

**DECLARATION  
OF  
COVENANTS, CONDITIONS  
AND RESTRICTIONS  
FOR  
FELDER CREEK, PHASE I**

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# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FELDER CREEK, PHASE I

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**DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS  
FOR  
FELDER CREEK, PHASE I**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
("Declaration") is made on this 8th day of June, 2005 by DONNIE B. MALPHRUS  
("Declarant").

**SECTION 1  
CREATION OF THE COMMUNITY**

- 1.1 **Purpose and Intent.** Declarant is the Owner of the real property generally known as FELDER CREEK, PHASE I, in Berkeley County, South Carolina as more particularly described on Exhibit "A". Declarant desires to establish a general plan of development for FELDER CREEK, PHASE I. This Declaration provides a flexible and reasonable procedure for FELDER CREEK, PHASE I overall development, administration, maintenance and preservation. An integral part of the development plan is the creation of the FELDER CREEK, PHASE I Property Owner's Association, a non-profit corporation comprised of all owners of real property subject to this Declaration, to own, operate, and/or maintain the Common Area and various community improvements and to administer and enforce this Declaration and the other Governing Documents referenced in this Declaration. Declarant desires to subject the real property described on Exhibit "A" to the provisions of this Declaration to create a residential community and for the mutual protection, welfare and benefit of the present and future owners thereof.
- 1.2 **Declaration.** Declarant hereby declares that all the real property described on Exhibit "A" of this Declaration, including any improvements, which may be constructed on that property, is subjected to the provisions of this Declaration. Such real property shall be held, sold, transferred, conveyed, used, occupied, mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens contained in this Declaration. The provisions of this Declaration shall run with the property subjected to this Declaration. This Declaration shall be binding on all persons having any right, title or interest in all or any portion of the property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.
- 1.3 **Governing Documents.** The Governing Documents of Felder Creek, Phase I, shall consist of:
- 1.3.1 this Declaration and Supplemental Declarations;
  - 1.3.2 the Association's Articles of Incorporation and Bylaws;
  - 1.3.3. the restrictions and rules promulgated by Declarant or the Association;
  - 1.3.4 such resolutions as the Association's Board of Directors may adopt;
- all as they may be amended. The Governing Documents shall apply to all Owners of property within FELDER CREEK, PHASE I, as well as to their respective tenants, guests and invitees.

**SECTION 2  
DEFINITIONS**

The following words used in this Declaration shall have the following meanings:

- 2.1 "Association" shall mean FELDER CREEK, PHASE I Property Owners' Association, Inc., a South Carolina nonprofit corporation, its successors and assigns.
- 2.2 "Area of Common Responsibility" shall mean the Common Property together with such other areas, if any, for which the Association has responsibility pursuant to this Declaration, any recorded plat, other covenants, contracts or agreements.

- 2.3 "Board of Directors" or "Board" shall mean the appointed or elected board of directors, as applicable, of the Association.
- 2.4 "Bylaws" shall refer to the Bylaws of the Association.
- 2.5 "Builder" shall mean and refer to Jessco, Inc., its successor and assigns.
- 2.6 "Common Property" shall mean the real property, if any, together with improvements located thereon, which is depicted as Common Property on any plat of Felder Creek, Phase I, recorded in the Office of the Berkeley County Register of Deeds.
- 2.7 "Common Property Maintenance" shall mean and refer to maintenance of the front gate, street lights, including electric bill, common property, grounds and landscaping to be maintained by the Association.
- 2.8 "Declarant" shall mean Donnie B. Malphrus, his successors and assigns. Declarant may appoint and designate a successor declarant by designating such appointment or designation in a Supplemental Declaration filed in the Office of the Berkeley County Register of Deeds.
- 2.9 "Declaration" shall include this declaration and any Supplemental Declaration.
- 2.10 "Dwelling" shall mean and refer to a single-family dwelling and associated improvements located upon a Lot. A single-family dwelling may consist of more than one structure, so long as the structures are designed to be used by a single family unit and are not used by more than one family unit except on a temporary basis (i.e. guest or relative). Manufactured, mobile, modular, motor homes, and recreational vehicles shall not be deemed a Dwelling.
- 2.11 "FELDER CREEK, PHASE I" shall mean the real property and interests described on Exhibit "A" of this Declaration.
- 2.12 "FELDER CREEK, PHASE I Standards" shall mean the standards of conduct, maintenance or other activity generally prevailing in the FELDER CREEK, PHASE I. Such standards may be more specifically determined by the Board of Directors of the Association. Such determination must be consistent with the FELDER CREEK, PHASE I Standards originally established by the Declarant.
- 2.13 "Lot" shall mean any single-family residential lot of land within FELDER CREEK, PHASE I, whether or not improvements are constructed on that land, which constitutes a single-family dwelling site as shown on a plat recorded in the Office of the Berkeley County Register of Deeds. The ownership of each Lot shall include membership in the Association.
- 2.14 "Mortgage" shall mean any mortgage used for the purpose of encumbering real property in FELDER CREEK, PHASE I as security for the payment or satisfaction of an obligation.
- 2.15 "Mortgagee" shall mean the holder of a Mortgage.
- 2.16 "Occupant" shall mean any person occupying all or any portion of a lot or other property located within FELDER CREEK, PHASE I for any period of time, regardless of whether such person is a tenant or the Owner of such property.
- 2.17 "Owner" shall mean the record owner, whether one or more Persons, of the fee simple title to any Lot, excluding any Person holding such interest merely as security for the performance or satisfaction of any obligation, provided however, that Declarant should not be deemed an Owner.
- 2.18 "Person" shall mean a natural person, corporation, Limited liability Company, partnership, association, trust or other legal entity.

- 2.19 "Property" shall mean and refer to that certain property designated as FELDER CREEK, PHASE I shown on that certain plat recorded in the Office of the Register of Deeds for Berkeley County in Plat Cabinet Q, page 385-B and any revisions thereto.
- 2.20 "Supplementary Declaration" means an amendment or supplement to the Declaration which subjects additional restrictions and obligations on FELDER CREEK, PHASE I or adds additional land to FELDER CREEK, PHASE I or assigns the Declarant's rights under this Declaration.
- 2.21 "Total Association Vote" means all of the votes attributable to members of the Association. If the Total Association Vote is taken during a time while Declarant has the right to appoint members of the Board of Directors, a Total Association Vote approving some item or proposition must contain the affirmative vote of the Declarant or the item or proposition will be deemed not to have been approved.

### SECTION 3 PROPERTY SUBJECT TO THIS DECLARATION

- 3.1 Property Subjected to this Declaration. The real property which is subject to the covenants and restrictions contained in this Declaration is the real property described in Exhibit "A".

### SECTION 4 ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

- 4.1 Membership. Every Owner shall be deemed to have a membership in the Association. If a Lot is owned by more than one Person, there shall be only one (1) membership per Lot and the votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office in the Association, may be exercised by the Member or the Member's spouse or written designee, but in no event shall more than one (1) vote be cast nor office held for each Lot owned.
- 4.2. Voting. Each Member shall be entitled to one (1) vote for each Lot owned. When more than one (1) Person holds an ownership interest in any Lot, the vote for such Lot shall be exercised as those Owners themselves determine and advise the Association prior to any meeting. The Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

### SECTION 5 ASSESSMENTS

- 5.1 Purpose of Assessment. The assessments provided for in this Declaration shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of Lots as may be authorized from time to time by the Board.
- 5.2 Creation of the Lien and Personal Obligation for Assessments. Each Owner agrees to timely pay to the Association: (a) annual assessments or charges; (b) special assessments, and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration. Each Owner also agrees to pay to the Association reasonable fines, not to exceed \$50.00 per violation, as may be imposed in accordance with the terms of this Declaration.
- 5.3 Late Charges. All assessments shall accrue late charges and shall accrue interest not to exceed the lesser of the maximum rate permitted by law or eighteen per cent (18%) per annum on the principal amount due. Additionally, the costs of collection shall be added to any amount due, which costs of collection shall include without limitation reasonable attorneys' fees incurred by the Association. The assessments and charges shall be a continuing lien upon the Lot against which each assessment is made and shall also be the personal obligation of the person who was the Owner of such Lot at the time the assessment fell due.

- 5.4 **Personal Liability.** Each Owner shall be personally liable for the portion of each assessment coming due while the Owner of a Lot and each grantee of an Owner shall be jointly and severally liable for the assessments which are due at the time of conveyance; provided however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings.
- 5.5 **Accounting of Payment.** The Association shall within five (5) business days after receiving a written request, furnish a written accounting setting forth whether the assessments on a specified Lot have been paid. Such written accounting shall be binding upon the Association as of the date of issuance. The Board shall have the right to impose a reasonable charge for providing this accounting.
- 5.6 **Annual Assessments.** Annual assessments shall be levied equally on all Lots and shall be paid in such manner and on such dates as may be fixed by the Board. The Board may allow annual assessments to be paid in periodic payments, and the Board shall have the right to accelerate any unpaid annual installments in the event an Owner is delinquent. Unless otherwise provided by the Board, the assessment shall be paid in annual installments. The initial annual assessment shall be \$100.00.
- 5.7 **Computation of Annual Assessments.** The Board shall prepare a budget covering the estimated costs of operating the Association during the coming year, which may include a capital contribution or reserve. The Board shall cause the budget and the assessments to be mailed or delivered to each Member at least thirty (30) days prior to the end of the current fiscal year or shall present the budget and the assessments to the Members at the Association's annual meeting. The budget and the assessment shall become effective unless disapproved at a meeting by a majority of the Total Association Vote. In the event the membership disapproves the proposed budget, or the Board fails to establish a budget for the succeeding year, the budget then in effect for the then current year shall continue for the succeeding year until changed by the Board. In the event the Board's budget is disallowed, the Board shall have the right to make a new budget retroactive to the start of the fiscal year.
- 5.8 **Special Assessments.** In addition to the other assessments authorized by this Declaration, the Association may levy special assessments from time to time. Special assessments must be approved at a meeting by two-thirds (2/3) of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board, may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.
- 5.9 **Specific Assessment.** The Board shall have the power to specifically assess pursuant to this Section 5, as it shall deem appropriate, in its sole discretion. Failure of the Board to exercise its authority under this Section 5 shall not be grounds for any action against the Association or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section 5 afterwards. The Board may also specifically assess Owners for expenses of the Association which benefit less than all of the Lots. Such specific assessment shall be assessed equitably among all the Lots, which are benefited according to the benefit received, as determined by the Board in its sole discretion.
- 5.10 **Date of Commencement of Assessments.** Annual, special and specific assessments shall not be payable until January 1, 2006. As set forth in Section 5.6, the Maximum Annual Assessment shall be \$100.00 per Lot. The Maximum Annual Assessment thereafter may be increased each year not more than ten (10%) percent above the Maximum Annual Assessment for the previous year without a vote of the membership. From and after January 1, 2007, the Maximum Annual Assessment may be increased above ten (10%) percent by a vote of the Board of Directors at a meeting duly called for this purpose. A contribution to capital equal to an annual assessment shall be due at the time of closing of a Lot, with the improvements constructed thereon, being conveyed by the Builder to a third party owner.
- 5.11 **Lien for Assessment.** All sums assessed against any Lot, Owner or Member pursuant to this Declaration shall be secured by a lien on such Lot in favor of the Association.

5.6 + 5.10  
Initial  
Assessment  
\$11,000.00

5.10  
10%  
Increase

- 5.12 Priority. The lien of the Association shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for ad valorem taxes (b) liens for all sums unpaid on a first priority Mortgage, (c) a lien arising by virtue of any Mortgage in favor of Declarant which is duly recorded in the land records of the county where Felder Creek, Phase I is located. All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded shall be deemed to acknowledge that their liens shall be inferior to the lien of the Association for assessments in existence at that time or which arise in the future.
- 5.13 Effect of Nonpayment of Assessment. Any assessments which are not paid when due, shall be delinquent. Any assessment which is delinquent for a period of more than ten (10) days shall incur a late charge in an amount set by the Board. If the Assessment is not paid within thirty (30) days a lien shall attach. The lien shall cover all assessments then due or which come due until the lien is cancelled of record and any other amounts provided in this Declaration or permitted by law. In the event that the assessment remains unpaid after thirty (30) days, the Association may institute a suit to collect such amounts and may foreclose its lien. The Association shall have the right to foreclose its lien with any method allowed by law. The Association shall have the power to bid on the Lot at any foreclosure sale to acquire, hold, lease, mortgage or convey the same. Costs of collection, including legal fees, shall be assessed against the delinquent Owner.
- 5.14 No Set Off or Deduction. No Owner may waive or otherwise exempt itself from liability for the assessments provided for in this Declaration. No setoff, diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action, for inconvenience or discomfort arising from the making repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. The obligation to pay assessments is a separate and independent covenant on the part of each Owner and is not subject to setoff.
- 5.15 Application of Payments. All payments shall be applied first to costs, then to late charges, then to interest and then to delinquent assessments.

#### SECTION 6

#### MAINTENANCE & CONVEYANCE OF COMMON PROPERTY TO ASSOCIATION

- 6.1 Conveyance of Common Property by Declarant to Association. Upon the conveyance by Builder of two-thirds (2/3) of the Lots of Felder Creek, Phase I to third party owners, Declarant shall convey to the Association any Common Property within Felder Creek, Phase I and shown as Common Property on a plat recorded in the Office of the Register of Deeds for Berkeley County. Such conveyance shall be accepted by the Association and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or part of its Members. Builder shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section. However, Builder shall maintain the Common Property until such time it is conveyed to the Felder Creek, Phase I Property Owner's Association.
- 6.2 Association's Responsibility. Upon the conveyance of the Common Property by Declarant to the Association, the Association shall become responsible for the operation, maintenance, repair and replacement of any and all improvements and landscaping situated on the Common Property as set forth in this Section 6.2.
- 6.2.1 The Association shall be responsible for property taxes and for utility expenses such as water, sewer and electricity if any associated with the Common Property.
- 6.2.2 The Association shall operate and maintain all Common Property lighting with the exception of those street lights billed to Owners and other lighting maintained and operated by a utility company.
- 6.2.3 The Association shall not be responsible for any utility infrastructure which is not owned by the Association, including, without limitation, water, sewer, electricity, telephone, cable television or propane gas infrastructure.



6.2.4 Association maintenance shall be performed consistent with Felder Creek, Phase I Standards

6.2.5 In the event that the Association determines that the need for maintenance, repair or replacement of Common Property is caused through the willful or negligent act of an Owner or the family, guests, lessees, or invitees of any Owner, then the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense and all costs thereof shall be a specific assessment against such Owner subject to the Association's lien and collection rights provided for in this Declaration.

6.3 Owner's Responsibility. All maintenance of Lots and all structures, parking areas, landscaping and other improvements located on Lots shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Felder Creek, Phase I Standards and this Declaration. Each Owner shall be responsible for properly maintaining Owner's individual Lot by periodically cutting the grass, clearing undergrowth and otherwise undertaking and doing all things necessary to maintain an appealing appearance of the Lot. In the event that the Board determines that any Owner has failed or refused to properly maintain, repair or replace items for which the Owner is responsible, the Association may give Owner such written notice of the maintenance, repair or replacement deemed necessary and the Association's intent to provide the necessary maintenance, repair, or replacement. If the Owner fails to complete such repairs within fourteen (14) days, the Association may perform such maintenance, repair or replacement at such Owner's sole cost and expense and all costs shall be a specific assessment against such Owner and Owner's Lot.

## SECTION 7 USE RESTRICTIONS AND RULES

7.1 General. All Owners must comply with the use restrictions and rules set forth in this Declaration. These use restrictions may only be amended as provided in this Declaration. In addition, the Declarant or upon formation, the Association, through its Board of Directors, may, from time to time, without consent of the members, promulgate, modify or delete other use restrictions and rules and regulations applicable to Felder Creek, Phase I. Such use restrictions and rules shall be distributed to all Owners prior to the date that they are to become effective and shall thereafter be binding upon all Owners until and unless overruled, canceled, or modified in a regular or special meeting by a majority vote of the Total Association Vote.

7.2 Residential Use of Lots. All Lots shall be used for residential purposes only, provided that home business or business activities shall be allowed which do not: employ more than one person, occupy greater than twenty per cent (20%) of a Dwelling's heated floor space, increase traffic flow, maintain signs or advertising on a Lot or invite customers or clients within Felder Creek, Phase I. Residential purposes include the sale and leasing of Lots. The Board may issue rules regarding permitted business activities. The Declarant shall have the right to operate a sales office and construction office from one or more lots within Felder Creek, Phase I.

7.3 Architectural Standards for Improvements to Lots. All improvements in Felder Creek, Phase I shall comply with all federal, state and county building requirements and codes. Architectural Review is not required in Felder Creek, Phase I, provided however, that the following standards ("Architectural Standards") for improvements be met:

7.3.1 No mobile homes will be allowed under any circumstance.

7.3.2 Metal Sheds will be allowed under any circumstance.

7.3.3 The Architectural Standards set forth above shall be enforced by the Board of Directors of the Association.

7.4. Signs. Only one (1) "FOR SALE" sign shall be allowed on a Lot and the size of such sign shall be no greater than 444 square inches in size. Signs required by legal proceedings may be erected upon any Lot. The Board and the Declarant shall have the right to erect reasonable and appropriate signs in Felder Creek, Phase I. The Declarant

Metal 7.3.2  
Sheds?

shall have the right to erect and maintain "FOR SALE" signs on any Lot in its sole discretion. The provisions of this Section shall not apply to any person holding a Mortgage who becomes the Owner of any Lot as purchaser at a judicial or foreclosure sale conducted with respect to a first Mortgage or as transferee pursuant to any proceeding in lieu thereof.

- 7.5 Vehicles. The term "vehicles" as used herein, shall include, without limitation, motorhomes, all-terrain vehicles, boats, trailers, motorcycles, minibikes, scooters, go-carts, trucks, campers, buses, vans and automobiles.

7.5.1 No unlicensed vehicle or "junk car" shall be left upon any portion of Felder Creek, Phase I except in a garage. Such vehicles identified must be removed by the Owner. The Association shall have the right to remove any such vehicle if not removed by the Owner within ten (10) days of notice and the costs of such removal shall be a specific assessment against such Owner.

7.5.2 Campers, recreational vehicles, motor homes, travel trailers, mobile homes and tents shall not be used by any Owner or Occupant for personal occupancy no matter how temporary.

7.5.3 Tractor trailers, trailer cabs, dump trucks, "eighteen wheelers" or other heavy equipment shall not be parked overnight in Felder Creek, Phase I with the exception of small tractors necessary for the maintenance of Lots.

7.5.4 If any Owner uses or hires tractor trailers, trailer cabs, dump trucks, logging trucks, "eighteen wheelers" or other heavy equipment for the removal of timber, dirt or other materials, such Owner will notify Declarant, its successor or assign, prior to the commencement of the use of such heavy equipment. Owner will be responsible for any damage caused to roads in Felder Creek, Phase I which result from the use of such heavy equipment related to the above-described removal activities.

7.6 Vehicles on Common Property. No motorized vehicles shall be permitted on pathways or unpaved Common Property except for public safety vehicles and vehicles authorized by the Board. Operation of all-terrain vehicles including, but not limited to, dirt bikes and four wheelers, is prohibited in Felder Creek, Phase I except within the confines of the operator's Lot.

7.7 Fuel Storage. Storage of gasoline, heating or other fuels shall be prohibited in Felder Creek, Phase I, provided that a reasonable amount of fuel may be stored for operation of landscaping equipment and similar tools and for emergency purposes.

7.8 Occupants Bound. All provisions of the Declaration, Bylaws and any of the rules and regulations, use restrictions or design guidelines promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

7.9 Animals & Pets. No animals, livestock, horses or poultry of any kind may be raised, bred, kept or permitted on any Lot with the exception of a limit of three (3) dogs, cats, or other common household pets. No pets shall be kept, bred or maintained for any commercial purpose. Pets shall be registered, licensed and inoculated as required by law. Animal owners shall be required to maintain their animals within the confines of individual Lots when unattended. Dogs shall be kept on a leash when outside of a Lot. All Owners shall remove their pets' waste from Common Areas and Lots. No pet shall make objectionable noise, endanger the health or safety of Owners or constitute a nuisance or inconvenience to Owners in Felder Creek, Phase I. Upon complaint regarding a nuisance animal to the Board, and the Board in its sole discretion may elect to require that the Owner of the nuisance animal remove the animal from Felder Creek, Phase I. If the Owner of the nuisance animal fails or refuses to remove the nuisance animal, Declarant may have the nuisance animal removed from Felder Creek, Phase I at the expense of the Owner of the nuisance animal.

7.9.1 In order to facilitate the removal of the pets' waste from the Common Property and Lots, "waste removal stations" will be installed throughout the neighborhood. All Owners shall utilize such stations in order to minimize the amount of waste produced and left by pets. Any Owner refusing to utilize such station will be fined \$25.00 per incident by the Association.

- 7.10 Nuisance. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his or her property. No property within Felder Creek, Phase I shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of the surrounding property. The use of lawn mowers or other landscaping equipment, chain saws, engines or other noise-producing equipment shall be operated during reasonable hours. No noxious or offensive activity shall be carried on within Felder Creek, Phase I nor shall anything be done tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property. No outside toilet facilities shall be permitted in Felder Creek, Phase I, provided that portable toilets shall be allowed on Lots during the construction of a Dwelling.
- 7.11 Satellite Dishes. Satellite dishes shall be allowed, provided they are not visible from the street. Notwithstanding the foregoing, in no event shall these restrictions be construed and enforced in a way that violates the rule governing antennas, which was adopted by the Federal Communications Commission on August 5, 1996 to implement the Telecommunications Act of 1996.
- 7.12 Drainage. Catch basins and drainage areas, including drainage ditches, are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant may alter, obstruct or re-channel the drainage flows after location and installation of drainage swales, storm sewers or storm drains, the right to alter being expressly reserved to Declarant. No dumping of grass clippings, leaves or other landscaping debris, petroleum products, fertilizers or other potentially hazardous or toxic substances shall be allowed on any Lot or in any drainage ditch, water source or elsewhere in Felder Creek, Phase I, except that fertilizers may be applied to landscaping provided that care is taken to minimize runoff.
- 7.13 Wetlands. No wetlands existing on any portion of Felder Creek, Phase I shall be encroached upon, filled or utilized for any reason without first obtaining a permit for the proposed use from the Army Corps of Engineers and the Department of Health and Environmental Control/Office of Ocean and Coastal Resource Management, if such are found to be jurisdictional wetlands of either or both entities. Declarant shall not be responsible for any injury or fines incurred for the violation of this Section by any Owner.
- 7.14 Garbage. No Lot shall be used or maintained as a dumping ground for litter, garbage or trash. All garbage cans, woodpiles, hot tubs, spas, and related equipment and other similar items shall be located or screened so as to be concealed from view of neighboring streets and property. All rubbish, trash and garbage shall be stored in sanitary containers, shall be regularly removed and shall not be allowed to accumulate.
- 7.15 Subdivision of Lots. No Lot shall be subdivided. Boundary lines may be changed for consolidations of Lots upon written approval from Declarant. Declarant however, hereby expressly reserves the right to replat any Lot or lots owned by the Declarant. Any such division, boundary line change or replatting shall not be in violation of the applicable subdivision and zoning regulations. Declarant's right to replat any Lot shall include the right to change the configuration of streets and otherwise make changes on the final plat for Felder Creek, Phase I as to how the streets and common areas in Felder Creek, Phase I are laid out.
- 7.16 Fences. Fencing shall only be allowed to be erected across the rear and side areas of each up to the back of any Dwelling on a Lot. The maximum fence height allowed on Lots in Felder Creek, Phase I shall be seventy-two inches (72"). No cyclone fence, barbed wire, or privacy fence shall be erected between the front of any Dwelling and the road.

Who is 7.9.1  
Providing  
Removal

However, a Lot Owner may erect a split rail fence or other decorative fencing at the front of any Dwelling. Notwithstanding the foregoing, the Declarant shall have the right to erect fencing of any type, at any location on any Lot during the period that such Lot is being used by Declarant as a model home. The Board shall have the right to erect fencing of any type considered appropriate or desirable by the Board at any location on the Common Property.

## SECTION 8

### INSURANCE AND CASUALTY LOSSES

- 8.1 Insurance on Common Property. Declarant and the Board of Directors of the Association shall have the authority to obtain insurance for all insurable improvements whether or not located on the Common Property, which the Association is obligated to maintain.
- 8.2 Liability Insurance. Upon transfer of the Common Property to the Association, the Board of Directors shall obtain a general commercial liability policy applicable to the Common Property covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million Dollars (\$1,000,000.00). If available, the Board is authorized to obtain directors' and officers' liability insurance coverage.
- 8.3 Declarant. The Board is authorized to obtain the insurance coverage required hereunder through the Declarant and to reimburse the Declarant for the cost thereof. The Board shall not be required to comply with the provisions of this Section if the Board has contracted for or otherwise arranged to obtain the required coverage through the Declarant.
- 8.4 Premiums. Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.
- 8.5 Miscellaneous. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective benefited parties as further identified below. Such insurance shall comply with these provisions:
  - 8.5.1 All policies shall be written with an insurance company authorized to do business in South Carolina.
  - 8.5.2 Exclusive authority to settle losses under policies obtained by the Association shall be vested in the Board; provided however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
  - 8.5.3 In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by individual Owners, Occupants or their Mortgagees, and the insurance carried by the Association shall be primary.
  - 8.5.4 All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement if these are reasonable available and all insurance policies shall be reviewed annually by the Board.
  - 8.5.5 The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
    - 8.5.5.1 a waiver of subrogation by the insurer as to any claims against the Board, its manager, the Owners and their respective agents, tenants and guests;
    - 8.5.5.2 a waiver by the insurer of its rights to repair and reconstruct instead of paying a cash settlement;

8.5.5.3 that no policy may be cancelled, invalidated or suspended on account of any one or more individual Owners;

8.5.5.4 that no policy may be cancelled, subjected to non-renewal, invalidated or suspended on account of any defect or the conduct of any Board member, Association officer or employ or employee of the authorized manager of the Association without prior demand in writing delivered to the Association to cure any defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

8.5.5.5 that any other insurance clause in any policy exclude individual Owners' policies from consideration; and

8.5.5.6 that no policy may be cancelled subjected to non-renewal or substantially modified without at least thirty (30) days prior written notice to the Association.

8.6 Damage and Destruction-Property Insured by Association. Immediately after damage or destruction by any casualty to any improvement covered by Association insurance, the Board or its authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged property. Repair or reconstruction, as used in Section 8, means repairing or restoring the property to substantially the same condition and location that existed prior to the casualty, allowing for changes necessitated by changes in applicable ordinance. Repair or Reconstruction procedures shall be as follows:

8.6.1 Any damage to property covered by Association insurance shall be repaired or reconstructed unless seventy-five percent (75%) of the Total Association Vote agree otherwise in a vote taken at a duly called Association meeting held sixty (60) days after the casualty. If for any reason the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such sixty (60) day period, then the period shall be extended until such information shall be made available; provided however, such extension shall not exceed sixty (60) days.

8.6.2 If the insurance proceeds are insufficient to pay for the repair or reconstruction, the Board shall, without the necessity of a vote of the Owners, levy a special assessment against all Owners in proportion to the number of Lots owned by each Owner. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

8.6.3 If the Association votes not to repair or reconstruct damaged improvements and no alternatives are authorized by the Association, then the property shall be restored to its natural state and maintained as an undeveloped portion of Felder Creek, Phase I in a neat and attractive condition.

8.7 Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall be paid by the Association or be allocated among the Persons who are responsible for the damage or destruction.

8.8 Individual Insurance for Lot Owners. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner acknowledges that the Association has no obligation to provide any insurance for any portion of individual Lots and each Owner covenants and agrees with all other Owners and with Declarant and the Association that each Owner shall carry hazard insurance on all structures constructed thereon and a liability policy covering damage or injury occurring on a Lot.

- 8.9 Damage and Destruction to Improvements on Lots—Insured by Owners. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within six (6) months after such damage or destruction or, where repairs cannot be completed within six (6) months, they shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within ninety (90) days after such damage or destruction. In the event of noncompliance with this provision, the Board shall have all enforcement powers specified in this Declaration.

## SECTION 9 MORTGAGE PROVISIONS

- 9.1 Mortgagee Provisions. The following provisions are for the benefit of holders of first Mortgages on Lots in Felder Creek, Phase I. The provisions of this Section 9 apply to both this Declaration and the Bylaws, notwithstanding any other provisions contained therein.
- 9.2 Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage, who provides a written request to Declarant or the Association, such request to state the name and address of such holder, insurer or guarantor and the Lot number, therefore becoming an eligible holder, will be entitled to timely written notice of:
- 9.2.1 any condemnation loss or any casualty loss which affects a material portion of Felder Creek, Phase I or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such eligible holder;
- 9.2.2 any delinquency in the payment of assessments or charges owed by an Owner of a lot subject to the Mortgage or such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by the Owner of an unencumbered Lot of any obligation under the Declaration or the Bylaws which is not cured within sixty (60) days, and;
- 9.2.3 any lapse, cancellation or material modification of any insurance policy maintained by the Association.
- 9.3 No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.
- 9.4 Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.
- 9.5 Applicability of Section. Nothing contained in this Section shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws or South Carolina law for any of the acts set out in this provision.
- 9.6 Amendments by Board. Should the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, HUD or VA subsequently delete any of their respective requirements which necessitate the provisions of this Section or make any such requirements less stringent, the Board, without approval of the Owners may cause an amendment to this Section to be recorded to reflect such changes.

## SECTION 10 EASEMENTS

- 10.1 Easements for Use and Enjoyment. Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property, which shall be appurtenant to and shall pass with the title to each Lot. Any Owner may delegate such Owner's right of use and enjoyment in and to the Common Property to the members of the Owner's family and to such Owner's tenants and guests. Such delegation

shall be deemed when any Owner leases its Lot. The Owner's easements for use and enjoyment shall be subject to the following provisions:

- 10.1.1 the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Owners and tenants who may use the Common Property and to provide for the exclusive use and enjoyment of specific portions of the Common Property by an Owner, its guests and invitees at designated times for special events upon such Owner's Payment to the Association of a reasonable use charge as set by the Board in its sole discretion;
- 10.1.2 the right of the Association to suspend a Lot Owner's voting rights and the right to use the Common Property for any period during which any assessment against such Owner remains unpaid or for a reasonable period of time for a violation of this Declaration, Bylaws or the Association rules and regulations.
- 10.1.3 the right of the Association to borrow money for the purpose of improving the Common Property or for the construction, repairing or improving any facilities located on the Common Property; provided however, the lien and encumbrance of any such Mortgage shall be subject and subordinate to the provisions of this Declaration. Any such Mortgage on the Common Property shall be approved by at least two-thirds (2/3) of the Total Association Vote. The exercise of any rights held by any mortgagee of Common Property shall not cancel or terminate any provisions of this Declaration or the holder of any Mortgage on any Lot;
- 10.1.4 the right of the Association to dedicate or grant licenses, permits, or easement over under or through the Common Property to governmental entities for public purposes; and
- 10.1.5 the right of the Association to dedicate and transfer all or any portion of the Common Property subject to the conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless approved by at least two-thirds (2/3) of the Total Association Vote.
- 10.2 Easements for Utilities. There is hereby reserved to the Declarant and the Association blanket easements upon, across, above and under all property within Felder Creek, Phase I, including all Lots, for access, ingress, egress, installation, repairing, replacing and maintaining all utilities serving Felder Creek, Phase I or any portion thereof. This easement shall include, without limitation, gas, water, sanitary sewer, septic, telephone, electricity, cable television, security as well as storm drainage and any other service or system which the Declarant or the Association might decide to have installed to service Felder Creek, Phase I. It shall be expressly permissible for the Declarant, the Association, or the designee of either as the case may be, to install, repair, replace, and maintain or authorize the installation, repairing, replacing and maintaining of such wires, conduits, pipes, cables and other equipment related to the providing of any such utility service. Should any party furnishing such utility or service request a specific license or easement by separate recordable instrument, the Declarant or the Board as the case may be shall have the right to grant such easement.
- 10.3 Easement for Drainage. Declarant hereby reserves a perpetual easement across all Felder Creek, Phase I for the purpose of altering drainage and water flow across all Felder Creek, Phase I property. This right shall include, but is not limited to, altering swales, installing drains, drainage ditches, pipes, inlets, headwalls and altering channeling or piping water flow across any Lot or any property in Felder Creek, Phase I. Rights exercised pursuant to this reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of the affected property, reasonable steps shall be taken to protect such property and damage shall be repaired by the Person causing the damage at its sole expense.
- 10.4 Easement for Entry. In addition to the other rights reserved to Declarant and the Association, the Declarant or the Association shall have the right (but not the obligation) to enter upon any property or Lot within Felder Creek, Phase I for emergency, security and safety reasons. This right may be exercised by the Declarant or its designee, any officer of the Board and all governmental employees, policemen, firemen, ambulance

personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition in the event an Owner or Occupant fails or refuses to cure the condition upon request by the Board.

10.5 Easement for Maintenance. Declarant hereby expressly reserves a perpetual easement for the benefit of the Declarant or the Association across such portions of Felder Creek, Phase I, determined in the sole discretion of the Declarant and the Association, as is necessary to allow for the maintenance required by this Declaration. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of the affected property, reasonable steps shall be taken to protect such property and damage shall be repaired by the Person causing the damage at its sole expense.

10.6 Easement for Entry Features. There is hereby reserved to Declarant and the Association an easement for ingress, egress, installation, construction, landscaping and maintenance of entry features and similar streetscapes for Felder Creek, Phase I, over and upon each Lot as more fully described on the recorded subdivision plats for Felder Creek, Phase I. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around such entry features and the right to grade the land under and around such entry features.

10.7 Construction and Sale Period Easement. Notwithstanding any provisions contained in the Declaration, the Bylaws, Articles of Incorporation, use restrictions, rules and regulations, design guidelines and any amendments thereto, until Declarant's right unilaterally to subject property to this Declaration terminates and thereafter so long as Declarant owns any property in Felder Creek, Phase I for development and or sale, Declarant reserves an easement across Felder Creek, Phase I for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of Felder Creek, Phase I as Declarant may reasonably deem necessary. This reserved easement shall include an easement for such facilities and activities which, in the sole opinion of Declarant may be required, convenient or incidental to the development, construction and sales activities related to property within or near Felder Creek, Phase I. This easement shall include without limitation:

10.7.1 the right of access, ingress, and egress for vehicular and pedestrian traffic and construction activities over, under, on or in any portion of Felder Creek, Phase I as well as any Lot in Felder Creek, Phase I;

10.7.2 the right to ties into or otherwise connect and use (without a tap-on or any other fee for doing so) replace, relocate, maintain and repair any device which provides utility or similar services;

10.7.3 the right to carry on sales and promotional activities in Felder Creek, Phase I;

10.7.4 the right to place direction and marketing signs on any portion of Felder Creek, Phase I, including any Lot or Common Property;

10.7.5 the right to construct and operate business offices, signs, construction trailers, model residences and sales offices incidental to the construction, development and sales activities;

10.7.5.1 Lot Owners and Occupants may use a trailer for commercial purposes only during the construction phase of a Dwelling on any Lot with the express consent of Declarant.

10.7.6 Declarant and any builder or developer authorized by Declarant may use residences, offices or other buildings owned or leased by Declarant or such builder or developer as model residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of the affected property, reasonable steps shall be taken to protect such property and damage shall be repaired by the Person causing the damage at its sole expense. This Section shall not be amended



without the Declarant's express written consent until the Declarant's rights hereunder have terminated as provided in this Declaration.

- 10.8 Irrigation Easements. There is hereby reserved to the Declarant and the Association a blanket easement to pump water from ponds, lakes and other bodies of water located within Felder Creek, Phase I for irrigation purposes.
- 10.9 Fence Easement. Declarant hereby reserves an easement across any Lot which borders upon or contains a portion of any water facility detention pond or retention pond for the purpose of access to such facility or pond and for the purpose of erecting any fence which is either required by the subdivision development and construction plans or governmental regulation, rule or ordinance or plan approval requirement.

## SECTION 11 GENERAL PROVISIONS

- 11.1 Enforcement. Each Owner and Occupant shall comply strictly with the Bylaws, the rules and regulations, the use restrictions as they may be lawfully amended or modified from time to time and with the covenants, conditions and restrictions set forth in this Declaration. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed as a waiver of the right to do so hereafter. The Board shall have the right to record in the appropriate land records a notice of a lien, a notice of a violation of the Declaration, Bylaws rules and regulations or use restrictions and to assess the cost of legal fees and of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.
- 11.2 Self-Help. In addition to other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon any Lot or any other portion of Felder Creek, Phase I to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days written notice of its intent to exercise self-help. Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorneys' fees shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.
- 11.3 Condemnation. In the event of taking by eminent domain of any portion of the Common Property on which improvements have been constructed then unless within sixty (60) days after such taking, at least seventy-five percent (75%) of the Total Association Vote shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included on the Common Property to the extent lands are available thereon. The provisions of this Declaration applicable to Common Property improvements damage shall govern replacement or restoration and the action taken in the event that the improvements are not restored or replaced.
- 11.4 Duration. The covenants and restrictions of this Declaration shall run with and bind the Property of Felder Creek, Phase I and shall inure to the benefit of and shall be enforceable by Declarant, the Association or any Owner, their respective legal representatives, heirs, successors and assigns for a period of thirty (30) years from the date of execution hereof. If South Carolina law limits the period during which covenants restricting lands to certain uses may run, any provision of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provision shall be automatically extended for successive periods of ten (10) years unless a written instrument reflecting disapproval signed by the then Owners of one-half (1/2) of the Lots and Declarant (if the Declarant still owns any property in Felder Creek, Phase I or has the right to annex additional property) is recorded within the year immediately preceding the beginning of a ten (10) year renewal period.

- 11.5 **Amendment.** This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, HUD, the VA or Federal Home loan Mortgage Corporation to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration, or (d) if such amendment is necessary to enable any governmental agency or private insurance company to insure or guarantee Mortgage Loans on the Lots subject to this Declaration; provided however, any such amendment shall not adversely affect the title to any Owner's Lot unless such Lot Owner shall consent in writing. Further, so long as Declarant has the right to unilaterally subject additional property to this Declaration, Declarant may unilaterally amend this Declaration for any other purpose; provided however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owners hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended:

- 11.5.1 for so long as the Declarant owns any property in Felder Creek, Phase I, with the affirmative written consent of the Declarant and upon the affirmative vote or written consent, or any combination thereof, of the Owners of at least one-half (1/2) of the Lots;
- 11.5.2 if the Declarant no longer owns any property in Felder Creek, Phase I, upon the affirmative vote or written consent or any combination thereof of the owners of at least one-half (1/2) of the Lots.
- 11.6 **Perpetuities.** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the now living descendants of George W. Bush.
- 11.7 **Indemnification.** To the fullest extent allowed by applicable South Carolina law, the Association shall indemnify every Officer of the Association and director of the Association against any and all expenses, including but not limited to attorneys' fees imposed upon or reasonably incurred by any officer or director in connection with any action, suit or other proceeding to which such officer or director may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director or former officer or director may be entitled. This indemnification shall also include attorneys' fees and expenses incurred in enforcing this indemnification. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such coverage is reasonably available.
- 11.9 **Books and Records.**
- 11.9.1 **Inspection by Members and Mortgagees.** This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by Declarant or any member of the Association or by the duly appointed representative of any member and by holders, insurers or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to such Person's interest as a member or holder, insurer or

guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

**11.9.2 Rules for Inspection.** The Board shall establish reasonable rules with respect to:

(1) notice to be given to the custodian of the records; (2) hours and days of the week when such an inspection may be made, and (3) payment of the cost of reproducing copies of the documents.

**11.9.3 Inspection by Directors.** Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extra copies of the documents at the reasonable expense of the Association.

**11.10 Financial Review.** A review of the books and records of the Association shall be made annually in the manner as the Board may decide; provided however, after having received the Board's financial statements at their annual meeting, by a majority of the Total Association Vote, the Owners may require that the accounts of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all necessary costs, such holder shall be entitled to receive a copy of audited financial statements within ninety (90) days of the date of request.

**11.11 Notice of Sale, Lease or Acquisition.** In the event an Owner sells or leases such Owner's Lot, the Owner shall give to the Association, in writing, prior to the effective date of such sale or lease the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require. Upon acquisition of a Lot each new Owner shall give the Association, in writing, the name and mailing address of the Owner and such other information as the Board may reasonably require.

**11.12 Agreements.** Subject to the prior approval of Declarant (so long as Declarant owns any property for development or sale in Felder Creek, Phase I or has the right to unilaterally annex additional property to Felder Creek, Phase I) all agreements and determinations including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in Felder Creek, Phase I or the privilege of possession and enjoyment of any part of Felder Creek, Phase I.

**11.13 Implied Rights.** The Association may exercise any right or privilege given it expressly by the Declaration, the Bylaws, the Articles of Incorporation any use restriction or rule and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

**11.14 Gender and Grammar.** The singular wherever used herein, shall be construed to mean the plural, when applicable and the use of the masculine pronoun shall include the neuter and the feminine.

**11.15 Severability.** Wherever possible, each provision of this Declaration shall be interpreted in such a manner as to be effective and valid, but if the application of any provision which can be given effect without the invalid provision or the application, and to this end, the provisions of this Declaration are declared to be severable.

**11.16 Captions.** The captions are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article or Section to which they refer.

**11.17 Amendment**

IN WITNESS WHEREOF, the Declarant herein, hereby executes this instrument under seal this 8th day of July, 2005.

## DECLARANT:

William W. Sheavoy, Jr.  
Witness

Donnie B. Malphrus  
DONNIE B. MALPHRUS

Peggy A. Kreinest  
Witness

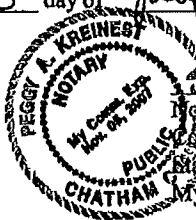
STATE OF Georgia  
COUNTY OF Chatham

PROBATE

Personally appeared before me William W. Sheavoy, Jr. the undersigned witness and made oath that he/she saw Donnie Malphrus, the Declarant of Felder Creek, Phase I Subdivision, sign, seal, and as his act and deed, deliver the within written Declaration of Covenants, Conditions, and Restrictions For Felder Creek, Phase I and that he/she with Peggy A. Kreinest, the undersigned notary witnessed the execution thereof.

William W. Sheavoy, Jr.  
1<sup>st</sup> Witness

Sworn to before me this 8th day of July, 2005.



Peggy A. Kreinest  
Notary Public  
County of Chatham  
State of Georgia  
My Commission expires: 11/4/07