

GENERAL AND SPECIFIC BY-LAWS
FOR THE
EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC.

Drafted For The Emanuel Creek Homeowners Association, Inc., By:

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ARTICLE I DEFINITIONS

When used in this Declaration or any Supplemental Declaration, unless the context dictates otherwise, the following words shall have the following meanings, and all definitions shall be applicable to the singular and plural forms of any such term(s):

Section 1.1. “Additional Property” or “Added Property” shall mean and refer to any real or personal property, whether now or hereafter owned by Declarant, that is made subject to this Declaration as provided in Article II herein.

Section 1.2. “Architectural Review Committee” or “Architectural Review Board” shall mean and refer to such board or committee as may be established pursuant to this Declaration by Declarant or the Officers of the Association for the purpose of approving exterior, aesthetic, and structural improvements, additions, and changes within the development.

Section 1.3. “Articles of Incorporation” shall mean and refer to the Articles of Incorporation of EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC., as amended from time to time, filed in the Office of the Secretary of State of South Carolina in accordance with the Nonprofit Corporation Act.

Section 1.4. “Assessment” shall mean and refer to an Owner’s share of Common Expenses or other charges from time to time assessed against an Owner by Association in the manner herein provided and shall include “General Assessments” and “Special Assessments” as provided in Article VI.

Section 1.5. “Association” shall mean and refer to EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC., South Carolina nonprofit corporation, its successors and assigns.

Section 1.6. “Board” or “Officers of the Association” shall mean and refer to the Officers of the Association of EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC.,

Section 1.7. “Bylaws” shall mean and refer to these Bylaws, which may be amended from time to time.

Section 1.8. “Common Area” or “Common Areas” shall mean all real and personal property, now or hereafter owned or used by Association, for the common use and enjoyment of the owners and designated as common area by Declarant, or designated as common area, or similar wording clearly indicating such intent, on any recorded plat of the property, or any portion thereof, approved by Declarant. The common areas, to the extent the same are constructed, may include, but are not limited to, the areas of land shown on any subdivision plat of the properties as common in nature, sidewalks, walkways not contained within a Lot, signage, Tree Preservation Area, and such maintenance and drainage areas that are located within the

property and not maintained by public authority. The designation of any property as common area shall not mean or imply that the public at large acquires any easement of use or enjoyment therein.

Section 1.9. “Common Expenses” shall mean and include all liabilities or expenditures, actual or estimated, made or incurred by or on behalf of Association, together with all funds necessary for the creation or maintenance of financial, equipment or capital improvement reserves, consistent with the provisions of this Declaration, the Bylaws, and the Articles of Incorporation.

Section 1.10. “Declarant” shall mean and refer to EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC., whose decisions are binding upon the remaining individuals.

Section 1.11. “Designee” shall mean and refer to EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC., a corporation organized and existing under the laws of the State of South Carolina, its successors and assigns, or any person, firm or corporation designated as a successor designee by a recorded Supplemental Declaration. Any person, firm or corporation designated as a successor Declarant shall be entitled to exercise all rights and powers conferred upon Designee by this Declaration, the Articles of Incorporation, or the Bylaws of Association. This definition shall not include the purchaser, Owner or mortgagee of any Lot.

Section 1.12. “Declaration” means the Declaration of Covenants, Conditions, Restrictions, Reservations, and Easements for Emanuel Creek Subdivision, said Declaration being originally filed with the Lexington County ROD Office on April 15, 2010, in Book 14190 at Page 250, as well as all amendments and Supplemental Declarations thereto, filed for record from time to time in the Office of the Register of Deeds for Lexington County, South Carolina.

Section 1.13. “Lot” shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, together with the improvements thereon, if any, which may be independently owned and is intended for development, use, and occupancy as a single family residence. This term shall exclude Common Areas.

Section 1.14. “Member” or “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any lot which is a part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.15. “Property” or “Properties” shall mean and refer to that certain real property, together with any improvements thereon, described in Exhibit “A” attached hereto and incorporated herein by reference, and any Added Property or Additional Property as may hereafter be made subject to this Declaration.

Section 1.16. “Residence” or “Dwelling” shall mean and refer to any portion of a building or structure situated upon a Lot designed and intended for use and occupancy as a residence by a single family as herein provided.

Section 1.17. “Site Plan” or “Subdivision Plat” shall mean and refer to that certain subdivision plat entitled, “FINAL SUBDIVISION PLAT PREPARED FOR EMANUEL CREEK SUBDIVISION. Further, “Site Plan” or “Subdivision Plat” shall mean and refer to any recorded subdivision plat for any Additional Property subsequently made subject to this Declaration in furtherance of the development scheme for Emanuel Creek Subdivision, as it exists from time to time.

Section 1.18. “Supplemental Declaration” shall mean and refer to an instrument recorded in the Office of the Register of Deeds for Lexington County which subjects Additional Property to this Declaration pursuant to Article II and/or imposes additional restrictions or obligations on the land described in such instrument.

ARTICLE II **PLAN OF DEVELOPMENT**

Section 2.1. Plan of Development. The development initially consists of those lots as shown on the FINAL SUBDIVISION PLAT PREPARED FOR EMANUEL CREEK SUBDIVISION, upon each of which one Dwelling may be constructed, and such Common Areas as may be existing or subsequently installed. Declarant reserves the right to plan, design, develop, construct, maintain and manage Common Areas and any unsold Lot(s) as Declarant deems necessary or convenient for its purposes, including, without limitation, the right to expand or contract the number, size, density and boundaries of any unsold Lot and to enlarge, expand, or construct additional improvements upon Common Areas. Declarant further reserves the right to submit at any time, or from time to time, Additional Property to the terms of this Declaration, including additional Common Areas, and thereby to cause such Additional Property to become part of the property in accordance with the provisions set forth herein.

Section 2.2. Additions by Declarant. Declarant shall have the right, without further consent of Association or any Owner, to bring within the plan and operation of this Declaration the whole or any portion of any property contiguous or nearly contiguous to the Property and whether or not owned by Declarant. Such land may be subjected to this Declaration as one parcel or as several smaller parcels at different times. The additions authorized under this subsection shall be made by filing a Supplemental Declaration in the Office of the Register of Deeds for Lexington County, South Carolina with respect to the land to be added hereto. The Supplemental Declaration may contain such additions or modifications of the covenants and restrictions contained in this Declaration as are not materially inconsistent with this Declaration, as may be necessary or convenient, in the sole judgment of Declarant, to reflect the different character, if any, of the land added hereto, provided, however, that such modifications shall have no effect on the property described in Exhibit “A” attached hereto. This option may be exercised by Declarant only by the execution and filing of a Supplemental Declaration and the filing of record of a plat showing the land being added or such portion thereof as is being added to the Property.

Section 2.3. Additions of Other Property. Upon approval by two-thirds (2/3rds) of the votes of Members present, in person or by proxy, at a duly noticed and held meeting at which a

quorum is present, the owner of any land contiguous or nearly contiguous to the Property, and who desires to add it to the plan of this Declaration and to subject it to the jurisdiction of Association, may file of record a Supplemental Declaration with respect to the land to be added, which will extend the operation and effect of the covenants and restrictions of this Declaration to such land, thereafter constituting part of the Property. Any such Member approval shall be reflected in a consent to such Supplemental Declaration executed by the President of Association. Notwithstanding this provision, it is specifically acknowledged and understood that there will be additional properties added to the Association when additional phases of the Emanuel Creek Subdivision are complete, and the Association hereby specifically acknowledges, stipulates, and agrees that additional phases of Emanuel Creek shall be added to the Association as builders and developers of additional phases request, and there shall be no recourse, limitation to, or other denial to builders or developers to add additional phases of Emanuel Creek to the Association.

Section 2.4. Conveyance of Common Area. All parcels of land shown as Common Areas on the Site Plan or which are identified herein as Common Areas and require a conveyance to vest in Association ownership and use thereof, will be deeded or an easement will be granted with respect thereto, free and clear of all liens and encumbrances, by Declarant to Association no later than sixty (60) days after Declarant has completed improvements thereon. Upon any such conveyance or grant of easement, if such is required, or upon completion of any improvements thereon by Declarant, Association shall become responsible for the maintenance, repair, replacement, and operation of Common Area and for such additional construction of improvements to Common Area as may be authorized by the Board. For the purpose of establishing the time of completion of the improvements, any improvement will be deemed completed the later of the date all required permits of occupancy or use are issued therefore, or the date such improvements may be used in the manner and for the purposes for which they are constructed. Any such conveyance by Declarant will be conveyed subject to:

- a. All restrictive covenants filed of record at the time of conveyance;
- b. The right of access of Declarant, its successors and assigns, over and across such Common Areas;
- c. The right of Declarant, so long as Declarant retains any interest in the Property, or the Board, after Declarant's interest in the Property ceases, to approve all structures, construction, elevation, topography and location of any object or improvement, including vegetation, within Common Areas;
- d. All utilities and drainage easements;
- e. All reserved rights set forth in Section 2.1. and
- f. A non-modifiable requirement by Association to preserve and enhance the property values and amenities of EMANUEL CREEK SUBDIVISION, the common areas and all facilities now or hereafter built or installed thereon by maintaining the Common Areas in good repair and condition and in accordance with high standards including, but not limited to,

repair of damage to pavements, roadways, walkways and sidewalks, outdoor lighting, buildings, if any, recreational equipment, if any, fences, storm drains, and sewer and water lines, connections, and appurtenances, except such responsibilities as are accepted by responsible parties, and only for so long as they property perform.

Section 2.5. Acceptance by Association. In consideration of the benefits accruing to Association and Members under this Declaration, and in consideration of the covenants and agreements of the Declarant hereunder, Association hereby agrees to accept title to any property, or to any interest in property, now or hereafter conveyed to it pursuant to the terms and conditions of this Declaration. Upon the due recording of a deed, easement, or other instrument of conveyance of record to Association, title or such other interest in Common Areas conveyed will vest in and to Association without the necessity of any further act, deed or approval of any person, including the Board.

ARTICLE III **PROPERTY RIGHTS**

Section 3.1. General Rights of Owners. Each lot and dwelling will, for all purposes, constitute real property which will be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred, and encumbered the same as any other real property. Each Owner will be entitled to the exclusive ownership and possession of his property, subject to the provisions of this Declaration, including without limitation, the provisions of this Article III. If any chutes, flues, ducts, conduits, wires, pipes, plumbing, or any other apparatus or facilities for the furnishing of utilities or other services or for the provision of support to any lot or dwelling lie partially within and partially outside of the designated boundaries of the lot, any portions thereof which serve only such property will be deemed to be a part thereof, and any portions thereof which serve more than one such lot or dwelling or any portion of Common Areas will be deemed to be a part of Common Areas. The ownership of each property subject to this Declaration will include, and there will pass with each property as an appurtenance thereto, whether or not separately described, all of the right and interest in and to Common Areas as established hereunder, and the limitations applicable, which will include, but not be limited to, membership in Association. Each owner will automatically become a member of Association and will remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in Association will automatically pass to his success-in-title to his property.

Section 3.2. Streets and Roads. All streets and roads within the subdivision have been constructed by or under the direction of Declarant in accordance with the standards and specifications required by the County of Lexington. The County of Lexington has approved or will approve, and has accepted or will accept said streets and roads and has or will agree to maintain the same upon the conveyance or dedication thereof to the County.

Section 3.3. Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees, and charges from time to time established by the Board in accordance with the Bylaws and the terms hereof, every Owner shall have a nonexclusive right, privilege, and easement of use and enjoyment in, to, over, and through

Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

a. The right of Declarant or Association to charge reasonable fees for the maintenance of Common Areas and any improvements situated upon Common Areas;

b. The right of Declarant and of Association to dedicate, transfer, or convey, all or any part of Common Areas, with or without any consideration, to any governmental body, district, agency, authority, or to any utility company, provided that no such dedication, transfer, or conveyance shall adversely affect the use of Common Areas by Members of Association;

c. The rights and easements specifically reserved to Declarant and to Association in this Declaration;

d. The right of Declarant and of Association to grant and reserve easements and right-of-ways, through, under, over and across the Lots and Common Areas for the installation, maintenance, and inspection of lines and appurtenances for public and private water, sewer, drainage, fuel oil and other utilities and services, including a cable television system and irrigation or lawn sprinkler systems, and the right of Declarant to grant and reserve easements and right-of-ways through, over and upon, and across Common Areas for the operation and maintenance of Common Areas;

e. The right of Association, in accordance with Article VI herein to levy and access fines for an infraction of its published rules and regulations or to suspend, after notice and hearing before the Board, the voting rights and right to use of any available recreational facilities, if any, by an owner, his family, guests, invitees or tenants for a period not to exceed one hundred eighty (180) days, however, the right of an owner to ingress and egress over all streets, roads or parking areas, if any, shall not be suspended;

f. The right of Association, in accordance with the Articles of Incorporation and Bylaws, to borrow money for the purpose of improving or repairing Common Areas and to execute and deliver a mortgage on Common Areas, provided, however, that a decision to borrow money and deliver a mortgage must be approved by two-thirds (2/3) of each class of Members;

g. The right of an Owner to have an easement under, over, and across the portion of an adjacent lot that lies between the property line of Owner and the solid wall, if any, of the adjacent owners lot;

h. The right of Declarant, so long as it owns any Lot, to place promotional signs and literature in Common Areas; and

i. The right of Association to enact rules and regulations to govern the use of Common Areas.

Section 3.4. Delegation of Use. After prior written approval by the Board, an Owner may delegate, in accordance with the Bylaws, his rights of enjoyment to Common Areas and facilities to the members of his family who reside on the Lot, his tenants, or contract purchasers.

Section 3.5. Additional Structures. Neither Association nor any Owner shall, without the prior written approval of Declarant or the Officers of the Association, erect, construct, or otherwise locate any structure or other improvement in Common Areas.

Section 3.6. Changes in Boundaries: Additions to Common Areas. Without the consent of any person, Declarant shall have the right, but not the obligation, until such time as Common Areas have been conveyed to Association in accordance with Section 2.4 herein, to make improvements and changes to all Common Areas and to all such property owned by Declarant, including, without limitation, (a) installation and maintenance of any improvements, (b) changes in the location of the boundaries of any such properties owned by Declarant, and (c) installation and maintenance of any water, sewer, and other utility systems and facilities in connection therewith. Declarant expressly reserves the right to change and realign the boundaries of Common Areas and any Lots between such adjacent properties owned by Declarant, provided that any such change will not materially decrease the acreage of Common Areas and will be evidenced by a revision of or an addition to the Site Plan which will be recorded in the Office of the Register of Deeds for Lexington County, South Carolina.

ARTICLE IV **EASEMENTS**

Section 4.1. Construction. There is hereby reserved for the benefit of Declarant, any Builder, its successors and/or assigns, so long as Declarant and/or Builder shall be engaged in the construction, development, or sale of Lots within the Property, a nonexclusive easement in, upon, over, under, through, and across Common Areas, property of South Carolina Electric & Gas Company, and each Lot, which easement shall be for the purposes of construction, installation, maintenance, and repair of existing and future structures and appurtenances thereto, for ingress and egress to all Lots, and for the use of all roadways, driveways, parking areas, sidewalks, model homes, and Common Areas for sales promotion and exhibition.

Section 4.2. Utilities. A non-exclusive easement is hereby reserved unto Declarant and granted to utility companies, private water and sewer companies, cable television companies, private garbage collectors and public agencies in, upon, under, through, and across the Lots and Common Areas for the purposes of installation, maintenance, repair, and replacement of (a) all sewer, water, power and telephone, pipes, lines, mains, conduit, poles, transformers, or television facilities and any and all other equipment or machinery necessary or incidental to the proper functioning of any utilities system, whether public or private, serving the property; or (b) any other improvements thereto, including the rights of ingress and egress, which easement shall be for the benefit of (i) Declarant, its successors and assigns, or Designee so long as it shall be engaged in any construction, development or sale of lots within the property; and (ii) Association on a perpetual basis in connection with the proper discharge of its responsibilities incurred under the terms of this Declaration with respect to the Lots or Common Areas. The specified utilities

have a right to charge Association or each Lot Owner a pro-rata charge for such utilities such as lighting on streets, as those charges are approved by local utility regulatory authorities.

Section 4.3. Municipal Water and Sewer Policy. Without limiting the generality of the foregoing Section 4.2, all Lots in EMANUEL CREEK SUBDIVISION shall be provided municipal water and sewer service by the appropriate water service provider (hereinafter "Municipality"), said entity being the regional service provider. The Subdivision water and sewer systems shall be owned and operated by the Municipality. Municipality, its agents, successors, or assigns, shall have the right of access to all portions of the municipal water and sewer systems located within Subdivision, in accordance with easements reserved by Declarant herein, and as shown on all recorded plats. The Owner of each Lot shall be subject to all sewer charges assessed upon Subdivision by Ordinance and by contract between Declarant and Municipality, including uniform "Sewer Availability Fees" assessed upon each unimproved platted lot, and "Water and Sewer User Fees" assessed upon each improved lot upon issuance of a Building Permit. Such charges shall constitute a lien upon the property assessed, and such lien shall be superior to all other liens except liens for unpaid property taxes, as authorized by statute. And the Municipality reserves the right to refuse or terminate water and sewer service to a Lot for failure of Owner to pay the fees and charges as set by Municipality.

Section 4.4. Ingress and Egress. Declarant hereby grants every Owner a perpetual, non-exclusive easement for ingress and egress to his Lot in, upon, under, through, and across Common Areas as may be reasonably required for such ingress and egress.

Section 4.5. Mutual Easements. Declarant hereby grants every Owner a perpetual, non-exclusive easement to use and maintain all pipes, wires, ducts, cables, conduits, utility lines, drainage lines, water lines, and other common facilities located on any portion of the property that serve the Lot of an individual Owner. Declarant further reserves, for the benefit of itself and Association, the right of access to each Lot to inspect same in order to correct any conditions threatening another Lot or to correct the violation of any provision set forth in this Declaration, the Bylaws, or in any rules and regulations promulgated by Association, provided, however, that a request for entry is made in advance and that any such entry is at a time reasonably convenient to Owner. In case of an emergency, such right of entry shall be immediate whether Owner is present at the time or not.

Section 4.6. Drainage. Declarant hereby reserves unto itself, and grants to Association and all lot Owners, a perpetual, non-exclusive easement in common in, upon, over, under, across, and through the Lots and Common Areas for surface water runoff, water runoff from roofs, and drainage caused by natural forces and elements, grading or improvements located upon the Lots and Common Areas. No owner shall directly or indirectly interfere with or alter the drainage and runoff patterns and systems within the property. Due diligence shall be exercised by each lot Owner to insure that surface water drainage is controlled and that no damage is caused to an adjoining Lot or Common Area.

Section 4.7. Use of Easement. Subject to all of the other conditions, covenants and restrictions contained in this Declaration, each Owner shall have the right to use the portion of his Lot subject to any easement in any manner not inconsistent with the purposes for which such

easement is reserved or granted. Except as stated to the contrary in this Declaration, Owner shall continuously maintain the area within such easement and all improvements within the bounds, except for such improvements for which a public authority or public utility is or may become responsible for maintenance.

Section 4.8. Emergency Access. There is hereby granted to Association, its directors, officers, agents and employees and to any manager employed by Association as provided for herein, and to all policemen, firemen, ambulance personnel and all similar personnel an easement to enter upon the property of any part thereof in the proper performance of their respective duties. Except in the event of emergencies, the rights hereunder shall be exercised only during reasonable daylight hours, and then, whenever practicable, only after advance notice to the Owner or Owners affected thereby. The rights granted herein to Association include reasonable right of entry upon any Lot to make emergency repairs and to do other work reasonably necessary for the proper maintenance and operation of the properties.

ARTICLE V **THE ASSOCIATION AND ITS MEMBERS**

Section 5.1. Function of Association. Association is the entity responsible for management, maintenance, operation and control of Common Areas. Association is also the primary entity responsible for enforcing the Declaration and Bylaws. Association shall perform its duties and functions in accordance with this Declaration, the Bylaws, and South Carolina law.

Section 5.2. Officers of the Association. The Board shall govern Association as more particularly described in the Bylaws. Except as to matters specifically requiring Members' approval as set forth in this Declaration, the Bylaws, or by law, the Board may exercise all rights and powers granted to Association without membership approval.

Section 5.3. Membership. Every Owner, including Declarant and Builder, of a lot which is subject to this Declaration shall be a Member of Association and the membership shall be appurtenant to and may not be separated from ownership of any Lot, provided, however, that any person or entity that holds an interest merely as security for the performance of an obligation shall not be a member.

Section 5.4. Voting Rights. Association shall have two classes of voting membership:

a. Class A. Class A members shall be all those Owners as defined in Article I, Section 1.14, with the exception of Declarant. Class A members shall be entitled to one vote for each Lot in which they hold an interest required for membership hereunder. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised in any manner they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

b. Class B. The Class B member shall be Builder. The Class B member shall be entitled to four votes for each Lot in which it holds the interest required for membership

hereunder, provided that the Class B membership shall cease and be converted to Class A membership, on the happening of any of the following events whichever occurs earlier:

(1) Twelve months after the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or

(2) Ninety (90) Days expire after the Builder sells the last home or town home in the Property.

From and after the happening of these events, whichever occurs earlier, a Class B member shall be deemed to be a Class A member entitled to one vote for each Lot in which it holds the interest required for membership hereunder.

ARTICLE VI **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 6.1. Creation of the Lien and Personal Obligations of Assessments. Declarant, Builder and Owner, for each Lot owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to Association (a) General Assessments and charges to meet Common Expenses; and (b) Special Assessments for capital improvements. Such Assessments shall be fixed, established and collected from time to time as hereinafter provided. Any such General and Special Assessments, together with late charges, interest at a rate established from time to time by the Board, and court costs and attorney's fees incurred to enforce or collect such Assessments, will be an equitable charge and continuing lien upon the Lot of Owner thereof who is responsible for payment. Each such Assessment, together with such charges, interest, costs, and attorney's fees, shall also be the personal obligation of the person who was Owner of such Lot when the Assessment fell due. In the case of co-ownership, all such Owners shall be jointly and severally liable for the entire amount of the Assessment.

Section 6.2. Purpose of General Assessments. The General Assessments levied by Association shall be used for the purposes of promoting the recreation, health, safety, and welfare of the residents of the Property and, in particular, for the administration, acquisition, improvement and maintenance of Common Areas, services and facilities devoted to this purpose and related to the use and enjoyment of Common Areas. Common Expenses to be funded by the General Assessments may include, but are not limited to: (a) the cost of public and private utilities serving Common Areas; (b) the cost of maintaining any property operated by Association under a lease or permit; (c) the repair and replacement of roads within the Property if not maintained by the County of Lexington; (d) the cost of insurance, labor, materials, management, maintenance and supervision; (e) the payment of any taxes assessed against Common Areas and on any property owned or leased by Association; (f) the repair and maintenance of any improvements to Common Areas, including, without limitation, fences, front entry-exit security gates, sidewalks, street lights, irrigation systems, and landscaping; (g) the employment of an attorney to represent Association when necessary; and (h) maintenance of an adequate reserve fund.

Section 6.3. Amount of General Assessments. The initial, annual General Assessments for the calendar year 2013 shall be Two-Hundred-Twenty and No/100 (\$200.00) Dollars per Lot per year. The General Assessments shall commence as to a Lot as set forth in Section 6.7 herein, and shall be due and payable on the 1st of each year unless changed in accordance with this Declaration or unless changed by the Declarant in writing. Builder, or the Officers of the Association if Builder shall no longer have a controlling interest in Association, shall have the right to establish a payment schedule on any basis it deems suitable, provided, however, that payment in full is made by April 30 of each year. All Assessments due to Association shall be prorated as may be required.

a. Thereafter, for each calendar year or portion thereof, the General Assessments shall be established by the Board and may be increased annually by the Board without approval of the Members in an amount not to exceed fifteen (15%) percent of the annual General Assessments of the previous year.

b. The General Assessments may be increased above fifteen (15%) percent of the amount of the previous year by a vote of two-thirds ($2/3^{\text{rds}}$) of votes of each class of Members who are voting in person or by proxy at a meeting duly called and noticed for this purpose.

c. The Board shall, in connection with the fixing of the General Assessments, prepare, or cause to be prepared, an annual budget showing the services furnished by Association and the cost thereof per Lot.

d. The Board shall, in connection with the fixing of the General Assessments, include an adequate reserve fund for maintenance, repair and replacement of those elements of Common Areas that must be replaced or maintained on a periodic basis.

Section 6.4. Special Assessments For Capital Improvements. In addition to the General Assessments authorized hereinabove, Association may levy, in any assessment year, a Special Assessment for that year for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a capital improvement upon Common Areas, including fixtures and personal property related thereto, provided that any such Assessments shall have the consent of two-thirds ($2/3^{\text{rds}}$) of votes of each class of Members who are voting in person or by proxy at a meeting duly called and noticed for this purpose.

Section 6.5. Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under Section 6.3 or 6.4 above, shall be sent to all Members not less than twenty (20) days nor more than sixty (60) days in advance of the meeting. At such meeting called, the presence of Members or proxies entitled to cast fifty (50%) percent of all votes of each class of membership that could vote on the particular action shall constitute a quorum. If the required quorum is not present, another meeting may be called, subject to the same notice requirement, and the required quorum for the subsequent meeting shall be the presence of members or proxies entitled to cast at least twenty-five (25%) percent of all votes. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.6. Uniform Rate of Assessment. Assessments, general and special, must be fixed at a uniform rate for all Lots to which the particular Assessment applies and may be collected on a yearly basis, or any other basis approved by Declarant or the Officers of the Association.

Section 6.7. Commencement of General Assessments and Due Dates. The General Assessments shall be based on a calendar year and shall be due and payable on the first of each month unless another date is established by Builder and Declarant together or the Officers of the Association. The General Assessments shall commence as to each Lot upon the conveyance of such Lot by Builder to an Owner and the completion of the construction of a Dwelling thereon. For purposes of this Section 6.7, a Dwelling shall be deemed to be complete upon the issuance of a certificate of occupancy for such Dwelling or when such Dwelling is occupied, whichever shall first occur. The initial General Assessment shall be prorated according to the number of days remaining in the year. Except for the initial General Assessment, the amount of which is set in accordance with Section 6.3 herein, the Officers of the Association shall fix the amount of the General Assessment against each Lot at least thirty (30) days in advance of each general assessment. Written notice of the General Assessments shall be sent to every Owner subject thereto. Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of Association evidencing whether the Assessments on a specified Lot have been paid, including any late charges assessed. Notwithstanding the above, if Builder shall, upon completion of a dwelling as defined herein, lease or rent a dwelling for personal gain, Builder shall then, and only then, be responsible and liable for assessments as required herein.

Section 6.8. Effect of Nonpayment of Assessment. If any Assessments, general or special, are not paid within ten (10) days of the due date, then such Assessments shall become delinquent and shall bear interest at the rate of five (5%) percent per month after the due date. The cost of collection, including attorney's fees, shall be also be added to the amount due. Association may bring an action at law against Owner personally obligated to pay the same or foreclose the lien against the Lot and interests, costs, and attorney's fees of any such action shall be added to the amount of such Assessment. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of Common Areas or abandonment of his Lot.

Section 6.9. Subordination of the Lien to Mortgage. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage now existing or hereafter placed upon the Lot. No sale or transfer of any Lot shall void or affect the Assessment liens, nor relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, except that the holder of a first mortgage that acquires a Lot pursuant to mortgage foreclosure or any deed or other proceeding in lieu thereof, shall take title free of unpaid Assessments which have accrued prior to the time such holder takes title to the Lot.

Section 6.10. Exempt Property. The following property shall be exempt from the payment of the General and Special Assessments, charges, and liens created hereunder:

- a. Property conveyed to a public authority or governmental entity for the purpose of providing utilities to the property;
- b. Common Areas; and
- c. Unsubdivided land and lots not appearing on a governmentally approved and recorded plat of residential lots owned by Declarant.

Section 6.11. Effect of Nonpayment of Ad Valorem Taxes, Property Taxes or Assessments for Public Improvements by Association. Upon default by Association in payment to any governmental authority entitled thereto of any ad valorem taxes, or property taxes, or assessments for public improvement to the Common Areas, levied against or for the benefit of the Common Areas, which default shall continue for a period of six (6) months, each Owner of a Lot shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in EMANUEL CREEK SUBDIVISION. If such sum is not paid by an Owner within 30 days following receipt of notice of the amount due, by Association or any individual owner acting in the best interests of Association and with notice of default by Association, then such sum shall become a continuing lien on the Lot and the then Owner, his heirs, successors and/or assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

ARTICLE VII **ARCHITECTURAL REVIEW**

Section 7.1. Architectural Review Committee. Builder, or the Officers of the Association if Builder no longer has a controlling interest in Association, may establish and appoint an Architectural Review Committee to administer the architectural and aesthetic approval process for the development. If so established, the Architectural Review Committee shall consist of three (3) persons, who need not be Owners. The terms of office for each person so appointed and other matters of governance to be applicable to the Architectural Review Committee shall be established by Declarant or the Board. A person appointed by Declarant or the Board may be removed with or without cause by Declarant or the Board at any time by written notice to the appointee, and any successor appointed to fill the vacancy shall serve the remainder of the term of the person removed.

Section 7.2. Plan Approval. No building, dwelling, or other structure, including, but not limited to, garages, outbuildings, fences, fence-like structures, walls, or landscaping shall be commenced, erected, or maintained upon any Lot, nor shall any exterior addition to or change or alteration to any Lot or Dwelling be made, until an application for approval has been submitted to and approved in writing by Builder, the Officers of the Association, or the Architectural Review Committee (for the purposes of the Section the applicable entity being deemed the "Reviewer"). Such application shall include plans and specifications showing the site layout, exterior elevations, exterior materials and colors, landscaping, drainage, exterior lighting, and other features of proposed construction or modification, as applicable. The Reviewer shall make

a determination on each application within thirty (30) days after receipt of a completed application and all required information. The Reviewer may (i) approve the application, with or without conditions; (ii) approve a portion of the application and disapprove other portion; or (iii) disapprove the application. The Reviewer may, but is not obligated to, specify the reasons for any objections or offer suggestions for curing any objections. In reviewing each application, the Reviewer may consider any factors it deems relevant, including, without limitation, harmony of external design with surrounding structures and environment, and aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and do not constitute waiver or obligation to approve or disapprove requests of similar nature. No owner shall attempt to obtain a building permit without prior written approval for all dwelling plans and specifications, site plans, and landscaping plans from Declarant, the Officers of the Association, or the Architectural Review Committee.

Notwithstanding any other provisions contained herein regarding control, voting rights or the like, for so long as Builder owns at least one (1) vacant lot, Builder may approve or disapprove any plans and specifications for the construction of any structures on any lot provided the improvements are approved by the appropriate governmental regulatory authority. Such approval by Builder shall operate and have the same effect as approval by the Architectural Review Committee or the Officers of the Association.

Section 7.3. Procedures for Review. Builder, until such time as it does not own a vacant lot, or the Architectural Review Committee, upon approval by the Officers of the Association, may establish those procedures necessary and compliant with Article VII herein, to consider requests under the purview of the Architectural Review Committee. Those procedures may include, but not be limited to, materials that must be submitted and what those materials must contain, a reasonable fee charged by the Reviewer, the ability to employ outside professional services in an amount not to exceed the reasonable fee charged by the Reviewer, requirements as to maintenance of records by the Architectural Review Committee, and the time at which the Architectural Review Committee's approval will terminate.

Section 7.4. Liability. Neither Developer, Builder, nor any other member of the Architectural Review Committee, shall be responsible or liable in any way for the defects in any plans or specifications approved by the Architectural Review Committee, or Reviewer, nor for any structural defects in any work done according to such plans and specifications approved by the Architectural Review Committee, or Reviewer. Further, neither, Developer, Builder, Association, the Architectural Review Committee or their respective shareholders, directors, officers, agents, or attorneys shall be liable to anyone by reason of mistake in judgment, negligence, misfeasance, malfeasance or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans and specifications or the exercise or any other power or right of the Architectural Review Committee provided for in this Declaration. Every person who submits plans and specifications to the Architectural Review Committee for approval agrees, by submission of such plans and specifications, and every owner of any lot agrees, that he will not bring an action or suit against Developer, Builder, Association, its board members or officers, or any member of the Architectural Review Committee, to recover any such damages, and hereby releases, remises, quit claims, and covenants not to sue for all claims, demands, and causes of action arising out of or in connection with any law which

provides that a general release does not extend to claims, demands and causes of actions not known at the time the release is given.

ARTICLE VIII
CONSTRUCTION, DESIGN AND SETBACK REQUIREMENTS

Section 8.1. Minimum Square Footage and Construction. No Dwelling containing less than 1,550 square feet of heated space shall be erected on any Lot. Square footage described herein shall exclude any garage or unfinished basement or unfinished bonus room space. All Dwellings shall be "site-built" and no mobile home or modular homes shall be permitted on any Lot. In the event of the unintentional violation of the minimum square footage requirement set forth herein, Designee reserves the right to modify said minimum square footage requirement.

Section 8.2. Front, Rear, and Side Setback Lines. All front, rear, and side setback lines will be established on the Subdivision Plat. No portion of any Dwelling shall be located nearer than the setbacks as set forth on the subdivision plat filed with the appropriate county Register of Deeds. Designee expressly reserves the right to modify any setback requirement contained herein if deemed necessary or reasonable, in Designee's sole discretion, provided that said modification does not violate any applicable zoning or other governmental regulation.

For the purposes of determining compliance or noncompliance with the foregoing setback line requirements, terraces, stoops, wing-walls, eaves, and steps extending beyond the outside wall of a structure shall not be considered as a part of the structure. No side yard setback shall be required for any detached garage or accessory outbuilding which has been approved, in writing by the Architectural Review Committee; provided, all such detached structures must be to the rear of the main dwelling and must not encroach upon the Lot of an adjacent Owner.

Section 8.3. Fences or Walls. No fence or wall may be constructed, erected, installed or maintained on any Lot unless first approved in writing by Builder, the Board, or the Architectural Review Committee in accordance with Section 7.2 hereinabove. Notwithstanding the foregoing, no barbed wire or metal fencing of any type shall be permitted on or near the perimeter of any Lot except for interior yard pet fencing so long as all metal or wire is screened from view. No fence or wall shall be erected, placed or altered on any Lot nearer to any street than the minimum building setback line unless the same be a retaining wall of masonry construction which does not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced or stabilized, except that this restriction shall not apply to fences or walls which have been approved by the Architectural Review Committee pursuant Article VII. The exposed part of retaining walls shall be made of a clay brick, natural stone, stucco, or veneered with brick or natural stone, and the finished side of fences must be the side exposed to view by the public. Posts and braces shall be placed so that they are on the inside of the fence, and out of view of the public, except fences on outer perimeter of EMANUEL CREEK SUBDIVISION. Chain link fences are prohibited.

Section 8.4. Sidewalks. Sidewalks may be constructed throughout the subdivision.

Section 8.5. Delivery Receptacles, Mailboxes, and Property Identification Markers. All lot owners will be required to purchase and maintain a mailbox as selected by Builder. At such time as Builder no longer controls architectural design, the Board of Architectural Review Committee shall oversee approval of mailboxes.

Builder, the Board, or Architectural Review Committee shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similarly delivered materials and name signs for such receptacles, as well as property identification markers. All such receptacles and markers shall conform and be maintained specifically in accordance with the approved design. Any replacement shall be a replica from the supplier designated by the Builder, Board, or Architectural Review Committee.

Section 8.6. Cable Television and Home Security Systems. Cable television and home security systems will be available.

Section 8.7. Time Requirements for Commencement of Construction. If Builder conveys a lot to an Owner, construction of a dwelling must commence within one (1) year of the purchase of such Lot by an Owner. If construction is not commenced within one (1) year of purchase, the Owner of said Lot will be entitled to extend this requirement by payment to Association the sum of \$100.00 per month for a period of six months. If a further extension is required, the Owner shall pay the sum of \$200.00 per month to Association until such time as construction is commenced. Builder or the Board may waive the extension fee due to circumstances beyond the control of the Owner or if Builder or the Board determines that the payment of this fee is unfair to the Owner under the circumstances deemed appropriate by Builder or the Board.

Section 8.8. Trees and Vegetation. The clearing or removal of trees, unless dead, damaged, or diseased, shall be prohibited except for the purposes of erecting a Dwelling, or outbuilding, installing a driveway, or providing habitation for pets as approved in accordance with Section 7.2 hereinabove, or as otherwise approved by Designee or Board or Architectural Review Committee.

Section 8.9. Changing Elevations. No Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect surface grades of surrounding Lots, unless approved in writing by Builder, Board or Architectural Review Committee. With approval for any elevation change, Owner assumes all liability associated therewith, including damages to any adjacent lot Owner.

ARTICLE IX **COVENANTS, RESERVATIONS, AND USE RESTRICTIONS**

Section 9.1. Residential Use. No Lot shall be used except for private residential purposes of a single family, provided, however that nothing herein shall prevent Declarant or Builder, or its authorized agents, from using any Dwelling as a model or sales office. No building or structure shall be erected, altered, placed, or permitted to remain on any Lot other

than one single-family dwelling and an attached or detached garage and/or outbuilding as approved in accordance with Section 7.2.

Section 9.2. Business or Trade. No business or trade, or similar activity, may be conducted on a Lot or within a Dwelling by an Owner or occupant thereof unless: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling; (ii) the business activity conforms to all applicable zoning requirements or other governmental regulations; (iii) the business activity does not involve door-to-door solicitation of residents of EMANUEL CREEK SUBDIVISION; (iv) the business activity does not, in the Board's judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked within EMANUEL CREEK SUBDIVISION which is noticeable greater than that which is typical of Lots in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of EMANUEL CREEK SUBDIVISION and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents within the Community, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether; (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

Leasing of a Dwelling shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or Builder with respect to its development and sale of the Property.

Section 9.3. Nuisance. No noxious or offensive activity shall be carried on upon any Lot or Common Area, nor shall anything be done thereon which may be or become an annoyance to other Owners.

Section 9.4. Animals. No animals, livestock, reptiles, fowl or poultry of any kind shall be raised, kept, bred or maintained on any Lot or Common Area, except that a reasonable number of dogs, cats or other common household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes and are housed within the Dwelling or an accessory structure that has been approved by Builder, the Board, or the Architectural Review Committee, as applicable. Such household pets must not constitute a nuisance or cause unsanitary conditions. Incessant barking or howling of a dog that is clearly audible on another Lot, shall constitute a nuisance. Dogs shall be kept on a leash or otherwise confined in a manner acceptable to the Board whenever outside the Dwelling. Pets shall be registered, licensed, and inoculated as required by law.

Section 9.5. Outside Antennas. No outside radio or television antenna, reception towers of any kind, satellite dishes, or the like, shall be erected on any lot without the express written approval of Builder, or the Board, or Architectural Review Committee.

Section 9.6. Clotheslines. No clotheslines or other devices for drying clothes, sheets, blankets, laundry, or other articles shall be located upon any lot or Common Areas, nor shall anything be hung, painted, or displayed on the outside of the windows, walls, or surfaces of any of lots and improvements thereon except for those installed by Builder. Notwithstanding the foregoing, Declarant shall have the right to display signs for promotional, sales, exhibit and administrative purposes upon any portion of Common Areas or lots until the last lot in the subdivision is sold and conveyed.

Section 9.7. Temporary Structures. No tent, shack or structure of a temporary character shall be placed upon any Lot or Common Area at any time, provided, however, that nothing herein shall prevent Builder, from using a temporary structure during the course of construction. Any temporary structure used by Builder during construction shall be removed from the Lot or Common Area promptly upon completion of construction.

No trailer, camper, tent, garage, shack, barn or other structure of a similar nature shall be used as a residence, either temporarily or permanently.

Section 9.8. Vehicles. No commercial vehicles, construction vehicles or like equipment, mobile or stationary trailers of any kind, buses, trailers, campers or recreational vehicles, golf carts, boats and other watercraft, trailers, snowmobiles, stored vehicles, or inoperable vehicles shall be kept or parked on any Common Areas, or on Lots other than in enclosed garages or buildings; provided, however, construction, service, and delivery vehicles shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot.

No vehicle of any kind may be kept, stored or parked on any unpaved area of a Lot or adjacent Lot or Common Area. Notwithstanding the foregoing, passenger vehicles may be parked in driveways if the number of vehicle owned by the Owner exceeds the capacity of the garage. The foregoing shall not be interpreted or construed to prevent the temporary nonrecurring parking of any licensed vehicle, boat or trailer for a period not to exceed 48 hours upon any Lot.

Section 9.9. Signs. No signs will be permitted on any Lot without the prior written permission of Designee, the Officers of the Association, or the Architectural Review Committee except those that are: (i) street signs or signs identifying the Property as a whole; (ii) are required to comply with any law regarding zoning hearings, judicial sales or similar mandatory procedures; or (iii) advertise the availability of a Lot "For Sale" by Builder; provided, however, that one "For Sale" or "For Rent" sign, not to exceed 24 inches in length and height, may be placed on a Lot in the event that the Owner thereof desires to sell or rent the Lot.

Section 9.10. Driveways and Garage Doors. Driveways shall be constructed of materials approved by Builder, Board or Architectural Review Committee. Garage doors shall

be kept closed at all times except for ingress and egress of vehicles and other appropriate purposes.

Section 9.11. Disabled Vehicles. No disabled vehicle, trailer, or other non-operational equipment shall be parked or placed on any lot or any street or road or Common Area within the property. This shall include any vehicle that is not properly regulated with regulatory agencies.

Section 9.12. Outdoor Recreational Equipment. Permanent outdoor recreational equipment, including basketball goals, shall not be installed or used on any Lot unless approved by Designee, the Board, or the Architectural Review Committee.

Section 9.13. Subdivision or Combination. No Lot shall be subdivided, or its boundary line changed, except with the written consent of Designee and recorded in the office of the Register of Deeds for Lexington County, South Carolina. If one or more lots are combined to form one single building Lot, the approval in writing shall provide that the building setbacks, and easements shall be relocated, modified or abandoned so that the minimum building setbacks and easements apply as to the dimensions of the combined Lot.

Section 9.14. Fuel Tanks. No fuel tanks or similar storage receptacles, except gas logs or gas grills, may be installed, and the installation thereof must be approved by the appropriate authority and by Builder or the Board.

Section 9.15. Unlawful Use. No immoral, improper, offensive or unlawful use may be made of the Property, or any part thereof, and all laws ordinances, and regulations of any governmental entity having jurisdiction shall be observed.

Section 9.16. Unsanitary Conditions and Garbage. Any activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed Dwellings on the Lot, including, without limitation, the presence of junk vehicles, scrap metal, debris and the accumulation of rubbish, trash, or garbage, except between regular garbage pick ups, shall be prohibited. All rubbish, garbage and trash shall be kept in closed cans or other suitable containers between regular garbage pick ups, and such containers shall be either screened from view or kept inside, except as reasonably necessary for garbage pick ups. If garbage receptacles are required to be placed on the road, the receptacles shall be placed on the road only on the morning of collection and shall be removed from the road the same day the garbage is collected. The Board may elect to install dumpsters or other garbage receptacles at appropriate locations in Common Areas.

Section 9.17. Obstructions to View at Intersections. No part of any structure or the lower branches of any trees or other vegetation shall be permitted to obstruct the view at street intersections.

Section 9.18. Prohibited Uses. Association shall have the power to make such rules and regulations as may be necessary to carry out the intent of this Declaration, and shall have the right to bring suit at law or in equity to enforce the rules and regulations promulgated by it. Association shall further have the right to levy fines for violations of such regulations or

violations of this Declaration, provided that the fine for a single violation may not, under any circumstances, exceed Twenty-five and no/100 (\$25.00) dollars per day. For each day a violation continues after notice, it shall be considered a separate violation. Any fines so levied are to be considered an Assessment to be levied against the particular Lot or Owner involved, and collection thereof may be enforced in the same manner as Association is entitled to enforce collection of other Assessments. Fines may be levied against an Owner's guest, invitee or tenant, and the owner shall be jointly and severally liable with his guest, invitee, or tenant for the payment of the same. In the event Association institutes legal action for the collection of any fines, the Owner shall be responsible for payment of reasonable attorney's fees of Association, plus interest and cost of the suit. Moreover, Association shall also have the right to suspend enjoyment rights of any Owner, invitee, guest, or the like, for an appropriate period of time to be determined on a case-by-case basis by the Board for any infraction of its published rules and regulations.

ARTICLE X

MAINTENANCE, REPAIR, RESTORATION, AND REBUILDING, INSURANCE

Section 10.1. Maintenance, Restoration, Rebuilding and Repair. It is the responsibility of Association to maintain and keep in good repair Common Areas. It is the responsibility of each Owner to maintain and keep in good repair his Lot and the improvements thereon. In the event any part of Common Areas, or any improvements thereon, shall be damaged or destroyed by fire or other casualty, Association shall cause the same to be repaired, restored or rebuilt, as the case may be, as rapidly as possible to at least as good a condition as existed immediately prior to such damage. If the damage to or destruction of any part of Common Areas is caused by the negligence of any Owner, his guests or tenants, the obligation of Association to repair such damage to Common Area shall not be affected, but Association shall have the right to recover damages against such Owner, his guest or tenant, jointly and severally, for his negligence, subject only to the right, if any, of an insurer to seek subrogation against such Owner.

Section 10.2. Obligation of Association. Notwithstanding anything to the contrary herein contained, the obligations of Association under the provisions of this Article shall be limited to repair, restoration and rebuilding of Common Areas, and Association shall not be responsible for repair, restoration or replacement of any real or personal property of any Owner or others.

Section 10.3. Insurance. Association shall maintain, in full force and effect at all times, insurance covering Common Areas, providing all the protections afforded by insurance now generally described as fire, extended coverage, additional extended coverage, vandalism, and malicious mischief, to the full insurable value thereof, with loss payable on the basis of the cost of replacement without deduction for depreciation. Association shall further maintain, in full force and effect at all times, a comprehensive general liability insurance policy covering all Common Areas and any other areas that are under its control. The comprehensive general liability policy shall provide coverage in an amount of not less than \$1,000,000.00 for bodily injury or property damage for any single occurrence, and which bodily injury or property damage results from the operation, maintenance, or use of Common Areas or property under

supervision of Association. Further, said policy of comprehensive general liability insurance shall cover any liability relating to contracts to which Association is a party.

Section 10.4. Flood Insurance. Association shall further maintain, in full force and effect at all times, if required, flood insurance on any Common Areas located within a special flood hazard area as determined by the Federal Insurance Administration Flood Insurance Rate Map.

Section 10.5. Association Not Liable. Association and its officers, directors, employees, agents and representatives shall have no liability to any Owner for damage to or loss of any real or personal property of such Owner. Each insurer of any of Owner's interests in said real or personal property shall be bounded by the provisions of this Section and shall, by appropriate provision in each policy of insurance concerned, waive its rights of subrogation against Association and its officers, directors, employees, agents and representatives.

Section 10.6. Additional Insurance. Association may, but shall not be required to, obtain and maintain additional insurance as the Board shall, from time to time, deem prudent with respect to damage to or destruction of improvements located upon Common Areas from any cause not covered by the insurance herein above described. Association may also obtain such other types of insurance protection against such other matters or happenings as the Board deems advisable.

Section 10.7. Use of Proceeds. Notwithstanding the foregoing, to the extent required by the terms of any mortgage for value on any part of the Property, the proceeds of any insurance becoming payable on account of any loss of, or damage to, the part of the Properties so mortgaged, shall be paid first to such mortgagee to the extent of its interest; provided however, that such mortgagee shall cause or permit all such proceeds received by it to be applied upon the cost of repair, restoration or rebuilding of such loss or damage; and shall not apply or seek to apply such proceeds to reduce such mortgage, except for any excess of such proceeds over the full cost of such repair or restoration, unless it shall be determined in accordance with the provisions of this Declaration that such loss or damage is not to be repaired or restored.

Section 10.8. Exterior Maintenance by Owners. Each Owner shall be responsible for the exterior maintenance of his dwelling and Lot including, but not limited to, the following: painting, replacement and care of roofs, gutters, downspouts, exterior building surfaces, lawn, trees, shrubs, driveways, walks and other exterior improvements. In the event that Owner neglects or fails to maintain his Lot and/or the exterior of his dwelling in EMANUEL CREEK SUBDIVISION, Association may provide such exterior maintenance as is necessary for the maintenance of property values and upkeep of the Properties. If Board is made aware that an Owner is not maintaining his Lot or dwelling in accordance herewith, the Board shall provide notice to Owner that he has 20 days from the date of mailing of said notice ("20 day notice") to commence performance of such exterior maintenance as is specifically set forth and complete the same within a reasonable time period. The determination as to whether an Owner has neglected or failed to maintain his Lot and/or dwelling in a manner consistent with the other Lots and dwellings in EMANUEL CREEK SUBDIVISION shall be made by the Board, in its sole

discretion. In other to enable Association to accomplish the foregoing, Association is granted an easement right pursuant to Section 4.5 hereinabove.

ARTICLE XI **CONDEMNATION**

Section 11.1. Common Areas. If part or all of Common Areas shall be taken or condemned by any authority having the power of eminent domain, all damages or compensation shall be paid to Association. The Board shall have the right to act on behalf of Association with respect to negotiation and litigation affecting the taking of the property. The Owners, at a regular or special meeting, shall determine by a vote of no less than two-thirds (2/3rds) of each class of Members, voting in person or by proxy, the manner in which such damages and compensation are to be used or expended.

Section 11.2. Lots. If part or all of a lot shall be taken or condemned by any authority having the power of eminent domain, all damages or compensation shall be paid to Owner thereof. The Owner shall act for himself with respect to negotiation and litigation affecting the Lot and the Lot or any portion thereof shall be subject to the provisions hereof and to the provisions of the Articles of Incorporation and the Bylaws.

ARTICLE XII **GENERAL PROVISIONS**

Section 12.1. Application. All Owners, owner's employees and tenants, or any other persons who may in any manner use the Property, or any portion thereof, shall be subject to the provisions of this Declaration, the Articles of Incorporation and the Bylaws.

Section 12.2. Enforcement. Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 12.3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

Section 12.4. Agreements. Association shall be and is hereby authorized to enter into such agreements, including, without limitation, a joint road maintenance agreement and management contracts, as it may deem necessary or desirable for the administration and operation of Common Areas and Lots, if appropriate. Each Owner agrees to be bound by the terms and conditions of all such agreements entered into by Association. A copy of all such agreements shall be made available at the office of Association for review by any Owner.

Section 12.5. Duration and Amendment. The covenants and restrictions contained in this Declaration shall run with and bind the land, and shall inure to the benefit of, and be

enforceable by Association, any Owner subject to the terms of this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time, said covenants and restrictions shall be automatically extended for successive periods of ten (10) years. This declaration may be dissolved at any time upon the vote of one hundred (100%) percent of the Owners. This declaration may be amended during the initial twenty (20) year period by an instrument signed by not less than seventy-five (75%) percent of the Owners. Said written instrument shall be recorded in the Office of the Register of Deeds for Lexington County. Further, so long as Builder owns any Property subject to this Declaration, the consent of Builder shall be required for any amendment or modification to this Declaration otherwise approved by the Owners as required under this Section.

Section 12.6. Waiver. No provision hereof shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 12.7. Gender and Number. All pronouns used herein shall be deemed to include the masculine, the feminine and non-personal entities, as well as the singular and plural, wherever the context requires or permits.

Section 12.8. Books and Records. The books, records and papers of Association shall at all times, during reasonable business hours, or under other reasonable circumstances, be subject to inspection by any owner and by any holder, insurer or guarantor of any first mortgage. This Declaration, the Articles of Incorporation and the Bylaws of Association shall be available for inspection by any owner at the principal office of Association, where copies may be purchased at a reasonable cost. Upon request, any owner or holder of any first mortgage on any lot shall be entitled to a financial statement showing the statement of operations and balance sheet of Association for the immediately preceding fiscal year.

Section 12.9. Lender's Notices and Information. Upon written request to Association, identifying the name and address of the holder, insurer or guarantor and the lot number or address of the subject property, an eligible mortgage holder, insurer or guarantor will be entitled to timely written notice of:

- a. Any condemnation loss or casualty loss which affects a material portion of the project or any lot on which there is a first mortgage held, insured or guaranteed by such eligible mortgage holder, insurer or guarantor as applicable;
- b. Any delinquency in the payment of assessments or charges owed by an Owner of a lot subject to a first mortgage held, insured or guaranteed by such eligible holder, insurer or guarantor which remains uncured for a period of sixty (60) days;
- c. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by Association; or

d. Any proposed action which requires consent of a specified percentage of eligible mortgage holders.

Section 12.10. Notice. Any notice required to be sent under any provision of the Declarations shall be deemed to have been properly sent when delivered personally or mailed, with proper postage affixed thereto, to the following:

As to Declarant:

c/o EMANUEL CREEK Homeowners Association, Inc.
EMANUEL CREEK HOA President
Danielle Guidotti
127 Emanuel Creek Drive
West Columbia, S.C. 29170

As to Owner:

Last known address of the Owner who appears as member on the records of the Association at the time of such mailing.

Section 12.11. Appointment of Designee by Declarant. In addition to the powers granted Designee specified in the Declaration, Declarant hereby nominates and appoints Designee, its successors and/or assigns, and assigns over and grants to Designee, its successors and/or assigns the rights of Declarant as may relate only to individual Lots, including but not limited to building requirements, use restrictions, boundary lines, construction, architectural review and plan approval, and use requirements and restrictions in such a manner that Designee's written instrument, properly recorded, or provided pursuant to these Declarations, shall bind Declarant, their heirs, successors and/or assigns. Declarant does hereby transfer those limited rights to Designee herein, without the necessity of a separate written instrument, to facilitate Designee, as Builder, in the construction and maintenance of residential dwellings in EMANUEL CREEK SUBDIVISION until such time as Designee may transfer its rights and interests, as given herein, to Association.

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CERTIFICATION

WE, the undersigned, do hereby certify:

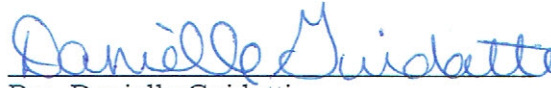
THAT we are the duly elected and acting Directors and Officers of the Emanuel Creek Homeowners Association, Inc., a South Carolina non-profit corporation.

IN WITNESS WHEREOF, the Directors and Officers of Emanuel Creek Homeowners Association, Inc., have caused these By-Laws to be executed this 16th day of July, 2013.

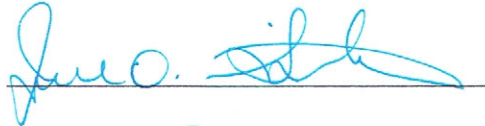
WITNESSES:

Emanuel Creek Homeowners Association, Inc.

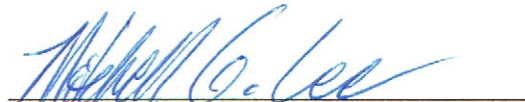




By: Danielle Guidotti
As: President

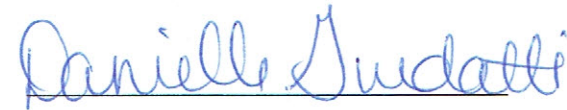


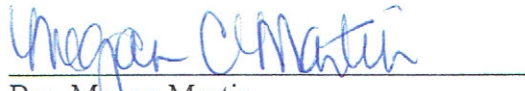




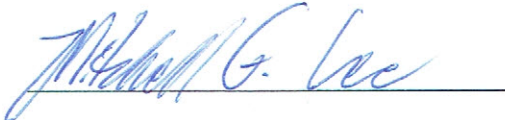
By: Mitchell Lee
As: Vice President







By: Megan Martin
As: Secretary







By: Linda Roemer
As: Treasurer

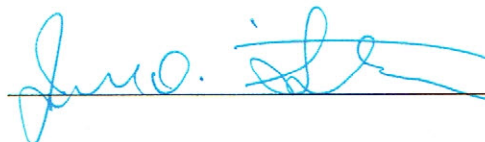


EXHIBIT "A"

**BYLAWS
OF
EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC.**

**ARTICLE I
NAME AND PRINCIPAL OFFICE**

Section 1.1. Name. The name of the nonprofit corporation is "EMANUEL CREEK HOMEOWNERS ASSOCIATION, INC." hereinafter referred to as "Association."

Section 1.2. Office. The principal office of Association shall be in Lexington County, South Carolina, or such other place as the Officers of the Association may, from time to time determine.

**ARTICLE II
DEFINITIONS**

Section 2.1. Definitions. Except as otherwise provided herein or required by the context hereof, all terms defined in the Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens for EMANUEL CREEK SUBDIVISION, recorded in the office of the Register of Deeds for Lexington County concurrently with these initial Bylaws, and all amendments or Supplemental Declarations thereto filed for record from time to time in the office of the Register of Deeds for Lexington County, shall have such defined meanings when used in these Bylaws.

**ARTICLE III
MEMBERS**

Section 3.1. Members. Every Owner, including Declarant or Builder, of a Lot which is subject to the Declaration shall be a Member of Association and the membership shall be appurtenant to and may not be separated from ownership of any Lot, provided, however, that any person that holds an interest merely as security for the performance of an obligation shall not be a Member.

Section 3.2. Notice of Ownership. In order to confirm Membership, upon purchasing a Lot in the EMANUEL CREEK SUBDIVISION, the Owner of such Lot shall promptly furnish to Association a legible copy of the instrument of conveying ownership to the Owner, which copy shall be maintained in the records of Association.

Section 3.3. Voting Rights. Association shall have two classes of voting membership:

a. Class A. Class A Members shall be all those Owners as defined in Article I, Section 1.14 of the Declaration, with the exception of Declarant or Builder. Class A Members

shall be entitled to one vote for each Lot in which they hold an interest required for membership hereunder. When more than one person holds such interest or interests in any Lot, all such persons shall be Members, and the vote for such Lot shall be exercised in any manner they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot.

b. Class B. The Class B member shall be Builder. The Class B member shall be entitled to four votes for each Lot in which it holds the interest required for membership hereunder, provided that the Class B membership shall cease and be converted to Class A membership, on the happening of any of the following events whichever occurs later:

(1) Twelve months after the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or

(2) On the date that the Association is turned over to the Members of the Association

From and after the happening of these events, whichever occurs earlier, a Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot in which it holds the interest required for membership hereunder.

c. Members are divided into Class A and Class B Members for the sole purpose of computing voting rights and shall not vote as a class.

Section 3.4. Eligibility to Vote. Voting rights attributable to any Lot shall not vest until Assessments as to that Lot have been levied by Association. Only Members in good standing shall be entitled to vote on any issue or matter presented to the Members for approval. In order to be in good standing, a Member must be current in the payment of all Assessments levied against the Member's Lot(s). A Member's good standing shall be determined as of the record date as determined in accordance with Section 3.12 herein. Association shall not be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of Assessments, although a delinquent Member shall be entitled to request such a hearing.

Section 3.5. Action by Association. Except as otherwise provided in the Declaration, the Articles of Incorporation, these Bylaws, or the South Carolina Nonprofit Corporation Act (the "Act"), any action by Association which must have the approval of the Members before being undertaken shall require voting approval by a majority of the votes cast by Members present at which the required quorum is present. An abstention shall be counted as a negative vote in calculating the majority.

Section 3.6. Quorum. Unless otherwise provided herein, in the Declaration, the Articles of Incorporation, or the Act, the presence of Members representing at least fifty percent (50%) of the votes of the all Members, in person or by proxy, shall constitute a quorum for the transaction of business. The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the

withdrawal from the meeting of enough Members to leave less than such required quorum, provided that Members representing at least one-third ($1/3^{\text{rd}}$) of the total votes of all Members remain present in person or by proxy, and provided further that any action taken shall be approved by a majority of the Members required to constitute such quorum. If the required quorum is not present, another meeting may be called, not less than twenty (20) nor more than sixty (60) days following the first meeting, and the required quorum of the subsequent meeting shall be the presence of Members, in person or by proxy, entitled to cast at least one-third ($1/3^{\text{rd}}$) of all votes. Unless otherwise provided, any reference hereafter to "votes cast" at a duly called meeting shall be construed to be subject to the quorum requirements established by this Section 3.6. If a time and place for the adjourned meeting is not fixed to those in attendance at the original meeting, or if for any reason a new date is fixed for the adjourned meeting after adjournment, notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed in Section 3.9.

Section 3.7. Annual Meeting. The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of Association. Subsequent annual meetings of the Members shall be held thereafter on a date within ten (10) days of the same month and day of such first meeting, as set by the Board.

Section 3.8. Special Meetings. Special meetings of the Members shall be promptly scheduled at any time by the Board upon vote of a majority of the Officers of the Association or upon written request of the President. A special meeting of the Members shall be called upon written demand delivered to the Secretary by the Members representing one-third ($1/3^{\text{rd}}$) of the total votes of Association, notice of which shall be given in accordance with Section 3.9 within thirty (30) days from the Secretary's receipt of the demand. For purposes of determining the one-third ($1/3^{\text{rd}}$), the record date shall be thirty (30) days before delivery of the written demand. Upon the failure of Association to send notice of a special meeting as aforesaid, any Member signing the demand may set the time and place of the special meeting and give notice thereof to all Members in accordance with the South Carolina Nonprofit Corporation Act.

Section 3.9. Notice and Place of Meetings. Unless otherwise provided in the Declaration, the Articles of Incorporation, these By-Laws, or the Act, written notice of each meeting of the members, annual or special, shall be given by, or at the direction of the Secretary by mailing a copy of such notice, first class mail, postage prepaid, not less than twenty (20) nor more than sixty (60) days before such meeting to each member, addressed to the member's address last appearing on the books of Association, or supplied by such member to Association for the purpose of notice. In the case of written demand of members representing five percent (5%) of the voting power of Association, written notice of such meeting shall be given not more than thirty (30) days after written demand is delivered to Association. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting, and shall provide for voting by proxy. If action is proposed to be taken at any meeting for approval for any of the following proposals, the notice shall also state the general nature of the proposal: (a) removing a Director without cause; (b) filling vacancies in the Officers of the Association by the Members; (c) amending the Articles of Incorporation; (d) any action for which a vote of the Members is required by the Declaration; or (e) any action for which a purpose must be noticed in accordance pursuant to the Act. Meetings shall be held within

EMANUEL CREEK Subdivision, or at a meeting place within the same county, as close to the EMANUEL CREEK Subdivision as possible.

Section 3.10. Waiver of Notice. Notice of a meeting of Members need not be given to any Member who signs a waiver of notice, in person or by proxy, either before or after the meeting. The waiver must be delivered to Association for inclusion in the minutes or filing with the corporate records. Attendance of a Member at a meeting, in person or by proxy, shall in itself constitute waiver of notice, except when the Member attends a meeting solely for the purpose of stating the objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is unlawfully called or convened. Objection by a Member shall be effective only if written objection to the holding of the meeting or to any specific action so taken is filed with the Secretary of Association.

Section 3.11. Ballots and Representative Voting.

a. **Voting Referendum: Written Ballots.** Any vote of Members on a matter which would be cast at an annual, regular or special meeting may be taken, without a meeting, by written ballot delivered to every Member by Association. The ballot shall set forth the matter to be voted upon and provide thereon a place to vote for or against such matter. Approval by written ballot without a meeting shall be effective only when the number of votes cast by ballot equals or exceed the quorum required to be present had the matter been considered at a meeting and the number voting for the matter equals or exceeds the number of votes required to approve such matter had the matter been considered at a meeting at which the requisite quorum is present. A solicitation of votes by ballot shall (1) indicate the record date for Members eligible to vote; (2) indicate the number of returned ballots voting for or against the matter that is required to satisfy the quorum requirement; (3) state the required number of votes or percentage voting in favor of the matter required to approve it (except in the case of election of directors, which shall be by plurality; and (4) state the date and time by which a Member's completed ballot must be received by the Secretary in order to be counted in the vote to be taken. A ballot, once delivered to the Secretary, may not be revoked. A Member's signed ballot shall be delivered to the Secretary by hand delivery, by U.S. mail, or by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

b. **Proxies.** At all meetings of Members, each Member may vote in person or by proxy. The appointment form of proxy shall be in writing and received by the Secretary before the appointed time of the meeting. Every proxy appointment shall automatically cease upon conveyance by the Member of his Lot, or upon receipt of written notice by the Secretary of the death or judicially declared incompetence of a Member prior to the counting of the vote, or upon revocation of the of the proxy in accordance with the Act, or upon the expiration of eleven (11) months from the date of the proxy. Unless the proxy appointment form otherwise states, it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of Association. Voting by a proxy shall comply with all applicable requirements of the Act. The Member's signed proxy appointment form shall be

delivered to the Secretary by hand delivery, by U.S. mail, or by such other means as shall be permitted under South Carolina law, including, but not limited to and if allowed, overnight courier service, facsimile and e-mail transmission, internet form submission, or by any other technology or medium, now existing or hereafter devised, provided in every such case the sender retains proof of transmission and receipt.

Section 3.12. Record Dates.

a. Record Dates Established by the Board. For the purpose of determining which Members are entitled to receive notice of any meeting, vote, act by written ballot without a meeting, or exercise any rights in regard to any other lawful action, the Board may fix, in advance, a “record date” and only Members of record on the date so fixed are entitled to notice, to vote, or to take action by written ballot or otherwise, as the case may be, notwithstanding any transfer of any membership on the books of Association after the record date, except as otherwise provided in the Articles of Incorporation, the Declaration, or in the Act.

The record dates established by the Board pursuant to this section shall be as follows:

(1) Record Date for Notice of Meetings: In the case of determining those Members entitled to notice of a meeting, the record date shall be no more than ninety (90) nor less than twenty (20) days before the date of the meeting;

(2) Record Date for Voting: In the case of determining those Members entitled to vote at a meeting, the record date shall be no more than sixty (60) days before the date of the meeting;

(3) Record Date for Action by Written Ballot Without Meeting: In the case of determining members entitled to cast written ballots, the record date shall be no more than sixty (60) days before the day on which the first written ballot is mailed or solicited; and

(4) Record Date for Other Lawful Action: In the case of determining members entitled to exercise any rights in respect to other lawful action, the record date shall be no more than sixty (60) days prior to the date of such other action.

(5) “Record Date” means as of the close of business. For purposes of this subparagraph (a), a person holding a membership as of the close of business on the record date shall be deemed the Member of record.

b. Failure of the Board to Fix a Record Date. If the Board, for any reason, fails to establish a record date, rules set forth in the Act shall apply.

Section 3.13. Action Without Meeting. Any action that may be taken at any annual or special meeting of Members (except the election of directors) may be taken without a meeting in accordance with the provisions of the Act. Any form of written ballot distributed by any person to the membership of Association shall afford the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon, except it shall not

be mandatory that a candidate for election to the Board be named in the written ballot. The written ballot shall provide that, where the Member specifies a choice, the vote shall be cast in accordance with that choice.

Section 3.14. Conduct of Meetings. Meetings of the membership of Association shall be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as Association may adopt. Except as otherwise provided by law, the Declaration, or these Bylaws, any proper matter may be presented at the meeting for action. Members of Association shall have access to Association records in accordance with the Act. No member of the Association shall have any right as a Member to attend any meeting of the Board, except such meetings of the Board as the Officers of the Association shall, in the exercise of its sole discretion, open to the membership or any other person. In any matter relating to the discipline of a Member, the Board shall always meet in closed session if requested by that Member, and the Member shall be entitled to attend such closed session.

ARTICLE IV **OFFICERS OF THE ASSOCIATION**

Section 4.1. General Powers. The property, affairs, and business of Association shall be managed by a Officers of the Association, who need not be Members of Association. The Board may exercise all of the powers of Association, whether derived from law, the Declaration, the Articles of Incorporation, or these Bylaws, except such powers as are expressly vested in another Person by such sources. The Board shall constitute the final administrative authority of Association, and all decisions of the Board shall be binding upon Association. The Board may, by written contract, delegate to a management agent, in whole or in part, such of its duties, responsibilities, function, and powers, or those of any officer, as are properly delegable.

Section 4.2. Number, Tenure, and Qualifications.

a. For so long as Builder owns a controlling interest in Association, the Officers of the Association shall consist of three (3) persons, as designated by Builder from time-to-time.

b. At such time as Builder no longer owns a controlling interest in Association, or such earlier time as Declarant records a Supplemental Declaration waiving its authority to designate the Board, the successor Board shall consist of three (3) persons selected as follows:

(1) The current Board shall constitute a nominating committee to nominate competent and responsible persons to serve as directors of Association. The President or Secretary of Association shall cause notice to be given to all Members in accordance with Section 3.9 herein. The notice shall contain the names of those persons recommended by the nominating committee, but shall note that other nominations may be made by Members at the meeting.

(2) At the meeting and each subsequent election of directors, each Member shall be entitled to cast, personally or by proxy in form approved by the then existing Board, such votes as are permitted by Section 3.3 herein.

(3) After giving the Members (or proxy holders) attending such meeting the opportunity to nominate other persons, with a second by another Member or proxy holder, the directors shall be elected by written secret ballot. Each Member shall be authorized to cast as many votes as the number of directors to be elected (i.e. if three different directors are being elected, then the Member may cast his votes for three nominees). Those nominated persons receiving the highest number of votes shall be the directors.

(4) In subsequent elections for directors, the same procedure set forth above shall be followed.

c. All directors shall be elected and serve for a period of one (1) year, or until their successor has been duly elected and qualified. Directors may serve more than one term and may serve consecutive terms.

Section 4.3. Annual and Regular Meetings. The first regular meeting of the Board shall be held immediately following the first annual meeting of the Members of Association and regular meetings thereafter shall be held on such dates and at such place and hour, but not less frequently than bi-annually, as may be fixed from time to time by resolution of the Board. Notice of regular meetings of the Board shall be given to each director, personally or by mail, telephone or telegraph, at least five (5) days prior to the day of such meeting; provided, however, notice of the first regular meeting shall not be required to be given to the directors provided that a majority of the entire Board is present at such meeting. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 4.4. Special Meetings. Special meetings of the Board may be called by or at the request of any one director. The director(s) calling a special meeting of the Board may fix any place within Lexington County, South Carolina (or such other place as is approved by all directors) as the place for holding such a meeting. Except as otherwise required or permitted by these Bylaws or the Act, notice of any special meetings shall be given at least seventy-two (72) hours prior thereto. Notice shall be in accordance with the procedures set forth in Section 4.5.

Section 4.5. Notice. Notice of any meeting of the Officers of the Association, whether regular or special, shall be give to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication directly to the director; (d) by telegram, charges prepaid; (e) by facsimile transmission to the fax number of the director with proof of transmission and receipt thereof being retained in the minutes of the meeting; and (f) by e-mail to the e-mail address of the director. All such notices shall be given or sent to the director's address, telephone number, fax number or e-mail address as shown on the records of Association. Such notice shall be sent to all directors not less than seventy-two (72) hours prior to the scheduled time of the meeting, provided, however, that notices sent by first class mail shall be deposited into a United States

mail receptacle at least five (5) days before the time set for the meeting. Notice of any meeting need not be given to any director who has signed a waiver of notice or written consent to holding of the meeting.

Section 4.6. Quorum, Telephonic Meetings and Manner of Acting. A majority of the number of directors shall constitute a quorum for the transaction of business at any meeting of the Board. Upon approval of a majority of the Board, a meeting may be conducted by any electronic means that permits all participating directors to communicate simultaneously (such as a telephone conference call). The act of a majority of the directors present at any meeting at which a quorum is present shall be the act of the Board. The directors shall act only as a Board and individual directors shall have no powers as such.

Section 4.7. Compensation. No director shall receive compensation for any services that he may render to Association as a director, provided, however, that directors may be reimbursed for expenses incurred in performance of their duties as directors and, except as otherwise provided in these Bylaws, may be compensated for services rendered to Association other than in their capacities as directors.

Section 4.8. Resignation and Removal. A director may resign at any time by delivering a written resignation to either the President or another member of the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any director may be removed at any time with or without cause, by proper action of the person(s) having the right to designate or elect directors at the time of removal.

Section 4.9. Vacancies. If a vacancy shall occur in the Board by reason of the death or resignation of a director, then such vacancy shall be filled by vote of the remaining directors. If a vacancy shall occur in the Board by reason of removal, then such vacancy shall be filled solely by vote of the person(s) then having the right to designate or elect directors (i.e., by Builder or the Members). Any director designated or appointed to fill a vacancy shall serve for the unexpired term of his predecessor.

Section 4.10. Informal Action by Directors. Any action that is required or permitted to be taken at a meeting of the Board may be taken without a meeting, if a consent in writing, setting forth the action so taken, shall be signed by all of the directors and filed in the records of Association.

ARTICLE V **OFFICERS**

Section 5.1. Number. The officers of Association shall be a President, a Vice-President, a Secretary, a Treasurer, and such other officers as may from time to time be appointed by the Board.

Section 5.2. Election, Tenure, and Qualifications. The officers of Association shall be chosen by the Board at the regular annual meeting of the Board. In the event of failure to choose officers at such regular annual meeting of the Board, officers may be chosen at any regular or

special meeting. Each officer (whether chosen at a regular annual meeting of the Board or otherwise) shall hold his office until the next ensuing regular annual meeting of the Board and until his successor shall have been chosen and qualified, or until his death, or resignation or removal in the manner provided in these Bylaws, which ever first occurs. Any one individual may hold any two or more of such offices, except that the President may not also be the Secretary or the Treasurer. No individual holding two or more offices shall act in or execute any instrument in the capacity of more than one office. It is not necessary that an officer be a director or an Owner.

Section 5.3. Subordinate Officers and Agents. The Board may, from time to time, appoint such other officers or agents as it deems advisable, each of whom shall have such title, hold office for such periods, have such authority, and perform such duties as the Board may, from time to time, determine. The Board may, from time to time, delegate to any officer or agent the power to appoint any such subordinate officers or agents and to prescribe their respective titles, terms of office, authorities, and duties. It is not necessary that a subordinate officer or agent be a director or an Owner.

Section 5.4. Resignation and Removal. Any officer may resign at any time by delivering a written resignation to the President of the Board. Unless otherwise specified therein, such resignation shall take effect upon delivery. Any officer may be removed by the Board at any time, for or without any cause.

Section 5.5. Vacancies and Newly Created Offices. If any vacancies shall occur in any office by reason of death, resignation, removal, disqualification, or any other cause, or if a new office shall be created, such vacancies or newly created offices may be filled by the Board at any regular or special meeting.

Section 5.6. The President. The President shall preside at meetings of the Board and at meetings of the Members called by Association. He shall sign, on behalf of Association, all conveyances, mortgages, documents, and contracts, and shall do and perform all other acts and things that the Board may require of him, provided that the Board may authorize other officers or persons to act on specific matters by proper resolution of the Board.

Section 5.7. The Vice President. The Vice President shall preside in the absence of the President and shall do and perform all other acts and things that the Board may require of him.

Section 5.8. The Secretary. The Secretary shall keep the minutes of Association and shall maintain such books and records as these Bylaws, the Declaration, or any resolution of the Board may require him to keep. He shall be the custodian of the seal of Association, if any, and shall affix such seal, if any, to all papers and instruments requiring the same. He shall perform such other duties as the Board may require of him.

Section 5.9. The Treasurer. The Treasurer shall have custody and control of the funds of Association, subject to the action of the Board, and shall, when requested by the President or the Board to do so, report the state of the finances of Association. He shall perform such other duties as the Board may require of him.

Section 5.10. Compensation. No officer shall receive compensation for any services that he may render to Association as an officer, provided, however, that officers may be reimbursed for expenses incurred in the performance of their duties as officers and, except as otherwise provided in these Bylaws, may be additionally compensated for services rendered to the Association other than in their capacities as officers.

ARTICLE VI **COMMITTEES**

Section 6.1. Designation of Committees. An Architectural Review Committee may be appointed as provided in the Declaration, and a nominating committee shall be appointed as provided in these Bylaws. In addition, the Board may, by resolution, appoint such other committees as it may deem appropriate in carrying out its duties, responsibilities, functions, and powers. The membership of each such committee designated hereunder shall consist of such number of persons as the Board shall determine. No committee member shall receive compensation for services that he may render to Association as a committee member; provided, however, that committee members may be reimbursed for expenses incurred in performance of their duties as committee members and (except as otherwise provided by these Bylaws) may be compensated for services rendered to Association other than in their capacities as committee members. It is not necessary that a committee member be a director, an officer or an Owner.

Section 6.2. Proceedings of Committees. Each committee designated hereunder by the Board may appoint its own presiding and recording officers and may meet at such places and times and upon such notice as such committee may, from time to time, determine. Each such committee shall keep a record of its proceedings and shall regularly report such proceedings to the Board. Unless expressly delegated to the committee by the Board, the power and authority of each committee shall only be to make recommendations to the Board and the Board shall have the final decision whether to take any action or not.

Section 6.3. Quorum and Manner of Acting. At each meeting of any committee designated hereunder by the Board, the presence of members constituting at least a majority of the authorized membership of such committee shall constitute a quorum for the transaction of business, and the act of a majority of the members present at any meeting at which a quorum is present shall be the act of such committee. The members of any committee designated by the Board hereunder shall act only as a committee, and the individual members thereof shall have no powers as such.

Section 6.4. Resignation and Removal. Any member of any committee designated hereunder by the Board may resign at any time by delivering a written resignation either to the President, the Board, or the presiding officer of the committee of which he is a member. The Board may at any time, for or without cause, remove any member of any committee designated by it hereunder.

Section 6.5. Vacancies. If any vacancy shall occur in any committee designated by the Board hereunder, due to disqualification, death, resignation, removal, or otherwise, the

remaining members shall, until the filling of such vacancy, constitute the then total authorized membership of the committee and, provided that two or more members are remaining, may continue to act. Such vacancy may be filled at any meeting of the Board.

ARTICLE VII INDEMNIFICATION

Section 7.1. Indemnification. Association shall indemnify any Person who was, or is, a party to, or is threatened to be made a party to, any threatened, pending, or completed action, suit, or proceeding (including a proceeding brought by Association) whether civil, criminal, administrative, or investigative (other than an action by or in the right of Association) by reason of the fact that he is or was a director, officer, employee, or agent of Association, against expenses (including attorney's fees), judgments, fines, and amounts paid in settlement in connection with such action, suit, or proceeding, if the indemnified Person (a) acted in good faith, without fraudulent intent or gross negligence (or, if the action is brought by Association, without negligence or breach of any contractual or fiduciary obligation to Association), and in a manner he reasonably believed to be in the best interest of Association, and (b) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by an adverse judgment, order, settlement, or plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the Person did not act in good faith and in a manner which he reasonably believed to be in the best interests of Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 7.2. Determination. To the extent that a director, officer, employee, or agent of Association is successful on the merits or otherwise in defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith. Any other indemnification under Section 7.1 hereof shall be made by Association only upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth respectively in Section 7.1 hereof. Such determination shall be made by the Board by a majority vote of a quorum consisting of directors excluding the person whose indemnification is being considered.

Section 7.3. Advances. Expenses incurred in defending a civil or criminal action, suit, or proceeding as contemplated in this Article may be paid by Association in advance of the final disposition of such action, suit, or proceeding upon a majority vote of a quorum of the Board (excluding the person whose indemnification is being considered) and upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount or amounts unless it ultimately be determined that he is entitled to be indemnified by the Association as authorized by this Article.

Section 7.4. Scope of Indemnification. The indemnification provided for by this Article shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any provision of the Declaration, Articles of Incorporation, Bylaws, agreements, vote of disinterested Members or directors, or applicable law. The indemnification authorized by

this Article shall apply to all present and future directors, officers, employees, and agents of Association and shall continue as to such Persons who cease to be directors, officers, employees, or agents of Association and shall inure to the benefit of the heirs, successors, and legal representatives of all such Persons.

Section 7.5. Insurance. Association may purchase and maintain insurance on behalf of any Person who was, or is, a director, officer, employee, or agent of Association against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, whether or not Association would have the power to indemnify him against such liability under the Bylaws or the laws of the State of South Carolina, as the same may hereafter be amended or modified.

Section 7.6. Payments and Premiums. All indemnification payments made, and all insurance premiums for insurance maintained, pursuant to this Article shall constitute Common Expenses of Association and shall be paid with funds of Association.

ARTICLE VIII **FISCAL YEAR AND SEAL**

Section 8.1. Fiscal Year. The fiscal year of Association shall begin on the 1st day of January each year and shall end on the 31st day of December next following, except that the first fiscal year shall begin on the date of incorporation.

Section 8.2. Seal. The Board may, by resolution, provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of Association, the state of incorporation, and the words "Corporate Seal."

ARTICLE IX **RULES AND REGULATIONS**

Section 9.1. Rules and Regulations. The Board may from time to time adopt, amend, repeal, and enforce reasonable rules and regulations governing the use and operation of the Property, to the extent that such rules and regulations are not inconsistent with the rights and duties set forth in the Articles of Incorporation, the Declaration, or these Bylaws. Without limitation, such rules and regulations may include establishment of reasonable fees for guests or for special use of facilities in the Common Areas, and reasonable charges or fines for failure to observe the terms of the Declaration or the rules and regulations. Upon request of any Owner, such Owner shall be provided a copy of the rules and regulations or the Declaration, provided that the Board may charge a reasonable fee to cover any reproduction, mailing or administrative costs involved.

ARTICLE X **MISCELLANEOUS**

Section 10.1. Notices. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to Association, or if no address had been so designated, at the addresses of such Owner's respective Lot as shown on the records of Association.

All notices to Association shall be delivered or sent in care of Association at:

EMANUEL CREEK Homeowners Association, Inc.
c/o EMANUEL CREEK HOA, President
1049 Sunset Blvd.
West Columbia, S.C. 29169

Or to such other address as Association may from time to time notify the Owners.

Section 10.2. Conflicts. In the event of any conflict between the provisions of the Declaration and the provisions of these Bylaws, the provisions of the Declaration shall control.

ARTICLE XI **AMENDMENT OF BYLAWS**

Section 11.1. Amendment by Association. The Bylaws may be amended after (a) approval of the proposed amendment by the Board; and (b) the affirmative vote of two-thirds (2/3^{rds}) of the Members entitled to vote on the proposed amendment. Notice of a meeting of Association to vote on the proposed amendment(s) shall be given to the Owners in the same manner that a notice is given for election of directors. The notice shall contain a general description of the proposed change and purpose of the proposed change. No amendment shall be valid if it is not approved by the directors or is substantially and materially different from that set forth in the notice. Notwithstanding the foregoing, so long as Builder owns any Property subject to the Declaration, or Declarant intends to make additional property subject to the Declaration as provided therein, any such amendment shall require the written consent of Builder and Declarant. Upon amendment of the Bylaws, such amendment shall be attached to a Supplemental Declaration or amendment and shall be recorded within a reasonable period of time in the Office of the Register of Deeds for Lexington County, South Carolina.

Section 11.2. Amendment by Declarant. Declarant or Designee, acting independently and without the necessity of corporation agreement, may amend the Bylaws without the consent of Association, the Board, any Owner or any mortgagee if, in Declarant's or Designee's opinion, such amendment is necessary to (i) bring any provision of the Bylaws or the Declaration into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which is in conflict with the Declaration or the Bylaws; (ii) enable any title insurance company to issue title insurance coverage with respect to any Property subject to the Declaration; (iii) enable any mortgagee to make mortgage loans on any Property subject to the Declaration; (iv) enable any governmental agency or private mortgage insurance company to insure any mortgage on any Property subject to the Declaration; (v) enable any insurer to provide insurance required by the Declaration; or (vi) clarify any provision of the

Bylaws or the Declaration or eliminate any conflict between provisions of the Bylaws and/or the Declaration.