directors, and any remaining directorships filled at large by the votes of all Owners. Three directors shall be elected to serve until the second annual meeting following their election and three directors shall be elected to serve until the third annual meeting following their election, as such directors determine among themselves.

(ii) The Declarant shall be entitled to appoint, remove, and replace the seventh director until termination of the Declarant Membership, at which time the director appointed by the Declarant shall resign. The remaining directors shall be entitled to appoint a successor to fill the vacancy until the next annual meeting, at which time the Owners shall be entitled to elect a successor who shall be elected for a term of two years.

(iii) Upon expiration of the term of office of each Owner Director, the Owners entitled to elect such director shall be entitled to elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected. Directors may serve any number of consecutive terms.

The diagram below illustrates the concept of transition of control of the Board during and after the Declarant Control Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS				
Initial Board	50% of Total Units Conveyed	80% of Total Units Conveyed	Termination of Declarant Control Period	Termination of Declarant Membership
Declarant	Owner	Owner	Owner	Owner
Declarant	Declarant	Owner	Owner	Owner
Declarant	Declarant	Declarant	Owner	Owner
		Declarant	Owner	Owner
		Declarant	Owner	Owner
			Owner	Owner
			Declarant	Owner

#### 3.4. Nomination and Election Procedures.

(a) *Nomination of Candidates.* At least 30 days prior to any election of Owner Directors by the Owners, the Board shall appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners. The Nominating Committee shall serve a term of one year or until its successors are appointed. The names of the Nominating Committee members shall be announced in the notice of each election.

In preparation for each election, the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Owner Directors at such election. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity that exists within the pool of potential candidates. Nominations shall also be permitted from the floor at the meeting at which any election is held. All candidates shall have a reasonable opportunity to communicate their qualifications to the Owners and to solicit votes.

(b) *Election Procedures.* Each Owner may cast all votes assigned to such Owner's Units for each position to be filled by an Owner Director. In the event of a tie vote, the Board shall call for a runoff election among the candidates receiving the same number of votes. Such election shall be held by mail, with ballots to be sent by first class mail to each Owner entitled to vote within 10 days after the meeting at which the original election was held.

**3.5. Removal of Directors and Vacancies.**

Any Owner Director may be removed, with or without cause, at a meeting of the Members called for the purpose of removing the Owner Director, and the meeting notice must state that the purpose or one of the purposes of the meeting is removal of the director. The Owner Director may be removed at such meeting only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors. Upon removal of a director by the Owners, the Owners entitled to elect the removed director shall elect a successor for the remainder of the term of such director.

At any meeting at which a quorum is present, a majority of the directors may remove any Owner Director who has three consecutive unexcused absences from Board meetings, or who is more than 30 days delinquent (or resides in a Unit owned by an Owner who is so delinquent) in the payment of any assessment or other charge due the Community Association. The Board may appoint a successor to fill the vacancy for the remainder of the term.

In the event of the death, disability, or resignation of an Owner Director, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Owners entitled to fill such directorship shall elect a successor for the remainder of the term.

This Section shall not apply to directors the Declarant appoints. The Declarant may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Declarant.

**B. Meetings.**

**3.6. Organizational Meetings.**

The Board's first meeting following each annual meeting of the Community Association shall be held within 10 days thereafter at such time and place as the Board shall fix.

**3.7. Regular Meetings.**

The Board shall hold regular meetings at such time and place as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

**3.8. Special Meetings.**

Special Board meetings shall be held when called by written notice signed by the President or Vice President or by any two directors.

**3.9. Notice; Waiver of Notice.**

(a) Notices of Board meetings shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. The Board shall notify each director of meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or phone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, electronic mail, or other electronic

communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Community Association's records. The Board shall deposit notices sent by first class mail into a United States mailbox at least five business days before the day of the meeting. The Board shall give notices by personal delivery, telephone, or electronic communication at least 72 hours before the time set for the meeting.

(b) The Board shall notify the Owners of each Board meeting by either: (i) posting notice of the meeting in a conspicuous place in the Community at least 48 hours in advance of the meeting; (ii) publication of a schedule of the Board meetings in a newspaper, newsletter, on a community intranet or website, or by similar means at least seven days prior to the meeting; or (iii) mailing notice of the meeting to each Owner.

(c) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

### **3.10. Telephonic Participation in Meetings.**

Members of the Board or any committee the Board designates may participate in a Board or committee meeting by conference telephone or similar communications equipment through which all persons participating in the meeting can hear each other. Participation in a meeting pursuant to this section shall constitute presence at such meeting.

### **3.11. Quorum of Board.**

At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless South Carolina law, these By-Laws, or the Charter specifically provide otherwise. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken. If the Board cannot hold a meeting because a quorum is not present, a majority of the directors present may adjourn the meeting to a time not less than five nor more than 30 days from the date of the original meeting. At the reconvened meeting, if a quorum is present the Board may transact, without further notice, any business it might have transacted at the original meeting.

### **3.12. Compensation.**

Directors shall not receive any compensation from the Community Association for acting as such unless approved by Owners representing a majority of the Ownership Membership votes in the Community Association at a regular or special meeting of the Community Association. Any director may be reimbursed for expenses incurred on behalf of the Community Association upon approval of a majority of the other directors. Nothing herein shall prohibit the Community Association from compensating a director, or any entity with which a director is affiliated, for services or supplies furnished to the Community Association in a capacity other than as a director pursuant to a contract or agreement with the Community Association, provided that such director's interest was made known to the Board prior to entering into such contract and such contract was approved by a majority of the

Board, excluding the interested director.

**3.13. Conduct of Meetings.**

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Community Association's records.

**3.14. Open Meetings; Executive Session.**

(a) Subject to the provisions of Section 3.14(b) and Section 3.15, all Board meetings shall be open to all Owners, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak.

(b) Notwithstanding the above, the President may adjourn any Board meeting and reconvene in executive session, and may exclude persons other than directors, to discuss matters of a sensitive nature, such as proposed, pending, or threatened litigation, or other matters specified by law.

**3.15. Action Without a Formal Meeting.**

Any action to be taken or which may be taken at a Board meeting may be taken without a meeting if the directors sign a written consent, setting forth the action so taken. Such consent shall have the same force and effect as a unanimous vote.

**C. Powers and Duties.**

**3.16. Powers.**

The Board shall have the power to administer the Community Association's affairs, perform the Community Association's responsibilities, and exercise the Community Association's rights as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done on the Community Association's behalf all acts and things except those which the Governing Documents or South Carolina law require to be done and exercised exclusively by the membership generally.

**3.17. Duties.**

The Board's duties shall include, without limitation:

(a) preparing and adopting, in accordance with the Charter, an annual budget establishing each Owner's share of the Common Expenses and any Service Area Expenses;

(b) levying and collecting assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;

(d) designating, hiring, and dismissing personnel necessary to carry out the Community Association's rights and responsibilities and where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) opening bank accounts on the Community Association's behalf and designating the signatories required;

(f) depositing all funds received on the Community Association's behalf in a bank depository which it shall approve and using such funds to operate the Community Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;

(g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Governing Documents;

(h) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Community Association; however, the Community Association's obligation in this regard shall be conditioned in the manner provided in the Charter;

(i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Charter, paying the cost thereof, and filing and adjusting claims, as appropriate;

(j) paying the cost of all services rendered to the Community Association;

(k) keeping a detailed accounting of the Community Association's receipts and expenditures;

(l) making available to any prospective purchaser of a Unit, any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Community Association as provided in Article 10; and

(m) indemnifying a director, officer or committee member, or former director, officer or committee member of the Community Association to the extent such indemnity is required by South Carolina law, the Articles, or these By-Laws.

### **3.18. Conflicts of Interest**

Unless otherwise approved by a majority of the other directors, no Owner Director may transact business with the Community Association or any Community Association contractor during his or her term as director or within two years after the term expires. A director shall or her term as director or within two years after the term expires. A director shall promptly disclose in writing to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. A director's failure to make such disclosure shall be grounds for removal by a majority vote of the other Board members.

Notwithstanding the above, directors appointed by the Declarant may be employed by or otherwise transact business with the Declarant or its affiliate, and the Declarant may transact business with the Community Association or its contractors.

#### **Article 4 Transition from Declarant to Owner Control**

Transition is a process by which control of the Board gradually shifts from the Declarant to the Owners, as described in Section 3.3. The process concludes upon termination of the Declarant Membership, when the Owner Members will elect the entire Board. At that time, the Owners, through their newly-elected Board, will take responsibility for fulfilling the Community Association's responsibilities and exercising the Community Association's authority under the Governing Documents without the guidance or involvement of the Declarant or Declarant-appointed directors.

In anticipation of termination of the Declarant Control Period, the Declarant Member shall communicate with the Owners regarding the transition process, the anticipated timeline for transition, what to expect during and after transition, and opportunities for Owner participation. Such communication may be in writing or through one or more "town hall" meetings at which Owners have the opportunity to ask and obtain answers to questions in order to gain a better understanding of the transition process.

The Declarant Member may establish a Property Transfer Committee comprised of three to seven Owner Members to involve the Owners in facilitating a smooth transition of control of the Board from directors appointed by the Declarant Member to directors elected by the Owner Members and to help the Board and the Owners to assume responsibility for carrying on Association operations once the Declarant and its representatives are no longer directly involved.

The Board may, as a Common Expense, retain industry professionals, including association managers, attorneys, engineers, and accountants, as it deems necessary or appropriate to assist the Board in preparing for transition and to assist the Property Transfer Committee in conducting its review.

#### **Article 5 Officers**

##### **5.1. Officers.**

The Community Association's officers shall be a President, Vice President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Assistant Secretaries and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

##### **5.2. Election and Term of Office.**

The Board shall elect the Community Association's officers at the first Board meeting following each annual meeting of the Community Association, to serve until their successors are elected.

**5.3. Removal and Vacancies.**

The Board may remove any officer whenever in its judgment the Community Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

**5.4. Powers and Duties.**

The Community Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Community Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Community Association's budgets as provided for in the Charter, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The Secretary shall primarily be responsible for keeping a record of the minutes of the meetings and preparing and disseminating other records and communications as shall be deemed necessary by the Board.

**5.5. Resignation.**

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

**Article 6  
Committees**

**6.1. General.**

In addition to the Property Transfer Committee appointed pursuant to Article 4, the Board may appoint such other committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. In the conduct of its duties and responsibilities, each committee shall abide by the notice and quorum requirements applicable to the Board under Sections 3.9, 3.10, and 3.11. Except as otherwise provided by Board resolution or the Governing Documents, members of a committee may act by unanimous written consent in lieu of a meeting.

**6.2. Covenants Committee.**

In addition to any other committees that the Board may establish pursuant to Section 6.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Owners who shall not be officers, directors, or employees of the Community Association, or the spouse, parent, sibling, or child of any officer, director, or employee. Acting in accordance with the provisions of the Charter, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Community Association and shall conduct all hearings held pursuant to Article 9. The Covenants Committee shall have no responsibility for seeking out violations of the Governing Documents.



**6.3. Service Area Committees.**

The Owners within any Service Area which has no formal organizational structure or association may elect a Service Area Committee to determine the nature and extent of services, if any, which it desires to have the Community Association provide to the Service Area, over and above those services which the Community Association provides to all Units in the Community. A Service Area Committee, if elected, shall consist of three Owners of Units in the Service Area; however, if approved by the vote of at least 51 % of the Owners of Units within the Service Area, the number may be increased to five.

Elections of Service Area Committees may be held by written ballot sent to all Owners of Units within the Service Area, or at a meeting of the Owners of Units within the Service Area, as the Board determines. The Board or any Owner of a Unit in the Service Area may nominate candidates for election to the Service Area Committee. That number of candidates equal to the number of positions to be filled receiving the most votes shall be elected. Service Area Committee members shall be elected fill a term of one year or until their successors are elected. Any director elected to the Board from a Service Area shall be an ex officio member of the Service Area Committee. The members of the committee shall elect a chairperson from among themselves, who shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board. Meetings of a Service Area Committee shall be open to all Owners of Units in the Service Area and their representatives.

**Article 7**

**Standards of Conduct; Liability and Indemnification**

**7.1. Standards for Directors and Officers.**

The Board shall exercise its powers in a reasonable, fair, nondiscriminatory manner and shall adhere to the procedures established in the Governing Documents.

In performing their duties, directors and officers shall act as fiduciaries and shall be insulated from liability as provided for directors of corporations under South Carolina law and as otherwise provided by the Governing Documents. Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under South Carolina law.

**7.2. Liability.**

(a) A director or officer shall not be personally liable to the Community Association, any Owner, or any other Person for any action taken or not taken as a director or officer if he or she has acted in accordance with Section 7.1.

(b) Pursuant to the business judgment rule, a director also shall not be personally liable for any action taken or not taken as a director if the director:

(i) acts within the expressed or implied scope of the Governing Documents and his or her actions are not *ultra vires*;

(ii) affirmatively undertakes to make decisions which the director reasonably believes are necessary for the Community Association's continued and successful operation and, when decisions are made, makes them on an informed basis;

(iii) acts on a disinterested basis, promptly disclosing any real or potential conflict of interests (pecuniary or other), and avoiding participation in decisions and actions on matters as to which he has a conflict of interest (beyond that which all directors have by virtue of their ownership or occupancy of a Unit); and

(iv) acts in a non-fraudulent manner and without reckless indifference to the Community Association's affairs.

There shall not be any presumption that directors appointed by the Declarant have a conflict of interest simply by virtue of the fact that the Declarant may directly or indirectly be affected by the decision or action under consideration.

(c) The Community Association's officers, directors, and committee members of shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Community Association's behalf (except to the extent that such officers or directors may also be Owners).

### **7.3. Indemnification.**

Except as required under the laws of the State of South Carolina, the Board shall be indemnified pursuant to Section 33-31-850, *et seq.* of the South Carolina Nonprofit Corporation Act, as the same may be amended, if the director conducted himself in good faith and reasonably believed, in the case of conduct in his official capacity with the corporation, that his conduct was in the best interests of the Community Association. In all other cases, a director will be indemnified if his conduct was at least not opposed to the best interests of the Community Association. In the case of a criminal proceeding, the director will be indemnified if he had no reasonable cause to believe his conduct was unlawful. Directors shall not be liable to the Members or the Community Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith.

Subject to the limitations of South Carolina law, the Community Association shall indemnify every officer and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer or committee member, except that the Community Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Community Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under South Carolina law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

- (i) appropriation, in violation of his or her duties, of any business opportunity of the Community Association;
- (ii) intentional misconduct or knowing violation of the law;
- (iii) an unlawful distribution to members, directors or officers; or
- (iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Community Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

It is intended that members of the Board and any managing agent or management firm, shall have no personal liability with respect to any contract made by them on behalf of the Community Association. It is understood and permissible and shall not be deemed to be self-dealing for the Community Association to contract with corporations owned or controlled, or affiliated with members of the Board. The indemnification of members of the Board by the Community Association shall be limited to assessments and other charges received from the Owners.

#### **7.4. Advancement of Expenses.**

In accordance with the procedures and subject to the conditions and limitations set forth in South Carolina law, the Board may authorize the Community Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, director, or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Community Association.

#### **7.5. Board and Officer Training.**

The Board may conduct or provide for seminars and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. Such programs may include instruction on applicable South Carolina corporate and fiduciary law principles, other issues relating to administering community affairs, and upholding and enforcing the Governing Documents. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. Each newly elected officer and director shall be encouraged to complete a training seminar within the first six months of assuming such position. The seminar may be live, video or audiotape, or in other format. The cost of such seminar shall be a Common Expense.

The Board also may provide, or provide for, Owner and resident education designed to foster a better understanding of the Community's governance and operations, and leadership training classes designed to educate Owners the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

## **Article 8**

### **Management and Accounting**

#### **8.1. Compensation of Directors and Officers.**

The Community Association shall not compensate directors and officers for acting as such unless the Declarant, during the Declarant Control Period, and Owners representing a majority of the total votes in the Community Association approve such compensation at a Community Association meeting. The Community Association may reimburse any director or officer for expenses he or she incurs on the Community Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Community Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Community Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Community Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract.

#### **8.2. Right of Declarant Member to Disapprove Actions.**

So long as there is a Declarant Membership, the Declarant Member shall have a right to disapprove any action, policy, or program of the Community Association, the Board and any committee which, in the Declarant Member's sole judgment, would tend to impair rights of the Declarant or Builders under the Charter or these By-Laws, interfere with development or construction of any portion of the Community, or diminish the level of services the Community Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this Section have been met.

**(a) Notice.** The Community Association shall give the Declarant Member written notice of all meetings of the membership, the Board, and committees and any actions which any of them propose to take by written consent in lieu of a meeting. The Community Association shall give such notice by certified mail, return receipt requested, or by personal delivery at the address the Declarant Member has registered with the Community Association. Such notice shall comply as to Board meetings with Section 3.9, and shall, except in the case of regular Board meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

**(b) Opportunity to be Heard** At any such meeting, the Community Association shall give the Declarant Member the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

The Declarant Member, its representatives, or its agents shall make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Declarant Member, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action.

The Declarant Member may use this right to disapprove to block proposed actions but shall not use it to require any action or counteraction of any committee, the Board, or the Community Association. The Declarant Member shall not use its right to disapprove to reduce the level of services the Community Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

### **8.3. Managing Agent.**

The Board may employ for the Community Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.17. The Board may employ the Declarant or its affiliate as managing agent or manager.

The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

The Community Association shall not be bound, either directly or indirectly, by any management contract executed during the Declarant Control Period unless such contract contains a right of termination which may be exercised by the Community Association, with or without cause and without penalty, at any time after termination of the Declarant Control Period upon not more than 90 days' written notice.

The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Community Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any thing of value received shall benefit the Community Association. The managing agent shall promptly disclose to the Board any financial or other interest that it may have in any firm providing goods or services to the Community Association.

### **8.4. Accounts and Reports.**

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

- (i) accounting and controls should conform to generally accepted accounting principals; and
- (ii) the Community Association's cash accounts shall not be commingled with any other accounts, and during the Declarant Control Period, operating accounts shall not be commingled with reserve accounts;

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Community Association within 60 days after the end of each quarter:

- (i) an account statement reflecting all income and expense activity or the preceding period;
- (ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution). A copy of the quarterly financial report shall be made available at no charge to any Owner requesting a copy.

(c) An annual report consisting of at least the following shall be made available for Members' review within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines.

#### **8.5. Borrowing.**

The Community Association shall have the power to borrow money for any legal purpose. However, the Board shall obtain Owners approval in the same manner provided in the Charter for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Community Association's budgeted gross expenses for that fiscal year.

#### **8.6. Right to Contract**

The Community Association shall have the right to contract with any Person for the performance of various duties and functions. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, any Neighborhood Association, and other owners or residents associations within and outside the Community.

#### **8.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.**

All Community Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

### **Article 9**

#### **Enforcement Procedures**

The Community Association shall have the power, as provided in the Charter, to impose sanctions for any violation of the Governing Documents. To the extent specifically required by the Charter, the Board shall comply with the following procedures prior to imposition of sanctions:

##### **9.1. Notice and Response.**

The Board or its delegate shall serve the alleged violator with written notice describing (a) the nature of the alleged violation, (b) the proposed sanction to be imposed, (c) the alleged violator shall have 15 days to present a written request for a hearing before the Covenants Committee appointed pursuant to Article 6; and (d) a statement that the proposed sanction may be imposed as contained in the notice unless a hearing is requested within 15 days of the notice.

The alleged violator shall respond to the notice of the alleged violation in writing within such 15-day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board in writing within such 15-day period the Board may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided the Board or Covenants Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the 15-day period.

Prior to the effectiveness of sanctions imposed pursuant to this Article, proof of proper notice shall be placed in the minutes of the Board or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at the hearing.

#### **9.2. Hearing.**

If a hearing is requested within the allotted 15-day period, the hearing shall be held before the Covenants Committee. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meetings of the Covenants Committee shall contain a written statement of the results of the hearing (i.e., the Committee's decision) and the sanction, if any, to be imposed.

#### **9.3. Appeal.**

Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board. To exercise this right, the violator must deliver a written notice of appeal to the Community Association's manager, President, or Secretary within 10 days after the hearing date.

#### **9.4. Election of Remedies.**

All rights, remedies, and privileges granted to the Community Association and the Board, or any Owner, pursuant to any terms, provisions, covenants or conditions of the Charter, Articles of Incorporation, or these By-Laws shall be deemed to be cumulative and the exercise of anyone or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by the Charter, Articles of Incorporation, or these By-Laws or at law or in equity.

#### **9.5. Statement of Charges.**

The Board shall, for a reasonable fee, promptly provide any purchaser of any property or institutional lender (or any Owner) so requesting the same in writing, with a written statement of all unpaid charges due from such Owner and any bona fide third party purchaser's liability therefore with respect to a continuing lien on the Unit shall be limited to the amount set forth in the statement. The personal obligation of such Owner shall in no way be affected by the amount stated in any written statement to such third party purchaser or institutional lender.

**Article 10**  
**Miscellaneous**

**10.1. Fiscal Year.**

The Community Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

**10.2. Parliamentary Rules.**

Except as may be modified by Board resolution, *Roberts' Rules of Order* (current edition) shall govern the conduct of Community Association proceedings when not in conflict with South Carolina law or the Governing Documents.

**10.3. Conflicts.**

If there are conflicts among the provisions of South Carolina law, the Articles of Incorporation, the Charter, and these By-Laws, the provisions of South Carolina law, the Charter, the Articles of Incorporation, and the By-Laws (in that order) shall prevail.

**10.4. Books and Records.**

(a) *Turnover of Books and Records.* Within 90 days after termination of the Declarant Control Period, the Declarant shall deliver to the Community Association all property, books and records of the Community Association.

(b) *Inspection by Members and Mortgagees.* The Board shall make available for inspection and copying by any holder, insurer, or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to his or her interest in a Unit: the Governing Documents, the membership register, books of account, the minutes of meetings of the Community Association, the Board, and committees, and any other records as required by South Carolina law. The Board shall provide for such inspection to take place within 10 business days after receipt of a written request for access at the Community Association's office or at such other place within the Hampton Lake Community as the Board shall designate.

(c) *Rules for Inspection.* The Board shall establish rules with respect to:

- (i) the frequency and manner of inspection;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing documents requested.

(d) *Inspection by Directors.* Every director shall have the absolute right at any reasonable time to inspect all Community Association books, records, and documents and the physical properties owned or controlled by the Community Association. A director's right of inspection includes the right to make a copy of relevant documents at the Community Association's expense.



**10.5. Notices.**

(a) *Form of Notice and Method of Delivery.* Except as otherwise provided in the Charter or these By-Laws or by South Carolina law, all notices, demands, bills, statements, or other communications under the Charter or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has given its prior written authorization to use such method of delivery, by facsimile or electronic mail with written confirmation of transmission.

(b) *Delivery Address.* Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Owner, at the address, telephone facsimile number, or e-mail address which the Owner has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Owner;

(ii) if to the Community Association, the Board, or a committee of either, at the address, facsimile number, or e-mail address of the principal office of the Community Association or its managing agent, or at such other address as the Community Association shall designate by notice in writing to the Owners pursuant to this Section; or

(iii) if to the Declarant, at the Declarant's principal address as it appears on the Secretary of State's records, or at such other address as the Declarant shall designate by notice in writing to the Community Association pursuant to this Section.

(c) *Effective Date.* Notice sent in accordance with Sections 10.5(a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States first class mail, five days after its deposit with the U.S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if sent by United States registered or certified mail, return receipt requested, correctly addressed, on the date shown on the return receipt signed by or on behalf of the addressee; or

(iii) if delivered personally or by private carrier, or sent by telephone facsimile or electronic mail, when received.

**10.6. Amendment**

(a) *By Declarant Member.* Prior to termination of the Declarant Control Period, the Declarant Member may unilaterally amend these By-Laws, subject to the approval requirements in Chapter 16 of the Charter, if applicable; however, if the U.S. Department of Veterans Affairs ("V A") or the U.S. Department of Housing and Urban Development ("HUD") has issued project approval for VA-guaranteed or HUD-insured Mortgages, respectively, then either shall have the right to veto amendments to these By-Laws during the Declarant Control Period. Thereafter, the Declarant Member may unilaterally amend these By-Laws at any time and from time to time if such amendment is necessary (i) to bring any provision into compliance with any applicable governmental statute, rule or regulation, or judicial determination; (ii) to enable any reputable title insurance company to issue title insurance coverage on the Units; or (iii) to enable any institutional or governmental lender, purchaser, insurer, or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association or

Federal Home Loan Mortgage Corporation, to make, purchase, insure, or guarantee mortgage loans on the Units. Prior to the termination of the Declarant Control Period, the Declarant Member may unilaterally amend these By-Laws for any other purpose, provided the amendment has no material adverse effect upon any Owner's right, subject to the approval requirements in Chapter 16 of the Charter, if applicable, and subject to the veto rights of VA or HUD, if applicable.

(b) *By Owners Generally.* Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof of Owners representing 67% of the total votes in the Community Association, and the consent of the Declarant Member, if such exists. In addition, the approval requirements set forth in Chapter 16 of the Charter shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) *Validity and Effective Date of Amendments.* Amendments to these By-Laws shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Declarant Member without the written consent of Declarant, the Declarant Member, or the assignee of such right or privilege.

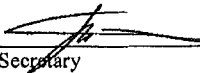
**CERTIFICATION**

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of Hampton Lake Community Association, Inc., a South Carolina nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of the Community Association, as duly adopted by resolution of the Board of Directors thereof on the 24 day of March, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Community Association this 24<sup>th</sup> day of March, 2006.

 [SEAL]  
Secretary