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John T. Hopkins II

Richland County R.O.D.



**Declaration of Covenants, Restrictions, Easements,  
Charges and Liens for Harbison**



## INTRODUCTION TO THE DECLARATION

Welcome to property ownership in Harbison.

Whether you have just bought a home or purchased a site for business or investment, you must have felt that Harbison was a special place. Much care and concern have gone to assure you that Harbison's attractive qualities — well-trimmed neighborhoods, generous open space and planned growth — are preserved. This Declaration of Covenants, Restrictions, Easements, Charges and Liens has been legally recorded.

The Declaration runs with the title to all property in Harbison and establishes a common set of rights and obligations for all property owners. The Harbison Community Association is created under the Declaration to secure your rights and carry out the obligations on your behalf. As a resident or property owner, you will be able to use all of the Association's park and recreation facilities (collectively called Common Property because it is held for everyone's benefit). You also will be able to vote at Association meetings on a wide range of matters affecting the community. In turn, you must pay the Association annual assessments to finance its operation and services and to finance and maintain the Common Property.

One important service is the regulation of the design and appearance of all new construction. The Design and Development Review Committee (DDRC) is established by the Declaration to assure that all site plans and construction conform to a high standard of environmental quality. The Association's Board and The Harbison Group appoint members to the DDRC.

A nine member Board of Directors manages the Association which is organized as a nonprofit corporation under South Carolina's eleemosynary laws. As an owner or resident, you will share control of the Board with The Harbison Group in proportion to the number of completed residential units.

The Declaration and the Harbison Community Association distinguish Harbison from other communities. They assure the orderly development and growth of Harbison while giving you the opportunity to participate in community governance. They provide the legal basis to preserve your property values, enhance environmental quality, and promote community welfare. As an owner or resident, you will be able to enjoy a greater measure of security and satisfaction in your new community.

At Harbison, your happiness is our ultimate measure of success.

The Harbison Group

Columbia, South Carolina, June 30, 1983

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**DECLARATION OF COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES  
AND LIENS FOR HARBISON, SOUTH CAROLINA**

WHEREAS, Harbison Development Corporation caused to be recorded a Declaration of Covenants, Restrictions, Easements, Charges and Liens for Harbison, South Carolina in the office of the Register of Mesne Conveyances for Richland County in Deed Book D-357 at page 1 on August 21, 1975 and in the Office of the Register of Mesne Conveyances for Lexington County in Deed Book 210 at page 31 on July 20, 1977: and,

WHEREAS, The Harbison Group by conveyance has succeeded Harbison Development Corporation as the Developer of the new community of Harbison as defined in said Declaration; and, WHEREAS Harbison Development Corporation has begun and the Harbison Group intends to continue to develop a new community to be known as Harbison affording well-planned residential, commercial, industrial, civic, institutional and open space areas, buildings and facilities; and

WHEREAS, Harbison Development Corporation has heretofore subjected certain property to the covenants, restrictions, easements, charges, and liens imposed by the said Declaration in order to promote the common good and general welfare of the community of Harbison and, consistent therewith, to provide a development which will enhance and protect the value of the Property: and

WHEREAS, Harbison Development Corporation has heretofore caused Harbison Community Association, Inc., a corporation organized under the Non-Profit Corporation Law of South Carolina, to be formed for the purpose of providing a non-profit organization to serve as the representative of the Owners and Residents with respect to: the administration and the enforcement of all covenants, restrictions, easements and charges contained herein and all liens created hereby, and the creation, operation, management and maintenance of the

Common Property referred to hereinafter; the assessment, collection and application of all charges imposed hereunder; and the promotion otherwise of the health, safety and general welfare of the community of Harbison; and

WHEREAS, pursuant to Article XV, Section 15.02 of said Declaration, Harbison Community Association, Inc. has approved by its Resolution amendment of said Declaration by a vote of more than two-thirds of the members of each class eligible to vote, said Resolution specifically setting forth the Amendments included herein; and,

WHEREAS, the Secretary of Housing and Urban Development no longer has any financial interest in the property subject of the Declaration, and the Secretary, acting through The New Community Development Corporation has given his written consent to the amendment of said Declaration for the purpose of eliminating the role of the Secretary under said Declaration, as provided in Article XV, Section 15.03 of the Declaration.

NOW, THEREFORE, The Harbison Group hereby declares that the land described in Exhibit A hereto shall be held, sold and conveyed subject to the following covenants, restrictions, easements, charges and liens, all of which are for the purpose of promoting the common good and general welfare of the residents of the community of Harbison and thereby of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, restrictions, easements, charges and liens shall run with title to the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof and, subject to the limitations herein provided, shall inure to the benefit of each Owner thereof, his heirs, grantees, distributees, successors and assigns the Association, each Resident, and the Developer.

**ARTICLE I — DEFINITIONS**

The following terms, when used in this Declaration,

or in any supplemental Declaration made effective against the Property according to law, and when the first letters thereof are capitalized, shall have the following meanings (except as otherwise expressly provided or unless the context otherwise requires):

**1.01 Annexation Property.** "Annexation Property" shall mean and refer to real property presently owned by the Developer or acquired by Developer in the future and integrated by it into the Development Plan as it may be modified from time to time, and not yet subject to this Declaration.

**1.02 Assessable Property.** "Assessable Property" shall mean and refer to the Property as hereinafter defined, together with all permanent structural improvements thereon, except such part or parts thereof as may from time to time constitute "Non-Assessable Property" as hereinafter defined.

**1.03 Assessed Valuation.** "Assessed Valuation" shall mean and refer to:

(a) the true market value of land and permanent improvements thereon, which shall be established by sales price or bona fide appraisal or such other means as are satisfactory to the Association Board, until a value is determined pursuant to (b) below; then

(b) the value placed on land and permanent improvements thereon in accordance with applicable law for ad valorem tax purposes for the next preceding calendar year by Richland County or Lexington County, as appropriate, as assessed or determined in such manner as may from time to time be provided by applicable law, regardless of any decrease of such valuation during such year by reason of protest, appeal or otherwise; provided, however, if such value is determined by using an assessment rate or other factor which is less than 100% of true value, then an amount sufficient to

bring the value used by Richland County or Lexington County for ad valorem tax purposes to 100% of true value shall be added to such value; or

(c) if Richland County or Lexington County shall cease to impose real estate taxes, then the highest value placed on land and permanent improvements thereon during the last year in which such County shall have imposed a real property tax; or

(d) the foregoing portions of this Section 1.03 to the contrary notwithstanding, if the Association Board shall determine that the meanings set forth in subsection (a), (b), or (c) of this Section (whichever may be applicable) are unworkable or do not produce true values which are fair and equitable to all Owners, the value placed on land and permanent improvements thereon by the Association Board pursuant to an alternative uniform method of assessment which shall be fair and equitable to all Owners and which shall have been ratified by two-thirds of Class A, Class B, and Class E Members, considered as a single class, who are present in person or by proxy at an Association meeting at which a quorum is present or voting in a referendum call for such purpose after proper notice is given.

**1.04 Assessments.** "Assessments" shall have the meaning specified in Section 4.03.

**1.05 Association.** "Association" shall mean and refer to the Harbison Community Association, Inc., a non-profit South Carolina Corporation or any successor thereof charged with the duties and obligations set forth herein.

**1.06 Association Board.** "Association Board" shall mean and refer to the Board of Directors of the Association.



**1.07 Common Property.** "Common Property" shall mean and refer to the improved or unimproved real property, Structures and personal property in which the Association owns an interest designated for the common use and enjoyment of the Owners and Residents. Such interest or interests may include, without limitation, estates in fee, estates for a term of years or easements. Notwithstanding any legal presumption to the contrary, the fee title to any land shown upon any filed or recorded map or plat of any part of the Property which shall be designated as "Common Property" shall be reserved to the Developer until such time as the same shall be conveyed to the Association.

**1.08 Completed Unit.** "Completed Unit" shall mean and refer to a Living Unit upon which construction is completed and which has been or is in fact, occupied.

**1.09 Declaration.** "Declaration" shall mean and refer to this Declaration of Covenants, Restrictions, Easements, Charges and Liens, as the same may from time to time be supplemented or amended in the manner prescribed herein.

**1.10 DDRC.** "DDRC" shall mean and refer to the Design and Development Review Committee which shall have the duties and functions specified in Article VIII hereof.

**1.11 Deed.** "Deed" shall mean and refer to a deed, assignment, or other recordable instrument conveying the fee simple title to a Lot, as hereinafter defined, or a recorded land sale contract or similar instrument which requires the vendee to make periodic payments towards the purchase price for the purpose of eventually obtaining the fee simple title to a Lot, as hereinafter defined.

**1.12 Developer.** "Developer shall mean and refer to The Harbison Group and its successors and assigns.

**1.13 Development Guidelines.** "Development Guidelines" shall mean and refer to the rules, regulations and policy statements adopted and promulgated by the DDRC pursuant to Article VIII of this Declaration.

**1.14 Development Period.** "Development Period" shall mean and refer to a period commencing on February 4, 1975, and terminating twenty (20) years from such date.

**1.15 Development Plan.** "Development Plan" shall mean and refer to the plan for development of Harbison dated February 4, 1975 as amended May 2, 1983 on file at the office of the Developer and approved as a Planned Unit Development by Lexington and Richland Counties on October 9, 1974 and September 7, 1977 respectively. Amendments to the Development Plan (Planned Unit Development) by the Developer must be approved by Lexington and Richland Counties.

**1.16 Director.** "Director" shall mean and refer to a member of the Association Board.

**1.17 Easement Area.** "Easement Area" shall mean that property or portion of properties described within an easement or a "Reservation of Easement" filed or to be filed for record by the developer, and from time to time by recorded instrument limited or specified, reserved for the easement purposes set forth in such instruments and generally described in Article X hereof, and shall refer to those areas on each Lot or property with respect to which easements are shown on a recorded deed or on any filed or recorded map or plat relating thereto.

**1.18 Interested Person.** "Interested Person" shall mean and refer to any (a) officer or director of the Developer; (b) entity of which any individual described in (a) above or the Developer, directly or indirectly, has controlling interest; (c) entity which has contributed capital to the Developer; or (d) entity which holds subordinated debt of the Developer. For purposes of this definition, any direct or indirect ownership or control held by an individual's spouse, or by any parent, child, grandchild, brother or sister of such individual or such individual's spouse shall be attributed to such individual.

**1.19 Living Unit.** "Living Unit" shall mean and refer to any Structure or portion of a Structure situated upon the Property designed and tended for use and occupancy as a permanent residence by a single person, a family or a family-sized group of persons.

**1.20 Lot.** "Lot" shall mean and refer to any plot or parcel of land, including a condominium unit, shown on a plat or subdivision map of any part of either Richland County or Lexington County, South Carolina, or any other plot or parcel of land, including a condominium unit, constituting part of the Property described in a Deed from the Developer or any subsequent Owner, which Deed has been recorded in the Office of the Register of Mesne Conveyances of either Richland County or Lexington County, with the exception of Common Property, together with all permanent structural improvements thereon.

**1.21 Member.** "Member" shall mean and refer to every person or entity holding membership in the Association, as set forth in Article III.

**1.22 Non-Assessable Property.** "Non-Assess-

able Property" shall mean and refer to the following parts of the property:

(a) Any land and permanent improvements owned by the United States, except land and permanent improvements acquired through mortgage foreclosures by the Federal Housing Administration, the Veteran's Administration, or successors of those agencies, the State of South Carolina, the Counties of Richland and Lexington, or similar governmental entity, or any instrumentality or agency of any such entity, for so long as any such instrumentality or agency shall be the Owner thereof;

(b) All Common Property;

(c) All land designated "Common Property" upon any map or plat of any part of the Property filed in the Office of Register of Mesne Conveyance of either Richland County or Lexington County, South Carolina; and

(d) All land, including permanent improvements thereon, which is exempted from real property taxation by applicable law and which is also exempted from assessment under this Declaration by vote of a two-thirds majority of the Association Board.

**1.23 Non-Residential Property.** "Non-Residential Property" shall mean and refer to any property or building or any portion of a building which has a non-residential use and which is situated on Assessable Property. Structures constructed with residential structures, such as garages and swimming pools, shall be considered "residential."

**1.24 Note.** "Note" shall mean and refer to all notes, bonds, debentures or other evidences of indebtedness issued and sold by the Association.

**1.25 Note Holder.** "Note Holder" shall mean and refer to the holder of any Note and all trustees and other representatives of one or more such holders.

**1.26 Owner.** "Owner" shall mean and refer to the holder or holders of record title to the fee interest of any Lot or of any share, membership, or other interest in any cooperative or other entity organized and operated for the purpose of making residential dwelling units available to its shareholders, members, or other beneficiaries, which share, membership, or other interest entitles the holder thereof to possession of any Living Unit within the Property. "Owner" shall include a contract seller, but shall exclude a person having an interest merely as security for the performance of an obligation.

**1.27 Property.** "Property" shall mean and refer to that certain real property described more particularly in Exhibit A attached hereto and made a part hereof, together with such Annexation Property as the Developer may own or acquire and which the Developer makes subject to this Declaration by annexation pursuant to Article II hereof.

**1.28 RDRC.** "RDRC" shall mean and refer to a Residential Design Review Committee created pursuant to Article IX.

**1.29 Resident.** "Resident" shall mean and refer to any person who has registered with the Association as a "Resident" and who:

- (a) owns a Living Unit within the Property and has manifested his present intent to reside in that dwelling even though he may be temporarily absent; or
- (b) is actually living within the Property in the same household with a person described in Section 1.30(a), whether or not he is a member of the immediate family of such person; or

(c) is a Tenant.

**1.30 Residential Area.** "Residential Area" shall mean and refer to one of three geographic areas within the Property, designated in the Development Plan.

**1.31 Residential Property.** "Residential Property" shall mean and refer to any property or building or any portion of a building which has a residential use, including Structures such as garages and swimming pools constructed and used with Residential Structures, and which is situated on Assessable Property.

**1.32 Restriction.** "Restriction" shall mean and refer to any covenant, restriction, easement, charge, lien or other obligation created or imposed by this Declaration.

**1.33 Right of Action.** "Right of Action" shall have the meaning specified in Section 16.01 hereof.

**1.34 Structure.** "Structure" shall mean and refer to:

- (a) anything or object, trees and landscaping, the placement, size, shape, color, height and quality of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse, or bathhouse, coop or cage, covered or uncovered patio, swimming pool, fence, curbing, paving, wall or hedge more than two (2) feet in height, sign, appurtenance, signboard or any temporary or permanent improvement to such Lot; and
- (b) any excavation, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of waters from, through, under or across any Lot or which affects or alters the flow of any waters in any natural or artificial stream, wash

or drainage channel from, upon or across any Lot; and  
(c) any change in the grade of any Lot of more than six (6) inches.

**1.35 Successor Entity.** "Successor Entity" shall have the meaning specified in Section 17.03 hereof.

**1.36 Tenant.** "Tenant" shall mean:

- (a) any person who occupies a Living Unit under a written lease from an Owner in which said person is named "lessee" and delivers an executed copy of such lease to the Association; or
- (b) any person, whether or not he is a member of the immediate family of a person described in Section 1.36(a), who is actually living within the Property in the same household with said person.

**1.37 Waterway.** "Waterway" shall have the meaning specified in Section 13.01.

## **ARTICLE II — ANNEXATION**

**2.01 Development Plan.** The real property described in Exhibit A is a portion of a larger area of land owned or intended to be acquired by the Developer, described in Exhibit B attached hereto and made a part hereof, which Developer intends to subject to this Declaration and to develop pursuant to the Development Plan.

**2.02 Right of Annexation.**

- (a) During the Development Period, the Developer intends to annex all of the Annexation Property. Each Owner and each Resident, by the act of becoming such, shall be deemed to have acknowledged and agreed:
  - (i) that the Property described in Exhibit A and such Annexation Property as may be annexed hereto pursuant to Section 2.03 shall be the only property subject to the Declaration;

- (ii) that the Developer may annex all or any portion of the Annexation Property without the consent of any Owner, Resident, or Tenant, or of the Association; where any Annexation Property is not included in the Development Plan at the time of annexation. However, such annexation shall require the approval of two-thirds of Class A, Class B, and Class E Members, considered as a single class who are present in person or by proxy and voting at an Association meeting at which a quorum is present, or voting in a referendum called for such purpose after proper notice is given.
- (iii) that, subject to the provisions of Section 2.0 (ii) and the requirements of the Development Plan, nothing contained in this Declaration or in any recorded or unrecorded map, plat, picture, drawing, brochure, or other representation of a scheme of development shall be construed as requiring the Developer, or any successor or assignee thereof, to subject to this Declaration any land, now or hereafter owned by the Developer, other than the Property; and
- (iv) that the only manner in which any additional land can be subjected to this Declaration shall be by and in accordance with the procedure set forth in Section 2.03 or in Section 2.05.
- (b) Prior to selling any Annexation Property, the Developer will annex such Annexation Property pursuant to Section 2.03 or will subject such Annexation Property to another set of covenants, restrictions, easements, charges and liens taking into consideration the best interests of the Owners and Residents of the Property except that the Developer may decline to annex certain portions of the Property which are designated in the Development Plan as Reserve land.

**2.03 Annexation Declaration.** Annexation Property shall be subjected to the terms of this Declaration by

recording a Declaration of Annexation in the office of the Register of Mesne Conveyances of Richland County or Lexington County and shall:

- (a) describe the property to be annexed;
- (b) declare that the property so described is annexed pursuant to the provisions hereof;
- (c) declare that the property so described has been or is being developed substantially in accordance with the Development Plan; and
- (d) provide for other restrictions, conditions and allocations of rights and benefits not inconsistent with the provisions hereof and of the Development Plan as appropriate.

**2.04 Effect of Annexation.** From and after the date of recording of a Declaration of Annexation, the Annexation Property subject thereto shall become part of the Property for all purposes of this Declaration.

**2.05 Annexation after Development Period.**

After the Development Period, the Association may annex additional land to the Property by recording a Declaration of Annexation pursuant to Section 2.03. Any such annexation shall require the approval of two-thirds of Members voting in person or by proxy at an Association meeting at which a quorum is present or voting in a referendum on such issue after proper notice is given.

**ARTICLE — III**

**HARBISON COMMUNITY ASSOCIATION**

**3.01 Powers and Duties of the Association.**

The Association is organized to operate for the promotion of the common good and general welfare of the people of the community of Harbison, South Carolina, and consistent therewith, to acquire, improve, maintain, preserve, and control the Common Property, to administer and to enforce all covenants, restrictions, easements, and charges contained in the Declaration and all liens created herein, and otherwise

to promote the health, safety, and general welfare of the people of said community. Consistent with the foregoing, the Association is authorized to exercise all powers which a corporation organized under the Non-Profit Corporation Law of South Carolina, as from time to time amended, may be authorized to exercise, including, without limitation the power to apply for, accept, and expend federal, state or local grants as permitted by the terms thereof.

**3.02 Members.**

(a) During the Development Period, the Association shall have 'five' classes of members: Class A, Class B, Class C, Class D and Class E.

(i) Each Owner of one or more Lots designated for residential use shall be a Class A Member.

(ii) Each Owner of one or more Lots designated for non-residential use and each commercial tenant having a lease having a term of more than five years shall be a Class B Member.

(iii) Each Resident who lives in an owner occupied residence shall be a Class C Member.

(iv) Each Resident who is a Tenant and each commercial tenant under a lease having a term of five years or less, shall be a Class D Member.

(v) The Developer shall be the Class E Member.

(vi) The Association shall not be a member and, during the Development Period, the Developer shall not be a Member of Class A or Class B.

(b) After the Development Period, Class E Membership will terminate. The Developer will then become a Class A or Class B Member, or both, if it holds a qualifying interest in the appropriate types

of property and shall remain a Class A or Class B Member, or both, as long as it continues to hold such interest.

### **3.03 Voting Rights.**

(a) Each Class A Member shall be entitled to vote on all matters on which Members generally or Class A Members in particular vote.

(b) Each Class B Member shall be entitled to vote on all matters on which Members generally or Class B Members in particular vote.

(c) Each Class C Member eighteen years of age or older shall be entitled to vote on all matters on which Members generally or Class C Members in particular vote.

(d) The Class D Member shall be entitled to vote on all matters on which all Members generally or the Class D Member in particular vote.

(e) The Class E Member shall be entitled to vote on all matters on which all Members generally or the Class E Member in particular vote. The Class E Member shall have one vote.

(f) Each Member shall have one vote for each interest held by such Member which entitles such Member to be a Member except as follows:

(i) The Owner of one or more lots designated for multiple family residential use shall have one vote for each acre or fraction thereof owned.

(ii) The Owner of one or more lots designated for non-residential use shall have one vote for each acre or fraction thereof owned.

(iii) Class D members shall have one-half vote.

(e.g. if a Member owns two residential Lots and an industrial Lot and is a Resident, such Member is entitled to four votes.)

(g) Anything in subsection (e) of this Section to the contrary notwithstanding, where a Lot is owned of record in any manner of joint or common ownership, the joint or common Owners thereof shall share among them the rights (including voting rights) given to an Owner pursuant to this Declaration, which they shall be entitled to exercise as a whole, but not in part, in whatever manner they shall jointly determine. With respect to voting rights in particular, joint or common ownership of a Lot shall entitle the Owners thereof to a total of one vote, to be exercised in whatever manner they shall jointly determine.

(h) Subject to the provisions of this Declaration and the Association's By-Laws, the Association Board may make such rules and regulations as it deems advisable for any meeting of Members, Association vote, referendum or election.

(i) Subsections (a) through (g) of this Section 3.03 are subject to the power of the Association Board to suspend the voting rights of any Member pursuant to Section 3.06.

### **3.04 Board of Directors.**

(a) The powers of the Association shall be vested in, exercised by, and under the authority of, and the affairs of the Association shall be controlled by a Board of Directors consisting of nine persons who need not be Members.

(b) Directors shall be elected at the first annual meeting of Members, and terms shall be staggered, so that four Directors and five Directors shall be elected respectively in alternating years. At the first annual meeting of Members, and at each annual meeting of Members thereafter, Directors shall be elected for two year terms of office and shall serve until successors are elected and qualified.

(i) At the first annual meeting of Members and thereafter, until the first annual meeting

of Members for which the Association certifies that there are 1,200 or more Completed Units, Director Position 1 shall be elected only by the Class A, Class B, Class C and Class D Members voting together as a single Class. At the first annual meeting of Members for which the Association certifies that there are 1,200 or more Completed Units and thereafter, Director Position 1 shall be elected only by the Class B Members.

(ii) Director Position 2 shall be elected by the Class E Members at the first annual meeting of Members. At the second annual meeting of Members and thereafter until the first annual meeting of Members for which the Association certifies that there are 1,200 or more Completed Units, Director Position 2 shall be elected by the Class A, Class B, Class C, and Class D Members, voting together as a single Class. At the first annual meeting of Members at which the Association certifies that there are 1,200 or more Completed Units, and thereafter, Director Position 2 shall be elected only by the Class A Members.

(iii) Director position 3 shall be elected by the Class E Member until the first annual meeting of Members for which the Association certifies that there are 1,200 or more Completed Units. At that annual meeting of Members and thereafter, Director Position 3 shall be elected only by the Class C Members.

(iv) Director Position 4 shall be elected by the Class E Member until the First annual meeting of Members for which the Association certifies that there are 2,400 or more Completed Units. At that annual meeting and thereafter, Director Position 4

shall be elected only by the Class A Members.

(v) Director Position 5 shall be elected by the Class E Member until the first annual meeting of Members for which the Association certifies that there are 3700 or more Completed Units. At that annual meeting of Members and thereafter, Director Position 5 shall be elected only by the Class D Members.

(vi) Director Positions 6 and 7 shall be elected by the Class E Member until the first annual meeting of Members for which the Association certifies that there are 5,200 or more Completed Units. At that annual meeting of Members and thereafter, Director Position 6 shall be elected only by the Class A Members and Director Position 7 shall be elected only by the Class C Members.

(vii) Director Positions 8 and 9 shall be elected by the Class E Member during the Development Period. At the first annual meeting of Members after the end of the Development Period and thereafter, Director Position 8 shall be elected only by the Class A Members, and Director Position 9 shall be elected only by the Class B Members.

**3.05 Certification.** At least fifteen but no more than sixty days before each annual meeting of Members, the Association Board shall determine and certify the number of Completed Units, the number of Members of each Class eligible to vote and the Director Positions to be elected by each Class of Members.

**3.06 Suspension of Membership.** The Association Board may suspend the voting rights and rights of enjoyment of any Member who:

- (a) is subject to the Right of Action by reason of having failed to take reasonable steps to remedy a violation or breach of the Declaration within twenty days after the Association Board mailed written notice of such violation or breach pursuant to Sections 8.12 or 16.01 hereof; or
- (b) has allowed any assessment levied by the Association pursuant to this Declaration to become delinquent; or
- (c) has failed to pay any user fee or charge levied by the Association when due and payable. Such suspension shall be for the balance of the period in which the conditions set forth in sub-sections (a), (b), and (c) of this Section 3.06 obtain.

**3.07 Termination of Membership.** No Resident shall continue to be a Class C or D Member after he shall cease to be a Resident. No Owner shall continue to be an A or B Member after he shall cease to hold a qualifying interest in any Lot or Structure. No Member may avoid his obligation under this Declaration by declining to use Common Property, abandoning his Lot, or by any other act of abandonment or renunciation.

**3.08 Notice of Meetings and Referendums.** Proper notice shall be given by the Association Board of all meetings of the Board at least 15 days prior to the meeting date; and of all meetings of the Association Membership, Public Hearings or Referendums at least 30 days prior to the meeting or Referendum. The methods and procedures of such notice shall be determined by the Board in accordance with the By-Laws of the Association.

**ARTICLE — IV  
IMPOSITION OF ASSESSMENT AND  
LIEN UPON PROPERTY**

**4.01 Covenants for Assessments and Creation**

**of Lien.** The Developer and each Owner, jointly and severally, for himself, his heirs, distributes, legal representatives, successors, and assigns, by acceptance of a Deed or other conveyance for any Lot which is Assessable Property, whether or not the covenants contained herein shall be expressed in any such Deed or other conveyance, hereby covenants and agrees:

- (a) that he will pay to the Association the Assessments which may or shall be levied by the Association against Assessable Property owned by him in each year, and that he will pay to the Association the user fees and charges, if applicable, levied by the Association in each year;
- (b) that he shall be personally liable for all such Assessments which become due while he is the Owner of each Lot being assessed;
- (c) that the annual Assessment, together with the continuing obligation to pay each future annual Assessment assessed in all future years, shall become, upon the filing of this Declaration, and thereafter remain a charge against and be secured by a continuing lien upon the Assessable Property of such Owner; and
- (d) that said charge and lien shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon the Assessable Property (or the Non-Assessable Property to the extent that it may later become Assessable Property) whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, or other instruments, excepting only:
  - (i) purchase money mortgages or deeds of trust given to finance the purchase of the Lot subject to the mortgage or deed of trust or to finance construction of improvements on the Lot subject to the mortgage or deed of trust; provided, however, that this sub-ordination to such mortgages shall apply only to annual



Assessments which have become due and payable prior to a sale or transfer of any Lot on account of the foreclosure of any such mortgage or on account of any other proceeding in lieu of foreclosure; such a sale or transfer at foreclosure or in lieu of foreclosure shall not release such Lot from the lien of or relieve the new Owner, his successors and assigns from liability for any annual Assessments thereafter becoming due;

(ii) such liens for taxes or other public charges as are made superior by applicable law; provided, however, that this subordination to such liens shall apply only to annual Assessments which have become due and payable prior to a sale or transfer of any Lot on account of the foreclosure of any such lien or on account of any other proceeding in lieu of foreclosure; such a sale or transfer at foreclosure or in lieu of foreclosure shall not release such Lot from the lien of or relieve the new Owner, his successors and assigns from any liability for any annual Assessments thereafter becoming due. Nothing contained in this subsection (d) of Section 4.01 shall be construed so as to constrain or impair the payment of funds realized from a foreclosure sale, to the extent of any funds remaining after satisfaction of prior liens and in order of priority, to holders of subordinated liens.

#### **4.02 Purpose and Limitations of Assessments.**

The Assessments levied by the Association shall be used exclusively for the purposes set forth in Section 3.01 in the manner set forth in Section 5.01.

#### **4.03 Annual Assessments.**

(a) For the purpose of providing funds for the uses specified in Article V hereof, the Association Board shall assess against the Assessable Property in each year, beginning with the year in which Common Property is first transferred to the Association, a charge (an "Assessment"), which shall be uniform with respect to all Assessable Property within each class of Assessable Property, equal to a specified number of cents for each one hundred dollars of the then current Assessed Valuation.

(b) Assessable Property shall be divided into two classes: Residential Property and Non-Residential Property. The Assessment rate for Residential Property shall not exceed 100 cents for each one hundred dollars of Assessed Valuation. The Assessment rate for Non-Residential Property shall be equal to one half of the Assessment rate for Residential Property unless:

(i) The Association Board, by majority vote of the Directors elected by the Class A and Class B Members, determines that the revenue generated from Non-Residential Property at a proposed lower Assessment rate will equal or exceed the revenues projected in the latest budget of the Association; and

(ii) the Association Board, by majority vote of the Directors elected by the Class A and Class B Members, determines that such proposed lower Assessment rate for Non-Residential Property would result in an equitable distribution of the financial burden of supporting the Association among Owners of Residential Property and Owners of Non-Residential Property, particularly in view of the benefits each class of Owners derives from the Association and the use each class of Owners makes of Common Property.

(c) After the Assessed Valuation of each Lot has been determined, the Association Board shall separately assess each Lot, and each Lot shall be charged with and subject to a lien for the amount of such Assessment.

(d) In any year after the first year in which an annual Assessment is made by the Association, the Association Board, by majority vote of the Directors present and voting who were elected by the Class A, Class B, and Class E Members, may increase the annual Assessment rate for either class of Assessable Property, or both, as appropriate, above the limit set forth in Section 4.03 (b) if the following occurs:

(i) at the time of the annual Assessment, the Association Board shall find and certify the percentage by which the Consumer Price Index — All Items, 1967 = 100, as defined and published by the U. S. Department of Labor, Bureau of Labor Statistics, has increased during the year next preceding the year for which the annual Assessment is being made; and

(ii) the Association Board shall determine and shall certify that a cost-of-living increase, not to exceed the percentage by which the Consumer Price Index — All Items, 1967 = 100, was found and certified by the Association Board pursuant to Section 4.03(d)(i) to have increased, is necessary to meet the expenses, cost of operation, and planned expansion of the Association; such determination to be made without regard to the Developer's obligation to make advances to the Association pursuant to Section 5.05.

(e) Any cost-of-living increase in the annual Assessment pursuant to Section 4.03(d) shall remain in effect and shall not be deemed to limit the authority of the Association Board to increase the annual Assessment in succeeding years pursuant

to Section 4.03(d); provided, however, that only one such cost-of-living increase may be made each year for each class of Assessable Property.

(f) If the U. S. Department of Labor, Bureau of Labor Statistics, ceases to publish the Consumer Price Index — All Items, 1967 = 100, the Association Board shall select such other indices which, in their judgment, best reflect the broad range of economic factors represented in the Consumer Price Index — All Items, 1967 = 100.

(g) The annual Assessment for either class of Assessable Property, or both, as appropriate, may be increased above the limit set therefore in Sections 4.03(b) and 4.03(d) if the Association Board, by majority vote of the Directors present and voting who were elected by the Class A, Class B, and Class E Members, determines such an increase to be necessary and obtains the concurrence, by secret written ballot, of two-thirds of the Class A, Class B and Class E Members considered as a single Class. The Association Board shall give the Members thirty days written notice in advance of polling the Members concerning an increase in the annual Assessment pursuant to this Section 4.03(g).

**4.04 Billing of Annual Assessments.** At such time or times as the Association Board may determine, the Association shall levy the annual Assessment. The Association shall send a written bill to each Owner stating: the amount of the annual Assessment imposed against each Lot which is Assessable Property owned by the Owner, the Assessed Valuation of his Lot, the Assessment Rate established by the Association Board for the current year, the time period for payment thereof, and the interest rate to be charged for late payments thereof. Each annual Assessment shall be due and payable on a date established by the Association Board, and shall become delinquent on a date established by the

Association Board, but no less than sixty (60) days after such written bills are mailed. The Association Board may establish payment procedures to allow payment of the annual Assessment in increments during the year the Assessment is made, provided that this privilege is extended to all Owners on an equal basis, and provided that reasonable notice is given of each payment date, of the interest to be charged for late payments, of the liens established by this Declaration, and of the suspension of membership rights as a consequence of failure to pay.

**4.05 Commencement of Assessments.** With regard to the Property described in Exhibit A, and any Annexation Property annexed to the Property pursuant to Article II hereof, each part of the Assessable Property shall become subject to the Assessments set forth herein on the first day of the fiscal quarter following the month in which each such part meets the definition of a Lot. Such Assessments shall be adjusted and prorated according to the number of quarters remaining in the fiscal year of the Association as such fiscal year is set forth in the Association By-Laws.

**4.06 Late Payments.**

(a) The Association Board may from time to time establish or change the rate of interest which shall be charged for the payment after the delinquency date of any portion of an Assessment, provided that such interest rate shall not exceed the interest rate charged by the Internal Revenue Service for late payment of Federal income taxes, which rate is now 16%, and which shall not exceed the maximum interest rate permitted under the laws of the State of South Carolina, (Reference S.C. Code of Laws 1976, as amended, Section 34-31 -20) and provided that reasonable notice of such change is given to the Members.

(b) In the event of default in the payment of any one or more installments of the annual Assessment established hereunder, the Association may declare any remaining balance of said annual Assessment at once due and payable.

(c) In the event that an Owner shall fail to pay completely the Assessment by the delinquent date thereof, such unpaid amount shall become a binding personal obligation of such Owner, and the Association shall have the right, pursuant to the provisions of Section 16.03 hereof, to enforce the lien for Assessments imposed by Section 4.01. The Association shall have the right and duty to take all appropriate actions and steps to collect any such unpaid Assessments. The Association may institute a suit to recover a money judgment for the same, together with interest thereon and reasonable expenses of collection, including attorney's fees, without foreclosing or waiving the lien hereinbefore provided.

**4.07 Certificate of Payment.** Upon written demand by an Owner, the Association shall issue and furnish to such Owner, within a reasonable period of time, a written certificate stating that all annual Assessments, including interest and costs (if any), have been paid with respect to any specific Lot owned by said Owner as of the date of such Certificate, or if all Assessments have not been paid, setting forth the amount then due and payable. The Association may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the Association and any bona fide purchaser or encumbrancer of the Lot in question.

#### **4.08 User Fees and Charges.**

(a) In addition to the annual Assessments, the Association Board may levy and collect charges and fees for the use of Common Property for the purpose of maintaining Common Property, operating services on Common Property, and regulating the use of Common Property and services offered thereon.

(b) In establishing user fees and charges, the Association Board may formulate reasonable classifications of users. Fees and charges shall be uniform within each class, but need not be uniform from class to class.

(c) If a Resident shall fail to pay a user fee or charge when due and payable, such unpaid charge or fee shall be delinquent and, upon written notice mailed to such Resident by first class mail, shall become a personal debt of such Resident.

(d) If any Resident shall fail to pay a user fee or charge when due and payable, such Resident shall have breached this Declaration and the Association Board may suspend the voting rights and rights of enjoyment of such Resident; provided, however, that the Association shall refund, upon written request of such Resident, the unused portion of any user fees or charges which such Resident may have paid for the use of other Common Property from which such Resident is barred while his rights of enjoyment are suspended.

**4.09 Additional Procedures.** The Association Board shall have the right to adopt procedures for the purpose of making the Assessments, user fees and charges provided herein and for the billing and collection of the same, provided that such procedures are not inconsistent with the provisions hereof.

**4.10 Additional Rights and Protection.** If an

alternative method of assessment is adopted pursuant to either Section 1.03(c) or Section 1.03(d), each Owner shall be entitled to appeal the Assessed Valuation attributed to the property owned by said Owner (through the application of such method) to a Board of Adjustment to be created by the Association Board. The Board of Adjustment shall be composed of three persons, appointed by the Association Board, one of whom shall be a Class A Member and two of whom shall be persons who are professionally qualified in accounting law or real estate valuation, such professional qualifications to be determined at the sole discretion of the Association Board. As required the Board of Adjustment shall be entitled to have consultants to assist in valuations. Each Owner shall be entitled to appeal an Assessed Valuation of the Owner's property determined pursuant to a method adopted under either Section 1.03(c) or Section 1.03(d) at any time within 60 days after the date of the written bill sent to the Owner pursuant to Section 4.04, by filing a written notice of appeal with the Board of Adjustment within said sixty day period. Said appeal shall be considered at a hearing to be held within 30 days after the receipt of the notice of appeal from the Owner. The Board of Adjustment shall render a written conclusion concerning the appropriateness of the Assessed Valuation of the property held by the Owner within 10 days following the date of said hearing. Said written conclusion shall be binding upon the Owner so long as:

- (i) all appropriate procedures have been followed and
- (ii) said conclusion is reasonable.

#### **4.11 Covenant to Pay Street and Public Area Lighting Assessment.**

(a) To the extent the South Carolina Electric and Gas Company installs lighting poles and fixtures to light public streets, paths and areas within the Property (including the Common property) in a

manner and at locations approved by the DDRC, each Owner for himself, his heirs, distributes, legal representatives, successors and assigns, by acceptance of a Deed or other conveyance for any Lot, whether or not the covenants contained herein shall be expressed in any such Deed or other conveyance, hereby covenants and agrees that such owner will pay to the South Carolina Electric and Gas Company or its successors ("SCEG") a monthly charge fixed in the manner described herein in an amount sufficient to furnish, install, replace, maintain and operate those lighting fixtures approved by the DDRC and provide electric power thereto; provided, however:

- (i) the monthly charge for each type of lighting fixture used by SCEG shall be approved by the Public Service Commission of the State of South Carolina; and
- (ii) the monthly charge payable by each Owner shall be determined and adjusted annually at the first of each calendar year by SCEG in accordance with the provisions of subsection (b) of this Section 4.11.

(b) The Monthly charge payable by each Owner shall be calculated by:

- (i) estimating, with the approval of the Board of Directors of the Association, Lighting Charge Units ("LCU") for the next calendar year by adding the sum of: (a) the average number of single family residential units which will have been completed throughout the following calendar year multiplied by one (1) LCU; (b) the average number of multi-family units which will have been occupied throughout the following calendar year multiplied by one-half (.5) LCU; and (c) the average number of acres of land on which will have been completed Non-Residential Structures throughout the following calendar year multiplied by four (4) LCU; said

estimated number of LCU's for the next calendar year shall be added to the actual number of LCU's so calculated from all previous years;

(ii) estimating the future revenues required to furnish, install, replace, maintain and operate those lighting fixtures approved by the DDRC and provide electric power thereto, all as approved by the Public Service Commission of the State of South Carolina as set forth in subsection (i) of Section 4.11(a);

(iii) deducting from or adding to the amount computed in subsection (ii) of this Section 4.11(b) the sum, if any, by which actual revenues exceeded or fell short of required payments to SCEG in the preceding year;

(iv) computing the monthly charge per LCU by dividing the amount of revenue requirements computed in subsections (ii) and (iii) of this Section 4.11(b) by the average number of LCUs computed in subsection (i) of this Section 4.11(b) and then dividing by twelve (12), provided the monthly rate per LCU shall not exceed a maximum of \$2.50 per month, which maximum shall be adjusted to reflect any increase approved by the Public Service Commission of the State of South Carolina in the rate which may be charged by SCEG for furnishing, installing, replacing, maintaining and operating lighting fixtures; and

(v) determining the monthly charge for each single family, multifamily and non-residential Lot by multiplying the monthly charge per LCU computed in subsection (iv) of this Section 4.11(b) by the number of LCU's applicable to said Lots as set forth in subsection (i) of this Section 4.11(b).

(c) The monthly charge shall be included in each Lot Owner's electric bill by SCEG, but shall not commence until a single family, multifamily or Non-Residential Structure is completed on a Lot.

(d) The charge and lien created by this Section 4.11 shall be superior to any and all other charges, liens or encumbrances which may hereafter in any manner arise or be imposed upon the Assessable Property

(Or the Non-Assessable Property to the extent that it may later become Assessable Property) whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, or other instruments, excepting only:

- (i) purchase money mortgages or deeds of trust given to finance the purchase of the Lot subject to the mortgage or deed of trust or to finance construction of improvements on the Lot subject to the mortgage or deed of trust;
- (ii) such liens for taxes or other public charges as are made superior by applicable law; and
- (iii) the charge and lien created by Section 4.01 hereof.

**ARTICLE — V**  
**USE OF FUNDS**

**5.01 Purposes for which Funds May Be Used.**

The Association shall apply all funds received by it pursuant to this Declaration and all other funds and property received by it otherwise, including the proceeds of loans referred to in Sections 5.02 and 5.05 and the accumulated funds referred to in Section 5.03, to the following:

- (a) the operating costs and expenses of the Association including planning and implementation of community programs;
- (b) the planning, design, acquisition, improvement, construction, maintenance and equipping of Common Property including, without limitation,

parks and other open space, trees, flowers, other landscaping, fountains, benches, shelters, public sculpture, pedestrian, bicycle and equestrian pathways, lighting systems for such pathways, bridges or underpasses for such path-ways, totlots, playgrounds, ball fields, tennis, pools, ice rinks, gymnasiums and other recreational facilities, auditoriums, galleries, child care facilities, theaters, meeting halls, conference rooms, cable television or other similar communication systems, mass transit systems, libraries, office space, storage and maintenance yards, garages, and other buildings and facilities deemed necessary or desirable by the Association Board in connection with the administration, management and operation of the Association;

(c) conduct of Association programs and services on or in Common Property; and

(d) payment of all principal and interest when due on all loans made to the Association to the extent required under any agreement with Note Holders pursuant to Section 5.02 hereof.

(e) Each year, the Association Board shall adopt a budget anticipating revenues and expenditures for the coming calendar year. The budget shall be adopted after a public hearing is held by the Board for which proper notice is given.

**5.02 Handling of Funds.** In order to secure the repayment of any and all sums borrowed by it from time to time, the Association Board is hereby granted the right and power:

(a) to assign and pledge revenues received, and to be received, by it under any provision of the Declaration, including, but not limited to, the proceeds of the annual Assessments payable hereunder; and

(b) to enter into agreements with Note Holders with respect to the collection and disbursements of

funds, including, but not limited to, agreements wherein the Association covenants:

- (i) to assess the annual Assessments on a given day in each year and, subject to the limitation on amount specified in Article IV, to assess the same at a particular rate or rates;
- (ii) to establish sinking funds or other security deposits, or both;
- (iii) to apply funds received by the Association to the payment of all principal and interest when due on such loans or to apply the same to such purpose after providing for costs of collection;
- (iv) to establish such procedures as may be required by the Note Holders, but not inconsistent with the Declaration;
- (v) to provide for the custody and safe-guarding of all funds received by the Association;
- (vi) to negotiate and arrange the amount, terms and rate or rates of all borrowing and the provisions of all agreements with Note Holders; provided however, that so long as the Class E Member has the right to elect an absolute majority of the Association Board:
  - A. The interest rate of any borrowing or Note shall be subject to the approval of a majority of Board Members elected by Classes A, B, C, and D.
  - B. The amount and schedule of repayment of any borrowing shall be subject to the approval of a majority Board Members elected by Classes A, B, C and D. The Board will consider, among other factors, whether such repayments are likely at any time to impair the ability of the Association to carry out its functions in a satisfactory manner.
  - C. The provisions contained in sub-paragraphs (A.) and (B.) of this Section

5.02(b)(vi) shall not apply to borrowings in an aggregate amount not to exceed fifty thousand dollars (\$50,000) at any one time outstanding which the Association Board designates as excluded from such provisions; provided however, the interest rate of such borrowings shall not exceed two points above the prime rate charge by Bankers Trust of South Carolina. This subparagraph (C.) shall not apply to any borrowing of the Association from the Developer under Section 5.05.

**5.03 Accumulation of Funds Permitted.** The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual Assessments, or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the annual Assessment, in the succeeding year, but may carry forward from year to year such surplus as the Association Board may determine to be necessary or desirable for the greater financial security of the Association and the effectuation of its purposes, including accruing funds for the replacement of facilities.

**5.04 Posting of Bond.** The Association, acting through the Association Board, shall require that all persons or entities who handle the Association funds or monies post bonds sufficient in amount to indemnify the Association from any loss.

**5.05 Advances by the Developer.**

- (a) On an annual fiscal year basis, the Association Board shall prepare a cash budget projecting anticipated cash receipts, cash expenditures, and net cash surplus or deficit for the ensuing fiscal year.

(b) The Developer will make cash advances to the Association as required to eliminate any projected net cash deficit and to meet additional cash requirements of the Association which occur during the course of the fiscal year. Such cash advances shall be considered borrowings of the Association.

(c) The obligation of the Developer to make advances to the Association pursuant to this Section 5.05 shall continue throughout the Development Period; provided, however, that after the Class E Member no longer has the right to elect an absolute majority of the Association Board, the Developer's obligation to make advances shall continue only with respect to cash budget deficits resulting from:

(i) the continuation of activities and services undertaken by the Association during the period in which the Class E Member had the right to elect an absolute majority of the Association Board; or

(ii) conveyance of Common Property to the Association by the Developer pursuant to the Developer's undertakings in the Development Plan.

After the Class E Member no longer has the right to elect an absolute majority of the Association Board, the Developer's obligation to make advances shall be decreased to the extent that the Association Board or the Members reduce or fail to collect applicable Assessments or user fees and Charges.

(d) The foregoing provisions notwithstanding, the Developer shall have no obligation to make an advance if the Developer shall determine that such an advance would materially jeopardize the performance of its obligations pursuant to the Development Plan; or to its creditors. In such event, the Developer shall notify the Association in writing within 30 days after a request is made by

the Association that it is not able to make an Advance and the reasons relating thereto.

(e) All such advances shall be evidenced by promissory notes of the Association to bear interest at the effective rate of interest being paid by the Developer on its debentures or debt obligations.

(f) The burden of the restrictions contained in this Section 5.05 is personal to the Developer, whereas the benefit runs with title to the land.

**5.06 Mortgaging of Common Property.** Except as set forth in this Section, the Association may mortgage any Common Property to which it has clear title; provided, however, that any such mortgage shall be subject to the approval of two-thirds of the Members of all Classes considered as a single Class who are present in person or by proxy and voting in a duly constituted Association election or meeting.

The Association shall not mortgage any Common Property to the Developer, or to any other entity or person to secure any conveyance, loan or advance made to the Association by or on behalf of the Developer or an Interested Person. The Developer shall not take any action the result of which may be to subject any Common Property to a judgment lien or otherwise jeopardize any Common Property to satisfy a debt of the Developer.

**5.07 Interested Persons.** Until the Class A, Class B, Class C, and Class D Members elect a majority of the Association Board, the Association shall not engage in transactions involving the payment of money or transfer of property or any other thing of value with the Developer or with Interested Persons with respect to transactions pursuant to Sections 5.05 and 6.01 hereof except as provided therein.

## **ARTICLE — VI**

### **COMMON PROPERTY**

**6.01 Conveyance of Common Property.**



(a) The Developer shall from time to time convey to the Association certain property for the common use and enjoyment of the Owners and Residents. Such property shall be free of encumbrances on title other than this Declaration. The Deed of conveyance shall contain appropriate restrictions and assurances that such property shall be reserved for the common use and enjoyment of the Owners and Residents.

(b) The Developer may convey an unencumbered interest in fee simple in any improved land intended to be used as Common Property either by gift or for a consideration which equals the cost of the capital improvements on such property at the time of conveyance. For the purposes of this Section 6.01, "cost" shall mean the actual amounts expended to construct or complete the community facilities or improvements situated on Common Property (excluding the cost of the land devoted to such facilities or improvements), plus 10% thereof for overhead. Such consideration may be in whatever form agreed to by the Developer and the Association Board at the time of sale. The Developer shall convey by gift any unimproved land intended to be used as Common Property by the Association. Any debt which may be incurred by the Association in connection with a conveyance to the Association by the Developer shall be considered a borrowing subject to the provisions of Section 5.02.

(c) Each conveyance of Common Property for consideration to the Association by the Developer shall be subject to the approval of a majority of the Board Members elected by Classes A, B, C, and D. The Board Members elected by Classes A, B, C, and D will review the financing proposal for such conveyance and will determine the extent to which Association Assessments and user fees and charges may be committed to finance the debt for such conveyance.

## **6.02 Use of Common Property.**

(a) Every Owner, by reason of such ownership, shall have a right and easement of enjoyment in and to all Common Property, and such easement shall be appurtenant to and shall pass with every Lot upon transfer. All Residents who are not also Owners shall have a non-transferable privilege to use and enjoy all Common Property for so long as they are Residents. Any guest of a Member shall be entitled to a right or privilege of enjoyment of Common Property subject to such regulations as may be promulgated by the Association Board. For the purposes of this Section, any employee of any Member shall automatically be considered a guest of said Member, but only when said Member is in good standing with the Association and the employee is registered as such by said Member with the Association.

(b) All such rights, easements and privileges conferred under this Article VI shall, however, be subject to the right of the Association Board:

(i) to adopt and promulgate reasonable rules and regulations pertaining to the use, operation and maintenance of Common Property which shall enhance the preservation of such facilities, the safety and convenience of the users thereof, and which shall serve to promote the best interests of the Members and the community of Harbison;

(ii) to determine the use or uses to which Common Property may be put; provided, however, that any designation of use which is inconsistent with the use designated by the Developer upon conveyance shall be subject to the provisions of Article VII of this Declaration;

(iii) to determine which, if any, Common Property may be used and enjoyed by the general public or a Federal, state or local

governmental body, or to convey Common Property to a public body; provided, however, that Property shall not be conveyed to a public body unless the Association Board has obtained the prior approval of two-thirds of the Members of all Classes, considered as a single Class, who are present in person or by proxy and voting at an Association meeting at which a quorum is present or voting in a referendum called for such purpose after proper notice is given.

(iv) to levy user fees and charges pursuant to Section 4.08 of this Declaration;

(v) to borrow money for the purpose of acquiring, developing, or improving any Common Property, and in aid thereof to mortgage the same, provided that the rights of any such mortgagee shall be subordinate to the rights, easements and privileges herein granted and assured; provided, further, that any such mortgage shall be subject to the approval of two thirds of the Members of all Classes, considered as a single Class, who are present in person or by proxy and voting at an Association meeting at which a quorum is present or voting in a referendum called for such purpose after the proper notice is given.

(vi) to apply for, accept and expend loans or grants from Federal, state or local governments and to comply with any conditions required by such governments in order to obtain such loans or grants including conditions relating to the use and enjoyment of Common Property by the General public.

**6.03 Suspension of Rights.** The Association shall have the right to suspend the right or privilege under this Article VI of any Member for any period during

which the annual Assessment or user fees and charges assessed under Article IV hereof remain delinquent, and may suspend said right or privilege, in connection with the enforcement of any rules and regulations relating to Common Property in accordance with the provisions of this Article VI, subject where applicable to the provisions of Section 4.08 hereof.

## **ARTICLE — VII**

### **DESIGNATION OF USE OF PROPERTY**

**7.01 Designation.** Initially, and from time to time, the Developer shall file with the Association and the DDRC for its information, a duplicate of each plat as such is recorded in the Office of the Register of Mesne Conveyances of Richland County or Lexington County or both. The Developer may at the time of filing or subsequently, without the approval of the DDRC, designate all Lots owned by Developer according to one of the following categories (as each such category shall from time to time be defined by the Developer), depending on the intended use of each such Lot:

- (a) Residential
- (b) Commercial
- (c) Industrial
- (d) Parks and Greenways
- (e) Common Property
- (f) Schools
- (g) Civic/Cultural
- (h) Special Purpose
- (i) Mixed Use
- (j) Institutional
- (k) Unassigned Reserve

**7.02 Change of Designation.** After a Lot is no longer owned by the Developer there shall be no change in the designation of such Lot except with the mutual consent of the Owner thereof and the DDRC, together with such additional government approval as may be

required. So long as the Class E Member has the right to elect an absolute majority of the Association Board, no change in the designation of Common Property after its conveyance to the Association shall be effective unless approved by a majority of the directors elected by Class A, Class B, Class C and Class D Members. Thereafter, any such change in the designation of Common Property after its conveyance to the Association shall require the approval of two-thirds (2/3) of the Association Board.

## **ARTICLE — VIII**

### **DESIGN AND DEVELOPMENT**

#### **REVIEW COMMITTEE**

##### **8.01 Purpose, Powers and Duties of the Design and Development Review Committee (DDRC).**

The purpose of the DDRC is to assure that all proposed uses and any construction or alteration of any Structure which takes place on any Lot or any other Property shall be performed in conformity with the objective of high quality environmental design and development as set forth in the Development Plan. To carry out that purpose, the DDRC shall have the right pursuant to the provisions of this Article VIII to approve any and all proposed uses, site plans and Structures to be constructed on the property, including proposed uses, site plans, and Structures for Common Property, except that the DDRC shall not have the right, without the approval of the Developer during the Development Period, to disapprove a use for a Lot which is within the use category designated for such Lot by the Developer pursuant to Section 7.01. It shall also have the right to approve or disapprove any and all proposed external alterations or use changes for Lots or Structures including Common Property. The DDRC will not do anything, however, which would prevent the Developer from fulfilling its obligations under the Development Plan.

##### **8.02 Composition and Appointment.**

(a) The DDRC shall be established consisting of five (5) regular members and one (1) alternate member, serving one year terms. The members shall have the following qualifications and shall be selected by the following entities:

(i) DDRC Member #1:

- a. shall be an architect;
- b. shall be appointed by Developer throughout the Development Period and may be an employee of the Developer;

(ii) DDRC Member #2:

- a. shall be an architect;
- b. shall be appointed by the Developer so long as Developer has the right to elect an absolute majority of the Association Board; thereafter, Member #2 shall be appointed by the Association Board;
- c. shall not be an employee of the Developer;

(iii) DDRC Member #3:

- a. shall be a member of a profession related to community design and development, including but not limited to architecture, engineering, environmental planning and design, and landscape architecture;
- b. shall be appointed by Developer throughout the Development Period and may be an employee of the Developer;

(iv) DDRC Member #4:

- a. shall be a member of a profession related to community design and development, including but not limited to architecture, engineering, environmental planning and design, and landscape architecture;

b. shall be appointed by the Developer until there are two (2) Directors elected by Class A, Class B and Class C Members, or all of them considered as a single Class; thereafter, Member #4 shall be appointed by the joint action of the Directors elected by Class A, Class B or Class C Members or all of them considered as a single Class;

c. shall not be an employee of the Developer.

(v) DDRC Member #5:

a. throughout the Development Period, Member #5 shall be an officer of the Developer.

(vi) DDRC Member #6 (alternate)

a. shall be appointed by the Developer throughout the Development Period; thereafter, Member #6 shall be appointed by the Association Board;

b. shall not be an employee of the Developer;

c. shall participate in the review and approval of any plan submitted to the DDRC only upon the disqualification of a regular member of the DDRC pursuant to Section 8.05.

Each member of the DDRC shall possess substantial professional training and experience. After the Development Period, each DDRC member theretofore appointed by the Developer shall be appointed by the Association Board.

(b) If any vacancy shall occur in the membership of the DDRC by reason of death, resignation, removal or otherwise, the remaining members of the DDRC shall continue to act and such vacancy shall be filled by the Developer or the Association, as appropriate. Any DDRC member may resign at

any time by giving written notice of such resignation to the Chairman of the DDRC and such resignation shall take effect on receipt thereof by the Chairman. Any member of the DDRC may be removed with or without cause by the Developer or the Association, whichever appointed him. If, subject to the above, the Developer or the Association, as appropriate, fails to act to fill a vacancy within twenty (20) days, a majority of the remaining members of the DDRC shall appoint the new member to fill the vacancy.

### **8.03 Officers, Subcommittees and**

**Compensation.** The members of the DDRC shall appoint a Chairman from among their number and may appoint from among their number such other officers and subcommittees as they shall from time to time determine. In addition, the DDRC may establish advisory committees, which may include such members of the DDRC, employees or Members of the Association, or other persons as the DDRC may in its discretion determine; provided that, any such subcommittees or advisory committees may make recommendations to the DDRC but shall have no power to finally exercise any of the power and authority of the DDRC under this Declaration.

Members of advisory committees may receive such compensation and reimbursement for expenses as the Association may determine. Each member of the DDRC shall receive reasonable compensation from the Association for his services as a member thereof and shall be reimbursed by the Association for traveling expenses and other out-of-pocket costs incurred in the performance of his duties as a member of the DDRC; provided, however, that the Developer shall compensate any of its employees who serve as members of the DDRC and reimburse them for traveling expenses and out-of-pocket costs.

### **8.04 Conflicts of Interest.** No member of the

DDRC may participate in any decision of the DDRC on a matter in which he has a direct or indirect financial interest, or on a matter in which he has personally provided professional consultative services for a fee to the party whose application is before the DDRC; provided, however, that this provision shall not apply to any employee of the Developer solely by reason of his capacity as such employee; provided further, if two (2) or more members may not participate in the making of a decision because of disqualification as provided herein, the Developer or the Association Board, whichever appointed the disqualified members, shall name substitute members to act only on the matter resulting in the disqualification. For a period of one (1) year after his service on the DDRC no former member may represent any matter before the DDRC where that member has participated in decision on said matter. Each member of the DDRC shall inform the DDRC in writing of any direct or indirect financial relationship which he may have with the Developer and with all applicants, builders, and developers within the Property. Such disclosure shall be made within fifteen (15) days of establishment of knowledge of the relationship or commencement of a member's service on the DDRC, and shall be available for inspection by the Developer, the Association Board, and all Members.

#### **8.05 Operations of the DDRC.**

(a) **Meetings.** The DDRC shall hold regular meetings at least once per month or more often as may be determined by the members of the DDRC. Special meetings of the DDRC may be called by the Chairman of the DDRC and shall be called by the Chairman upon the written request of a majority of the members of the DDRC then in office. Regular and special meetings of the DDRC shall be held at such time and at such place as the members of the DDRC shall specify.

Notice of each regular or special meeting of the DDRC shall be mailed to each member thereof at his residence or at his usual place of business at least three (3) days before the day the meeting is to be held. Notice of regular and special meetings need not specify the purpose or purposes for which the meeting is called. Attendance of a member of the DDRC at a meeting shall constitute a waiver of notice of such meeting. At each meeting of the DDRC, a presence of a majority of the members then in office shall be necessary to constitute a quorum for the transaction of business. Except as otherwise provided herein, the act of a majority of members of the DDRC present at any regular or special meeting thereof at which a quorum is present shall constitute the act of the DDRC. In the absence of a quorum, a majority of the members of the DDRC present at the time and place of the meeting may adjourn the meeting from time to time until a quorum shall be present. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the meeting as originally called. The DDRC shall maintain both a record of votes and minutes for each of its meetings. The DDRC shall make such records and minutes and current copies of its By-Laws available at reasonable places and times for inspection by Members and prospective Members of the Association.

(b) **Activities.**

(i) the DDRC shall adopt and promulgate the Development Guidelines as provided in Section 8.06 hereof and will, as required, make findings, determinations, rulings, and orders with respect to the conformity with said Guidelines of plans and specifications to be submitted for approval to the DDRC as provided in Section 8.07 hereof. As required,

the DDRC shall issue permits, authorizations or approvals pursuant to the directions and authorizations contained herein.

(ii) Any two (2) or more of the members of the DDRC may be authorized by the DDRC to exercise the full authority of the DDRC with respect to the review of plans and specifications pursuant to the provisions of this Article and with respect to all other specific matters as may be specified by resolution of the DDRC except with respect to the adoption or promulgation of the Development Guidelines. The unanimous action of the two (2) or more members with respect to the foregoing in issuing an approval based upon specified conditions or a modification of any plans and specifications submitted under the provisions of this Article, or an approval or disapproval of any permit or authorization, shall be final and binding upon the DDRC, subject, however, to appeal to the DDRC as a whole. Any applicant for such approval, permit or authorization may, within ten (10) days after receipt of notice of any decision which he deems to be unsatisfactory, file a written request to have the matter in question reviewed by the entire DDRC. Upon filing of any such request, the matter with respect to which such request was filed shall be submitted to, and reviewed as soon as possible by, the entire DDRC. Thereafter, the decision of three (3) of the members of the DDRC with respect to such matter shall be final and binding.

#### **8.06 Development Guidelines.**

(a) Pursuant to the provisions of Section 8.01, the DDRC may adopt, promulgate, amend, revoke

and enforce guidelines, hereafter referred to as the Development Guidelines, for the purposes of:

- (i) Governing the form and content of plans and specifications to be submitted for approval pursuant to the provisions of Section 8.07;
- (ii) governing the procedure for such submission of plans and specifications; and
- (iii) establishing policies with respect to the approval and disapproval of all proposed uses and all construction or alteration of any Structure on any Lot, Easement Area or Common Property.

(b) The DDRC shall make a published copy of its current Development Guidelines readily available to Members and prospective Members of the Association.

#### **8.07 Submission of Plans and Specifications.**

No Structure shall be commenced, erected, placed, moved onto or permitted to remain on any Lot, nor shall any existing Structure upon any Lot be altered in any way which materially changes the exterior appearance thereof, nor shall any new use be commenced, unless plans and specifications (including a description of any proposed new use) therefore shall have been submitted to and approved in writing by the DDRC. Such plans and specifications shall be in such form and shall contain such information as may be required by the DDRC in the Development Guidelines promulgated by the DDRC pursuant to Section 8.06 of this Declaration.

#### **8.08 Approval of Plans and Specifications.**

Upon approval by the DDRC of any plans and specifications submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited for permanent record with the DDRC and a copy of such plans and specifications bearing such approval in writing shall be returned to the applicant

submitting the same. Approval for use in connection with any Lot or Structure of any plans and specifications shall not be deemed a waiver of the DDRC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein if such plans, specifications, features or elements are subsequently submitted for use in connection with any other Lot or Structure. Approval of any such plans and specifications relating to any Lot or Structure, however, shall be final as to that Lot and such approval may not be revoked or rescinded thereafter, provided that there has been adherence to, and compliance with, such plans and specifications, as approved, and any conditions attached to any such approval.

#### **8.09 Disapproval of Plans and Specifications.**

(a) The DDRC shall have the right to disapprove any plans and specifications submitted hereunder for any of the following reasons, among others:

- (i) the failure to include information in such plans and specifications as may have been reasonably requested;
- (ii) the failure of such plans or specifications to comply with this Declaration or the Development Guidelines;
- (iii) objection to the exterior design, appearance or materials of any proposed Structure or improvement;
- (iv) incompatibility of any proposed Structure, improvement or use with existing Structures or uses upon other Lots in the Property;
- (v) objection to the site plan of any Lot on grounds of incompatibility with other Lots in the Property;
- (vi) objection to the grading plan for any Lot;
- (vii) objection to the color scheme, finish,

proportions, style or architecture, height, bulk, safety or appropriateness of any proposed Structure or improvement;

(viii) failure to satisfy minimum or maximum floor area requirements or standards relating to costs of maintenance of Completed Units;

(ix) objection to the parking areas proposed for any Lot on grounds of, interalia:

- (1) incompatibility with proposed uses and Structures of the Lot;
- (2) insufficiency of size of the parking area in relation to the proposed use; or
- (3) undesirable alteration of the flow of water over or through the Lot; or

(x) any matter not included in the Development Guidelines, if such matter, in the judgment of the DDRC, would lower the value of or otherwise damage the Property;

(xi) any other matter which, in the judgment of the DDRC, would render a proposed Structure or use inharmonious with the standards for Harbison as set forth in the Development Plan.

(b) In any case in which the DDRC shall disapprove any plans and specifications submitted hereunder, or shall approve the same only as modified or upon specified conditions, such disapproval or qualified approval shall be accompanied by a statement of the grounds upon which such action was based. In any such case the DDRC shall, if requested, make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

(c) No action of the DDRC or an RDRC in connection with approvals or disapprovals shall entitle any person to any right of action or claim against any member or members of the DDRC or

an RDRC, provided that the foregoing shall not apply in any case in which any individual benefit or consideration shall have been realized by the member or members of the DDRC or an RDRC against whom the right of action or claim is being asserted.

**8.10 Failure to Act.** In the event that the DDRC shall fail to take action on any plans and specifications as herein provided within forty-five (45) days after receipt thereof, the same shall be deemed to have been approved as submitted, and no further action by the DDRC shall be required for the applicant to begin construction. Such approval shall be placed in writing on the plans and specifications and shall be returned to the applicant.

**8.11 Inspection Rights.** After reasonable notice and at any reasonable time or times, any agent of the Association or the DDRC may enter upon any Lot for the purpose of ascertaining whether the use or maintenance of such Lot or the construction of any Structure thereon is in compliance with the provisions hereof; and neither the Association, nor the DDRC, nor any such agent shall be deemed to have committed a trespass or other wrongful act solely by reason of such entry or inspection, provided such inspection is carried out in accordance with the terms of this Section.

**8.12 Violations.** If any Structure shall be erected, placed, maintained or altered upon any Lot, or any new use commenced on any Lot, otherwise than in accordance with the plans and specifications approved by the DDRC pursuant to the provisions of this Article, and Articles XI, XII and XIII, such erection, placement, maintenance or alteration shall be deemed to have been undertaken in violation of this Article and without the approval required herein. If, in the opinion of the DDRC, such

violation shall have occurred, the DDRC shall notify the Association. If the Association Board, shall agree with the determination of the DDRC with respect to the violation, then upon written notice of the violation to the Owner from the Association Board (which shall be deemed to have been delivered if sent by registered mail, return receipt requested, postage paid), any such Structure so erected, placed, maintained, or altered upon any Lot in violation hereof shall be removed or altered, and any such use shall be terminated, so as to extinguish such violation. If the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the same within twenty (20) days after the mailing of the aforesaid notice of violation, the Association shall have the Right of Action as provided in Section 16.01 hereof.

**8.13 Certification of Compliance.**

(a) Upon completion of the construction or alteration of any Structure in accordance with plans and specifications approved by the DDRC, the DDRC shall, upon written request of the Owner thereof, issue a Certificate of Compliance, identifying such Structure and the Lot upon which such Structure is placed, and stating that the plans and specifications, the location of such Structure and the use or uses to be conducted thereon have been approved and that such Structure complies with the requirements of the DDRC. A copy of said Certificate shall be filed for permanent record with the plans and specifications on file with the DDRC. In no event shall such a Certificate of Compliance be deemed a certification by the DDRC as to compliance of a structure with any governmental regulations or requirements.

(b) Any Certificate of Compliance issued in



accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated, and as to any purchaser or encumbrancer in good faith and for value or as to any title insurer, such certificate shall be conclusive evidence that all Structures on the Lot, and the use or uses described therein, comply with all the requirements of this Article.

**8.14 Fees.** As a means of defraying its expenses, the DDRC may charge and collect a reasonable and appropriate fee as established from time to time and published in the Development Guidelines. The fees shall be made payable to the Association and shall be payable at the time such plans and specifications are so submitted. No additional fee shall be required for resubmission of plans revised in accordance with DDRC recommendations.

**8.15 Nondiscrimination by DDRC.** The DDRC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicant's race, color, sex, religion, national origin, family composition, or marital status. Further, the DDRC in the exercise of its power granted pursuant to this Declaration shall not take any action the intent or effect of which is to discriminate against persons of a particular race, color, sex, religion, national origin, family composition or marital status.

**ARTICLE — IX  
RESIDENTIAL DESIGN  
REVIEW COMMITTEE**

**9.01 Purpose.** Residential Design Review Committee (hereinafter called RDRC) shall be established in each Residential Area (as defined in the Development Plan) for the purpose of facilitating community review and approval of any changes or alterations to existing Structures on Lots designated

for residential use and, thereby, relieving the workload of the DDRC.

**9.02 Establishment.**

- (a) An RDRC shall be established for a Residential Area when the Association Board deems it appropriate or when fifty or more Owners of residential Lots in such Residential Area petition the Association Board for the formation of an RDRC.
- (b) An RDRC shall be composed of three members, all of whom shall be Residents. All members of the RDRC should if possible, be qualified in such professions as architecture, environmental planning or design, landscape architecture, or law. Members of an RDRC shall be appointed by the Class A Directors of the Association Board and shall serve two year terms of office.

**9.03 Powers and Duties.**

- (a) An RDRC shall review plans and specifications for alterations and additions to Structures, the erection or placement of new Structures, and all other alterations and improvements to Lots designated for residential use on which there is a Completed Unit.
- (b) An RDRC shall not review plans or specifications for Lots designated for uses other than residential or for Lots outside the Residential Area it serves.
- (c) An RDRC may make rules and regulations for the conduct of its own meetings, but shall be subject in all respects to the Development Guidelines and any other rules and regulations promulgated by either the Association or the DDRC in carrying out its function.
- (d) For purposes within its jurisdiction, an RDRC shall be the agent of the DDRC and shall have all powers of inspection that the DDRC has.

Where violations occur within its jurisdiction, an RDRC may exercise the Right of Action as the Agent of the DDRC and the Association, subject to the provisions of Section 9.10 hereof.

#### **9.04 Operations.**

- (a) An RDRC shall hold meetings at least monthly and may meet more frequently if the members of the RDRC so desire. Notice of the time and place of each RDRC meeting shall be posted at the Community Center.
- (b) The vote of two members present at any meeting shall be required for action by a RDRC on any matter before it. Two members shall also constitute a quorum for the conduct of RDRC business.
- (c) Each RDRC shall maintain both minutes and a record of votes for each of its meetings. Each RDRC shall also maintain permanent records with the DDRC of all matters approved by such RDRC. All such records shall be available at the offices of the DDRC for inspection by Members, the DDRC, the Association, or other interested parties.

**9.05 Finance.** Each RDRC shall be an operating expense of the Association. The Association may pay the members of an RDRC reasonable compensation for their services and shall reimburse such members for their out-of-pocket expenses incurred in the performance of their duties as members of the RDRC. Prior to the end of each fiscal year of the Association, each RDRC shall submit a budget for the ensuing year to the Association Board for its approval. The Association Board shall not withhold its approval unreasonably.

**9.06 Conflict of Interest.** No member of an RDRC may participate in any matter concerning a Lot which he owns or in any matter in which he has a

financial interest. Each member shall inform the RDRC in writing of any financial relationship which he may have with any applicant before the RDRC. Such disclosure shall be a part of the permanent written records of the RDRC on file with the DDRC.

#### **9.07 Approval Required.**

- (a) No external addition or alteration to any Structure on, or addition of any Structure to, or improvement of any Lot designated for residential use on which there is a Completed Unit shall be made unless:
  - (i) a complete set of plans and specifications in the form prescribed by the Development Guidelines shall have been submitted to the RDRC; and
  - (ii) such plans and specifications have been approved by the RDRC.
- (b) No approval shall be given by an RDRC in violation or contravention of this Declaration, the Development Guidelines or any rule or regulation of the DDRC or the Association.

**9.08 Appeals.** Decisions of an RDRC may be appealed to the DDRC. The DDRC shall decide such appeal at its next regular meeting. Decisions of the DDRC on such appeals shall be final.

**9.09 Fees.** An RDRC may charge a reasonable fee for the examination of plans and specifications. The amount of such fees shall be subject to the approval of the Association Board.

#### **9.10 Violations.**

- (a) If an external addition or alteration to a Structure, addition of any Structure, or improvement is made on any Lot designated for residential use on which there is a Completed Unit, other than in accordance with plans and specifications approved

pursuant hereto by an RDRC, the Owner of such Lot shall have violated this Article.

- (b) If an RDRC determines such a violation to have occurred, the RDRC shall notify the Association. If the Association Board agrees with the determination of the RDRC, the Association shall so notify the Owner of the Lot on which the violation exists in writing, which shall be deemed to have been delivered if sent by registered mail, return receipt requested, postage prepaid. Such Owner shall remove the offending Structure or otherwise alter his Lot so as to return such Lot to the condition it was in before the violation occurred. If such Owner fails to remedy the violation within 60 days after the mailing of notice, then the Association shall have the Right of Action as specified in Section 16.01 hereof.

**9.11 Failure to Act.** In the event that an RDRC shall fail to act on any plans and specifications as herein provided within thirty (30) days after receipt thereof, the same shall be deemed to have been approved as submitted and no further action by the RDRC shall be required for the applicant to proceed. Such approval shall be placed in writing on the plans and specifications, one copy of which shall be returned to the applicant.

## **ARTICLE X EASEMENTS**

### **10.01 Easements.**

- (a) Any provision in this Declaration to the contrary notwithstanding, easements and rights-of-way are hereby expressly reserved to the Developer, its agents, designees, successors and assigns, in, on, over and under the Easement Area of each Lot, for the following purposes:

(i) The erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments and appurtenant structures in connection with the transmission of electricity, telephone, traffic signals, fire alarm systems, police communication systems, broadband communication television cables and other utilities and similar facilities;

(ii) The erection, installation, construction and maintenance of stormwater drains, land drains, public and private sewers, pipe lines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function, and appurtenant structures whether above ground or underground.

(iii) Slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by the Developer or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow.

(iv) This Section 10.01 (a) shall not be construed to exempt Structures erected or placed in the Easement Area from the provisions of Article VIII.

- (b) Developer reserves unto itself the right, power and authority to direct and control, in cooperation with the public authority or utility company which will install or own, operate and maintain the respective facilities, or both, which utilities and drainage services, as provided for in paragraphs (a) (i), (ii), (iii) of this Section 10.01, shall be installed in and occupy any specific easement, and within the easements no Structure, planting or other

material or improvement shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the directional flow of drainage channels in the easement, or which may alter, obstruct or retard the flow of water through drainage channels within the easement areas.

- (c) Subject to all of the other Restrictions contained in this Declaration, each Owner shall have the right to use the Easement Area of his Lot in any manner not inconsistent with the purposes for which such Easement Area is reserved, and the area within any Easement Area and all improvements within the bounds of such Easement Area shall be maintained continuously by the Owner of the said Lot, except for such improvements for which a public authority or utility company is or may become responsible for maintenance.
- (d) Any right of reservation of an Easement Area not exercised by the Developer prior to the conveyance of a Lot to an Owner shall cease and terminate and the Easement Area may be established only by the Owner of the Lot; provided, however, that any exercise of the right to create an Easement Area shall survive in perpetuity, subject to the provisions of Section 10.03, if the right is exercised before conveyance of the Lot from the Developer to some other Owner.

**10.02 Entry.** The Developer reserves for itself, its agents, designees, successors and assigns the right at all reasonable times and upon reasonable notice to enter upon all parts of the Easement Areas of each Lot for any of the purposes for which said easements or rights-of-way are reserved, without being deemed

to have committed a trespass or wrongful act solely by reason of such entry. Developer, its agents, designees, successors and assigns shall be responsible for leaving each Easement Area in good repair and condition following any work or activity within such Easement Area pursuant to the provisions of Section 10.01.

**10.03 Disposition During Development Period.**

During the Development Period, the Developer may convey an Easement Area to a public authority or utility company where such conveyance is required by the public authority or utility company as a prerequisite to installing the utility facility the Easement Area is planned to contain or where such conveyance is required by the public authority or utility company as a prerequisite to accepting ownership of the utility facility for operation and maintenance.

**10.04 Disposition after the Development Period.**

At the end of the Development Period, the Developer, with respect to any Easement Areas not yet conveyed or dedicated, shall:

- (a) dedicate the Easement Area on each Lot to the public; or
- (b) dedicate the Easement Area on each Lot to the Association; or
- (c) sell or give the Easement Area on each Lot to the public utilities whose facilities run through such Easement Areas; or
- (d) deed unused Easement Areas on each Lot to the Owner of such Lot; or
- (e) any reasonable combination of the actions set forth in (a) through (d), provided that all Owners or all Owners within each reasonable classification of Owners shall be treated equally.

## **ARTICLE XI**

### **GENERAL RESTRICTIONS**

#### **11.01 Maintenance Required by Owner.**

(a) Each Owner shall keep all Lots owned by him, and all improvements therein or thereon, in good order and repair, including, but not by way of limitation, the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with safety and good property management.

(b) After 15 days' written notice to the Owner of any Lot involved, setting forth the specific violation or breach of this Restriction and the action required to be taken by the Owner to remedy such violation or breach and if, at the end of such time, reasonable steps to accomplish such action have not been taken by the Owner, the DDRC shall have the Right of Action.

#### **11.02 Appearance and Use Restrictions.** Without the prior written approval of the DDRC:

- (a) no previously approved Structure shall be used for any purpose other than that for which it was originally approved;
- (b) no Lot shall be split, divided, or sub-divided for sale, resale, gift, transfer or otherwise;
- (c) no facilities, including poles and wires, for the transmission of electricity, telephone messages and the like shall be placed or maintained above the surface of the ground on any Lot, and no external or outside antennas of any kind shall be maintained except with the permission of the DDRC;
- (d) no well, pump, shaft, casing or other facilities for the removal of subsurface water shall be placed or maintained on any Lot, or boring, drilling, removal of, or exploration for, subsurface

water shall be conducted on any lot, except by or with the permission of the DDRC.

**11.03 Landscape Restrictions.** No tree having a diameter of four (4) inches or more (measured from a point two (2) feet above ground level) shall be removed from any Lot without the express written authorization of the DDRC. The DDRC may adopt and promulgate rules and regulations regarding the preservation of trees and other natural resources and wildlife to protect and encourage the preservation of the ecological balance of the Property. The DDRC may mark certain trees, regardless of size, as not removable without written authorization. In carrying out the provisions of this Section 11.03, the DDRC, the Association, and its agents or designees may come upon any Lot (following reasonable notice) during reasonable hours for the purpose of inspecting and marking trees.

**11.04 Keeping of Animals on Lots.** No animals, birds or insects, except customary household pets, shall be kept or maintained on any Lot except as specifically authorized by the DDRC. The DDRC may from time to time publish and impose reasonable regulations setting forth the type and number of animals that may be kept on any Lot. No dog over six (6) months of age shall be kept by any Resident unless such animal shall have a rabies inoculation and a proper license.

**11.05 Placement of Signs on Property.** No sign or other advertising device of any nature shall be placed upon any Lot except as provided herein. The DDRC may adopt and promulgate rules and regulations relating to signs which may be used within the Property. If approved by the DDRC as to

color, location, nature, size, and other characteristics of such signs or devices, signs and other advertising devices may be erected and maintained upon any portion of the Property intended for industrial or commercial uses.

**11.06 Temporary Building Restrictions.** No temporary building, trailer, tent, garage, or building in the course of construction shall be used, temporarily or permanently, as a residence on any Lot.

**11.07 Disposition of Trash and Other Debris.** No lumber, metals, bulk materials, refuse or trash shall be kept, stored or allowed to accumulate on any Lot, except building materials during the course of construction for a period not to exceed 180 days (commencing from day one of the first delivery of any such materials) for any approved Structure, unless such materials are screened from view in a manner approved by DDRC. During the course of construction, it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks and the like are kept in a neat and orderly manner. No burning of any trash and no accumulation or storage of litter or trash of any kind shall be permitted on any Lot. If trash or other refuse is to be disposed of by being picked up and carried away on a regular and recurring basis, containers may be placed in the open, on any day that a pickup is to be made, at such place on the Lot so as to provide access to persons making such pick-up. At all other times such containers shall be stored in such a manner that they cannot be seen from adjacent and surrounding property. The DDRC may adopt and promulgate reasonable rules and regulations relating to the size,

shape, color and type of containers permitted and the manner of storage of the same on the Property.

**11.08 Placement of Pipelines.** No water pipe, gas pipe, sewer pipe, or drainage pipe shall be installed or maintained on any Lot above the surface of the ground, other than those approved by the DDRC, except at the point of connection of such pipe to house service and except for hoses and movable pipes used for irrigation purposes.

**11.09 Chemical Fertilizers, Pesticides, or Herbicides.** No commercial chemical fertilizers, pesticides, or herbicides other than those approved by the DDRC shall be used on any portion of the Property. This provision in no way limits the use of those products which are readily available for consumer use and approved by an agency, such as the Food and Drug Administration, for the purpose intended.

**11.10 Mining.** No Lot or portion thereof shall be used for any mining, boring, quarrying, drilling, removal of, or any other exploitation of subsurface natural resources, with the sole exception of subsurface water, except for areas specifically designated for such purposes by the DDRC.

**11.11 Air and Water Pollution.** No use of any Lot (other than the normal use of residential fireplaces and residential chimneys) will be permitted which emits pollutants into the atmosphere, or discharges liquid or solid wastes or other harmful matter into any waterway in excess of environmental standards applicable thereto, to be established by the DDRC, which standards shall at a minimum meet the requirements of federal and state law and any regulations thereunder applicable to the Property. No waste or any substance or materials of any kind shall be discharged into any private or public sewer

serving the Property, or any part thereof, in violation of any regulations of the State of South Carolina or any private or public body having jurisdiction. No person shall dump garbage, trash or other refuse into any waterway on or immediately adjacent to the Property.

**11.12 Trailer Parking.** No trailer, trailer house, recreational vehicle, mobile home, or boat shall be brought upon or habitually parked on any Lot in front of any residence or attached garage, or between any residence or garage and an abutting side street, or upon any street abutting any Lot. This shall not be construed to prohibit a mere temporary standing or parking of a trailer, boat, or trailer house, recreation vehicle, or mobile home for short periods preparatory to taking same to some other location for use or storage. No such vehicle shall be openly stored in any area other than that designated by DDRC for the purpose of storage. While nothing contained herein shall be considered to prohibit the use of portable or temporary buildings or trailers as field offices by contractors during actual construction in Harbison, the use and appearance of such a building or trailer must be specifically approved by DDRC prior to its being moved on site.

**11.13 Fireworks and Use of Firearms.** The sale and use of fireworks of any kind whatsoever on the Property is prohibited. The use of or discharge of firearms of any kind whatsoever is prohibited, except by permit granted to individuals by the Association for the purposes of target practice and trap or skeet shooting. The Association will set aside certain areas for this use, if in its sole discretion it deems such action appropriate and desirable. Hunting of any kind, and by any method, including but not limited to firearms, traps, snares, bow and arrows, or manually propelled missiles is prohibited.

**11.14 Electric Service.** The Developer will cause underground electric service at 120/240 volts single phase, 3-wire only, to be provided to all Lots.

**11.15 Penalties for Violation of Article XI.** If the DDRC determines that provisions of this Article have been violated, the DDRC may, in its discretion, seek appropriate relief at law or equity to assure that the purposes of this Article are fulfilled, including those specified in Section 8.12 hereof.

## **ARTICLE XII**

### **RESIDENTIAL PROTECTIVE**

#### **COVENANTS AND RESTRICTIONS**

**12.01 Residential Provision.** The provisions of this Article XII shall relate solely to Lots designated for residential purposes.

**12.02 Restrictions for Residential Lots.** No profession or home industry shall be conducted in or on any part of a Lot or in any improvement thereon on the Property without the specific written approval of the DDRC. The DDRC in its discretion upon consideration of the circumstances in each case, and particularly the effect on surrounding Property, may permit a Lot or any improvement thereon to be used in whole or in part for the conduct of a professional or home industry. No profession or home industry shall be permitted, however, unless it is considered by the DDRC to be compatible with the neighborhood.

**12.03 Lot Use for Model Home or Real Estate Office.** All else herein to the contrary notwithstanding, with the written approval of the DDRC any residential Lot may be used for a model home or for a real estate office during the Development Period, provided such use shall not interfere with the right of quiet enjoyment of

any Resident.

**12.04 Use of Clothes Hanging Devices and Machinery.** No clothing or any household fabrics shall be hung in the open on any Lot unless the same are hung from an umbrella or retractable clothes hanging device which is removed from view when not in use or unless the same are enclosed by a fence or other enclosure at least six (6) inches higher than such hanging articles, provided such fence or other enclosure is approved by the DDRC. No machinery shall be placed or operated upon any Lot (saving such machinery as is usual in the operation or maintenance of a private residence) except with the written approval of the DDRC.

**ARTICLE XIII  
WATERFRONT AREAS  
AND WATERWAYS**

**13.01 Restrictions for Waterfront Lots.** Any Lot which shall abut upon any lake, stream, river, canal or other waterway (hereinafter collectively referred to as "Waterways") shall be subject to the following additional restrictions:

- (a) No wharf, pier, bulkhead, or other structure or obstruction shall be built or maintained upon any waterfront site or into or upon any Waterway on the Property or adjacent thereto except with the specific written approval of the DDRC. No Structure or obstruction shall be permitted if it offers any threat whatsoever to safe navigation upon such Waterway or to the safe and convenient use of such Waterway as a recreation facility.
- (b) Except as approved by the DDRC, no boat canal shall be constructed or installed upon any Lot nor shall any facility or device be constructed or installed upon any Lot which shall in any way alter the course of or natural boundaries of any Waterway, or which shall involve or result in the removal of water from any Waterway.

(c) Except as approved by the DDRC, no boats, hoists, launching facilities or any similar type of structures or equipment shall be installed, constructed or maintained upon any Lot, nor shall any boat trailer be stored on any Lot in such manner as to violate the regulations of the DDRC.

**13.02 Use of Boats.** No boat of any kind shall be operated upon any Waterway on the Property without the prior written approval of the Association Board and if such approval is granted such operation shall conform to all rules and regulations promulgated by the Association and the DDRC concerning the use of boats. No internal combustion engines shall be used on any Waterway, except on rescue, police boats or maintenance with the permission of the DDRC.

**ARTICLE XIV  
COVENANTS WITH RESPECT TO  
EQUAL HOUSING OPPORTUNITY**

**14.01 Covenants of Owners.**

- (a) Any person when he becomes an Owner or Resident agrees that neither he nor anyone authorized to act for him will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, the property covered by the Deed to any persons because of race, color, religion, sex, age (if old enough to contract), or national origin or because such person receives financial assistance from the local, state or federal government. This covenant shall run with the land and shall remain in effect without any limitation in time.
- (b) Any restrictive covenant on the Property relating to race, color, religion, sex, age (if old enough to contract), or national origin is recognized as being illegal and is specifically



disclaimed.

**14.02 Covenants for Lessee.** All Owners and Residents shall treat all applications for leasehold interests in a uniform manner and shall award leases according to objective standards. No decision on any applicant for a leasehold interest shall be made on the ground of the applicant's race, color, religion, sex, age (if old enough to contract), or national origin. All lease agreements, to prohibit discrimination in subleasing, shall contain substantially the following clause:

"The tenant covenants and agrees that it will not sublet or assign the demised premises or any part thereof, or transfer possession of occupancy thereof in any manner whatsoever, without the prior written consent of the lessor. Further, the tenant covenants and agrees that when prior written consent of the lessor is obtained, or in the event the subletting or assignment is to be arranged through public advertisement or listing of any kind, the tenant will treat all applications for sub-lease or assignment interests in a uniform manner and will award leases according to objective standards. No discrimination shall be made on the ground of the applicant's race, color, religion, sex, age (if old enough to contract), or national origin."

## **ARTICLE XV**

### **DURATION AND AMENDMENT**

**15.01 Duration.** This Declaration and the Restrictions contained herein shall run with, burden and bind the Property, shall inure to the benefit of and shall be enforceable by the Developer (during the Development Period), the Association and the Owner of any Lot included in the Property, their respective legal representatives, heirs, successors and assigns, and by any Resident until (~) December 31, 2005; after which time the Declaration shall be automatically renewed for successive periods of

ten (10) years, unless prior to the commencement of any such renewal period, an instrument terminating this Declaration and the Restrictions contained herein shall be executed by the proper Association Officers and recorded in the Offices of the Register of Mesne Conveyances of Richland County and Lexington County, or in such other place of recording as may be appropriate at the time of the execution of such instrument, pursuant to a resolution to such effect approved in writing by not less than two-thirds (~) of the total number of Members of each Class, which resolution shall have been approved within six months prior to December 31, 2005, or the end of any such ten (10) year extension period.

**15.02 Amendment.** So long as the Class E Member has the right to elect an absolute majority of the Association Board, this Declaration may not be amended in any respect except by recording, in the Office of the Register of Mesne Conveyances of Richland County and Lexington County an instrument executed by the proper Association officers and authorized by the membership of the Association pursuant to a resolution to such effect approved in writing by not less than two-thirds (~) of the total number of Members of each Class; thereafter, this Declaration may not be amended in any respect excepting by recording as aforesaid, an instrument executed by the proper Association officers and authorized by the membership of the Association pursuant to a resolution to such effect approved in writing by not less than two thirds (~) of the total number of Members; provided, however, that the following provisions of this Declaration may not be amended at any time during the Development Period without the prior written approval of the Class E Member: Sections 1.01; 2.02; 3.01; 4.01; 4.03; 4.04; 4.08; 5.05; 6.01; Article VII; 8.11; Article XIV; 15.02; and 16.01.

## **ARTICLE XVI**

### **ENFORCEMENT**

#### **16.01 Right of Action.**

(a) in the event of a violation or breach of any Restriction contained in Article VIII, IX, X, XI, XII and XIII of this Declaration, the Association shall give written notice to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within twenty (20) days after the mailing of said written notice, then the Association shall have the Right of Action. The Right of Action shall mean the right of the Association, through its agents and employees, to enter at all reasonable times upon any Lot as to which a violation, breach or other condition to be remedied exists, and take the actions specified in the notice to the Owner to abate, extinguish, remove or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof. Such entry or action, or both, shall not be deemed to be a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section. The cost thereof shall be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions of Section 16.02 hereof. The lien provided under this Section shall not be valid against a bona fide purchaser (or bonafide lienholder) of the Lot in question unless a notice of such lien shall have been filed in the Office of the Register of Mesne Conveyances for Richland County or Lexington County prior to the recordation in the said office of the Deed (or lien instrument) conveying the Lot in question to such purchaser (or subjecting the

same to such lien).

(b) During the Development Period, the Developer shall have the Right of Action in such cases where it is the judgment of the Developer that the Association has abused its discretion in electing not to exercise its Right of Action to enforce the provisions of the Declaration and has thereby jeopardized the performance of the obligations of the Developer pursuant to the Development Plan. The Developer's Right of Action shall be subjected to the following limitations:

- (i) Developer shall give written notice to the Association identifying the violation which Developer seeks to correct and the steps Developer will take to remedy the condition.
- (ii) Developer may not commence to exercise its Right of Action less than thirty (30) days nor more than sixty (60) days after giving written notice to the Association.

**16.02 Specific Performance.** Nothing contained herein shall be deemed to affect or limit the rights of the Developer (so long as it is an Owner), the Association, the Members, the Residents, or the Owners of the Lots to enforce this Declaration by appropriate judicial proceedings. However, the Developer hereby declares that it is impossible to measure in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform any of the obligations provided by, this Declaration; and, therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

**16.03 Enforcement of Liens.** The Association shall have a lien for Assessments as set forth in Section 4.01 hereof and shall have a lien for the cost of exercising the Right of Action as set forth in Section 16.01 hereof. Each such lien may be enforced by the Association in any manner permitted by the laws of South Carolina. In such event, the amount which may be recovered by the Association shall include the Assessment or cost, plus the cost of such enforcement proceedings, including reasonable attorney's fees and interest.

**16.04 No Waiver.** The failure of the Developer, the Association, the Owner of any Lot, his or its respective legal representatives, heirs, successors and assigns, or any Resident, to enforce this Declaration shall in no event be considered a waiver to the right to do so thereafter, as to a similar violation or breach occurring prior or subsequent thereto.

**16.05 Additional Rules.** The Association and the DDRC, to the extent specifically provided herein, may adopt and promulgate reasonable rules, regulations and procedures regarding the administration, interpretation and enforcement of the provisions of this Declaration. In so adopting and promulgating such rules, regulations and procedures, or in making any findings, determination, ruling or order or in carrying out any directive contained herein relating to the issuance of permits, authorizations, approvals, rules or regulations, the Association, the DDRC and the RDRC shall take into consideration the best interests of the Owners and Residents of the Property to the end that the Property shall be preserved and maintained as a community of high quality, and shall seek to achieve the development of the Property in accordance with the standards and objectives set forth in the Development Plan.

**16.06 Incorporation of Provisions in Deeds.**

(a) Each grantee, by accepting a Deed, lease or other instrument conveying any interest in any Lot, whether or not such instrument incorporates or refers to this Declaration, covenants for himself, his heirs, successors and assigns to observe, perform and be bound by the Declaration and to incorporate this Declaration by reference in any Deed or other conveyance of all or any portion of his interest in any real property subject hereto.

(b) The Developer and each grantee taking title through the Developer by acceptance of a Deed, lease or other instrument conveying any interest in any Lot, further agrees to cause all subsequent grantees to execute any Deed, lease or other instrument conveying any interest in any Lot for the purpose of affirmatively assuming the obligations of an Owner hereunder and agrees to include the following covenant in any such Deed or other instrument conveying any interest in any Lot:

"For the benefit of the grantor, The Harbison Group, the Harbison Community Association, and their respective heirs, successors and assigns, the grantee hereunder executes this instrument for the purpose of assuming the obligations of an Owner under the Declaration of Covenants, Restrictions, Easements, Charges and Liens to which the property is subject and expressly agrees to comply with each provision thereof the extent such provision applies to him."

This covenant, and any such covenant in any Deed to any Lot, may be specifically enforced against the grantor or the grantee, or both.

**16.07 Successor Developer.** Anything heretofore mentioned to the contrary notwithstanding, should the Developer lose or divest itself of a substantial legal or

equitable interest in the remaining unsold property of Harbison.

(a) All of the Developer's rights, powers, duties and obligations under this Declaration (except, so long as the Developer remains an Owner, those possessed by each Owner) shall pass with such interest in the real property to a new Owner of part or all of such interest in the real property ("New Developer").

(b) Neither the New Developer, the Association, the Members, the Owners, nor the Residents, shall assume any liability arising from the Developers exercise of its rights and powers under this Declaration or its performance, or failure to perform, its duties and obligations hereunder before the loss or divestiture of the Developer's rights, powers, duties and obligations hereunder. The foregoing sentence shall not be construed so as to relieve a New Developer, wholly or partially, of the obligation to make advances to the Association pursuant to this declaration on grounds that any cash deficit of the Association is attributed to the previous action or inaction of the Developer.

## **ARTICLE XVII**

### **MISCELLANEOUS**

**17.01 No Reverter.** No Restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

**17.02 Invalidity.** The determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

#### **17.03 Assignability.**

(a) The Association shall be empowered to assign its rights, or any part thereof, to any

successor public body, authority, agency, district, or non-profit membership corporation (hereinafter referred to as the "Successor Entity"), and upon such assignment the Successor Entity shall have those rights and be subject to those duties assigned thereby and shall be deemed to have agreed to be bound by the appropriate provisions hereof to the same extent as if the Successor Entity had been an original party to the Declaration. Any such assignment shall be accepted by the Successor Entity under a written agreement pursuant to which the Successor Entity expressly assumes the duties and obligations thereby assigned.

(b) If for any reason the Association shall cease to exist without having first assigned its rights hereunder to a Successor Entity, the covenants, restrictions, easements, charges and liens imposed hereunder shall nevertheless continue and any Owner or Resident may petition a court of competent jurisdiction to have a trustee appointed for the purpose of organizing a non-profit membership corporation and assigning the rights hereunder with the same force and effect, and subject to the same conditions, as provided in this Section 17.03 with respect to an assignment and delegation to a Successor Entity.

(c) Any assignment or delegation of rights shall be approved by two-thirds of the Members of all Classes considered as a single Class voting in person or by proxy at an Association Meeting at which a quorum is present or voting in a referendum called for such purpose after proper notice is given.

**17.04 Headings.** The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

**17.05 Gender.** Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

**17.06 Effect of Violation of Declaration on Mortgage.** No violation of this Declaration shall defeat or render invalid the lien of any mortgage made in good faith and for value upon any portion of the Property; provided, however, that any mortgage in possession or any purchaser at any foreclosure sale or any person in a similar position shall be bound and subject to this Declaration as fully as any other Owner of any portion of the Property.

**17.07 Notices.** Any notice given or required to be sent pursuant to this Declaration shall be deemed to have been properly given, unless other requirements are specifically made in any provision hereof, when mailed, postpaid, to the last known address of the person to whom notice is to be given.

**17.08 Local Laws Not Superseded.** This Declaration shall not be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body, or by any deed or lease. In the event of any conflict, the most restrictive provision of such laws, rules, regulations, deeds, leases or this Declaration shall govern and control.

IN WITNESS WHEREOF, this instrument has been executed as of the day and year first above written.

THE HARBISON GROUP

By: /s/ Richard H. Friedberg  
General Partner

By: /s/ Roger N. Greene  
General Partner

HARBISON COMMUNITY ASSOCIATION

By: /s/ Lester Gross  
President

ATTEST: /s/ Harriette K. Thompson  
Secretary

WITNESSES: /s/ A. Russell Marane  
/s/ John E. Smalls

STATE OF SOUTH CAROLINA                      PROBATE  
COUNTY OF RICHLAND

PERSONALLY appeared before me A. RUSSELL MARANE, who being duly sworn, says that he saw THE HARBISON GROUP, by Richard H. Friedberg and Roger N. Greene, its General Partners; and HARBISON COMMUNITY ASSOCIATION by Lester Gross, its President, and Harriette K. Thompson, its Secretary, sign and seal the foregoing Declaration of Covenants, Restrictions, Easements, Charges and Liens; and that he together with JOHN E. SMALLS, witnessed the execution thereof.

WITNESS: /s/ A. Russell Marane

SWORN TO before me on this  
30th day of June, 1983.

/s/ Brenda E. Carroll

Notary Public for South Carolina

My Commission expires: 10-7-92  
Notary Public for South Carolina

**DECLARATION OF COVENANTS, RESTRICTIONS,  
EASEMENTS, CHARGES AND LIENS**

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