

STATE OF SOUTH CAROLINA)
) GENERAL DECLARATIONS, COVENANTS,
) CONDITIONS, RESTRICTIONS AND EASEMENTS
) FOR RIVENDELL SUBDIVISION
COUNTY OF ANDERSON)

This General Declaration of Covenants, Conditions, Restrictions and Easements for Rivendell Subdivision (hereinafter Rivendell) is made this _____ day of _____, 2003, by Bowen Road Development, LLC (hereinafter referred to as "Declarant").

WITNESSETH

WHEREAS, Declarant is the owner of certain real property located in Anderson County, South Carolina; and

WHEREAS, Declarant intends to develop the property herein described by EXHIBIT "A" attached hereto and incorporated herein by this reference and submit the same to the provisions of this Declaration (hereinafter the "Property"); and

WHEREAS, the declarant may add other lots and phases to the Rivendell Subdivision and subsequent lots and phases may be submitted to the provisions of this Declaration and incorporated within the Property upon future amendments of this Declaration by Amendment in accordance with the provisions of Article XVIII and Declaration of Annexation in accordance with Article XV herein below; and

WHEREAS, Declarant intends by this Declaration to impose upon the Property mutually beneficial restrictions under a general plan of improvement for the benefit of all Owners of the Property in Rivendell Subdivision, and to provide a flexible and reasonable procedure for the development of the Property and the administration, maintenance, preservation, use and enjoyment of the Common Areas within Rivendell Subdivision;

NOW, THEREFORE, Declarant hereby declares that the Property which is described in EXHIBIT "A" shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are for the purpose of protecting the value and desirability of the property, and which shall touch and concern and run with title to the Property. This Declaration and all provisions hereof shall be binding on all parties having any right, title or interest in the Property or any portion thereof, and their respective heirs, successors, successors in title and assigns, and shall inure to the benefit of each owner thereof.

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ARTICLE I
IMPOSITION OF COVENANTS AND STATEMENTS OF PURPOSE

"Section 1.01" Imposition of Covenants. Declarant hereby makes, declares and establishes the following covenants, conditions, restrictions and easements (collectively referred to as the "Covenants") which shall affect the Property. From this day forward, the Property shall be held, sold and conveyed subject to the Covenants. The Covenants shall run with the land and shall be binding upon all persons or entities having any right, title or interest in all or any part of the Property, including Declarant, and their heirs, successors and assigns, and their tenants, employees, guests and invitees, and the Covenants shall inure to the benefit of each Owner of the Property.

"Section 1.02" Statement of Purposes. These Covenants are imposed for the benefit of all Owners of the parcels of land located with the Property. These Covenants create specific rights and privileges which may be shared and enjoyed by all Owners and occupants of any part of the Property.

"Section 1.03" Declarant's Intent. Declarant desires to ensure the attractiveness of the individual lots and parcels and Common Areas; to prevent any future impairment of the Property; and to preserve, protect and enhance the values and amenities of the Property.

ARTICLE II
DEFINITIONS

The following terms as used in this Declaration, are defined as follows:

"Section 2.01". **Adjoining Land** shall mean and refer to land contiguous with the Property, whether or not owned by Declarant, which is or may be made subject to this Declaration as provided in Articles XV and XVIII below.

"Section 2.02". **Annexation** shall mean and refer to the process by which portions of the Expansion Property or Adjoining Land are made subject to this Declaration as provided in Articles XV and XVIII below.

"Section 2.03". **Architectural Guidelines** shall mean and refer to the guidelines and rules established and supplemented from time to time by the Architectural Review Board.

"Section 2.04". **Architectural Review Board (ARB)** shall mean and refer to the Committee formed pursuant to Article VI below to maintain the quality and architectural harmony of improvements in the Property.

"Section 2.05". **Articles or Articles of Incorporation** shall mean and refer to the Articles of Incorporation of the Association which will have been filed with the Secretary of State to create the Association.

"Section 2.06". **Assessments** shall mean and refer to annual, special and default assessments

levied pursuant to Article IV below to meet the estimated cash requirements of the Association.

"Section 2.07". **Association** shall mean and refer to the Rivendell Homeowners Association, Inc., a non-profit membership corporation, or any successor of the Association by whatever name, charged with the duties and obligations set forth in this Declaration.

"Section 2.08". **Board of Directors** shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

"Section 2.09". **Building** shall mean and refer to a building or buildings constructed on a lot or tract.

"Section 2.10". **Building site** shall mean the building envelope or area within a lot where a building or other improvement shall be located, always subject to prior written approval of the ARB.

"Section 2.11". **By-laws** shall mean and refer to the By-laws of the Association which establish the methods and procedures of its operation.

"Section 2.12". **Common Area** shall mean and refer to the real property, if any, in which the Association owns an interest for the common use and enjoyment of all of the Members. Such interest may include without limitation, estates in fee and easements.

"Section 2.13". **Declarant** shall mean and refer to Bowen Road Development, LLC.

"Section 2.14". **Definition of Annexation** shall mean and refer to a declaration prepared and recorded in accordance with Article XV below to incorporate the Expansion Property or Adjoining Land within the Property governed by this Declaration.

"Section 2.15". **Expansion Property** shall mean and refer to such additional real property owned by Declarant or in the future shall be owned by Declarant and which Declarant shall make subject to the provisions of this Declaration, by duly recorded Declarations of Annexation and Ammendment.

"Section 2.16". **Improvements** shall mean and refer to all buildings and structures, parking areas, fences, walls, hedges, plantings, poles, driveways, ponds, lakes, recreational facilities, signs, changes in any exterior color or shape, excavation and all other site work including without limitation, grading, road construction, utility improvements, removal of trees or plantings, and any new exterior construction or exterior improvement which may not be included in the foregoing. "Improvements" does not include turf, shrub or tree repair or replacement of a magnitude which does not change exterior colors or exterior appearance. "Improvements" does include both original improvements and all later changes and improvements.

"Section 2.17". **Lot** shall mean and refer to a parcel of land designated as a Lot on any plat of Rivendell Subdivision and reserved for any purpose other than recreational facilities.

"Section 2.18". **Maintenance Fund** shall mean and refer to the fund created by assessments and fees levied pursuant to Article IV below to provide the Association with the funds required to carry out its duties under this Declaration.

"Section 2.19". **Member** shall mean and refer to any person or entity holding membership in the Association.

"Section 2.20". **Mortgage** shall mean and refer to any Mortgage, Deed of Trust, or other document pledging any portion of the Property or interest therein as security for the payment of a debt or obligation. "First Mortgage" shall mean and refer to any Mortgage which is not subject to any prior lien or encumbrance except liens for taxes or other liens which are given by Statute.

"Section 2.21". **Owner** shall mean and refer to the Record Owner, whether one or more persons or entities, of fee simple title to any Lot, but shall not mean or refer to any person or entity who holds such interest merely as security for the performance of a debt or other obligation, including a Mortgagee, unless and until such person or entity has acquired fee simple title pursuant to foreclosure or other proceeding.

"Section 2.22". **Plat** shall mean and refer to any plat (or as-built survey) depicting the Property filed in the Register of Deeds Office for Anderson County, South Carolina, as such Plat may be amended from time to time.

"Section 2.23". **Property** shall mean and refer to the Property initially subject to this Declaration and any additional Real Property from time to time subject to these Covenants pursuant to the provisions of this Declaration.

"Section 2.24". **Recreational Facilities** shall mean and refer to the recreational facilities or amenities owned by Declarant and located within the Property from time to time.

"Section 2.25". **Rivendell** shall mean and refer to the planned community created by this Declaration, consisting of the property and of all improvements located on the property.

"Section 2.26". **Rivendell Documents** shall mean and refer to the basic documents creating and governing Rivendell including but not limited to this Declaration, the Articles of Incorporation and Bylaws of the Association, the Architectural Guidelines and any Procedures, Rules, Regulations or Policies adopted under such documents by the Association or the Architectural Review Board.

"Section 2.27". **Rivendell Rules** shall mean and refer to the rules adopted by the Association as provided in Section 3.06 below.

"Section 2.28". **Supplemental Covenants** shall mean and refer to additional or further Restrictive Covenants imposed upon a portion or portions of the Property from time to time.

"Section 2.29". **Tract** shall mean and refer to a parcel of land designated as a tract and on a Plat of Rivendell Meadows.

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"Section 2.30". Voting Unit shall mean and refer to any one of the interests in the Property designated in Section 3.04 below to which a right to vote in Association matters is allocated.

"Section 2.31". Project shall mean any Phase of the Rivendell subdivision as shown on any Plat of Rivendell subdivision whether it be as originally drawn or as added and annexed.

ARTICLE III THE ASSOCIATION

"Section 3.01" Dedication of Common Area. Declarant may hereafter convey to the Association certain parts of the property as Common Area intended for common use by the owners in Rivendell. Such designated areas shall, upon conveyance, be dedicated to the common use and enjoyment of owners, and their families, guests, tenants, employees, and invitees.

"Section 3.02" Association's Responsibility for Common Area. Subject to the rights of the Owners set forth in this Declaration, the Association shall be responsible for the management and control of the Common Area dedicated under Section 3.01 above and all improvements in the Common Area (including equipment related thereto), and shall keep it in good, clean and attractive condition and repair consistent with the requirements of a first class residential and recreational community, pursuant to the terms and conditions of this Declaration.

"Section 3.03" Membership. Every Owner, by virtue of being an Owner and for as long as he is an Owner, shall be a Member of the Association. Membership shall be appurtenant-to and may not be separate from ownership of any Lot. No Owner, whether one or more persons, shall have more than one membership per Lot owned, but all of the persons owning each Lot shall be entitled to rights of membership and of use and enjoyment appurtenant to such ownership. The Articles of Incorporation and Bylaws of the Association may set forth additional classifications of membership, which Members may or may not be Owners.

"Section 3.04" Classes of Membership and Voting Rights.

"Section 3.04.1" Class A Membership. Each Lot owner, other than the Declarant, shall be a Class A member. Each member shall be entitled to one vote for each Lot, according to the plat. When more than one person holds an interest in any lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Owners among themselves determine, and the Secretary of the Association shall be notified of such designation prior to any meeting. In the absence of such notification, the vote allocated to the Lot shall be suspended in the event more than one person or entity seeks to exercise the right to vote. Any Owner of a Lot which is leased may assign his voting right to the tenant, provided that a copy of the Instrument of Association is furnished to the Secretary of the Association prior to any meeting at which the tenant exercises the voting right.

"Section 3.04.2." Class B Membership. The Declarant shall be the Class B member until it either elects to terminate its membership or whenever it no longer owns property within the development, whichever sooner occurs.

"Section 3.05" Compliance with the Document. Each Owner shall abide by and benefit from the Provisions, Covenants, Conditions, and Restrictions contained in the Rivendell Covenants and Restrictions and Bylaws.

"Section 3.06" Rules and Regulations. The Association from time to time and subject to the provisions of the Rivendell Documents, may adopt, amend and repeal rules and regulations, to be known as "Association Rules," governing, among other things and without limitation:

"Section 3.06.1" Collection and Disposal of Garbage and Trash;

"Section 3.06.2" The Burning of Open Fires;

"Section 3.06.3" The Control of Animals;

"Section 3.06.4" Parking Restrictions and Limitations

"Section 3.06.5" A Schedule of Fines for Infractions of the Association Rules or the Project Documents

A copy of the Association Rules in effect shall be distributed to each Member of the Association, and any change in the Association rules shall be distributed to each Member within a reasonable time following the effective date of the change.

"Section 3.07" Assistance to Architectural Review. The Association shall in all respects cooperate with and assist the ARB in the complete attainment of the ARB's functions, and the enforcement of its architectural guidelines, rules, regulations and decisions.

"Section 3.08" Manager. The Association may employ or contract for the services of a Manager, provided that no such employment shall be by a contract having a term of more than one year and such contract shall be subject to cancellation by the Association upon 30 days or less prior notice without cause and without payment of a termination fee. The Manager shall not have the authority to make expenditures for additions or improvements chargeable against the maintenance fund except upon specific prior approval and direction by the Board. The Board shall not be liable for any omission or improper exercise by a manager of any such duty, power or function so delegated by written instrument executed by or on behalf of the Board.

"Section 3.09" Ownership of Personal and Real Property for Common Use". The Association, through action of its Board of Directors, may acquire, hold and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold or other property interest within Rivendell conveyed to the Association by Declarant.

"Section 3.10" Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under oath reasonable circumstances, to Owners and Mortgagees current copies of the Association document and the books, records and financial statements of the Association prepared pursuant to the bylaws. The Association may charge a

reasonable fee for copying such materials.

"Section 3.11" Successor of Declarant. The Association shall succeed to all of the rights, duties and responsibilities of Declarant under this Declaration upon termination of the Class B membership in accordance with Section 3.04 above. The Association shall not succeed to any rights of Declarant regarding any portion of the Expansion Property which has not then been annexed. To the Property. The Association may delegate any of such rights, duties or responsibilities to the ARB or to any other committee or entity which it may choose to form.

"Section 3.12" Implied Rights and Obligations. The Association may exercise any other right or privilege given to it expressly by the Rivendell Documents, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association under this Declaration or reasonably necessary to effectuate any such right or privilege. The Association shall perform all of the duties and obligations imposed upon it expressly by the Rivendell Documents, together with every other duty or obligation reasonably to be implied from the express provisions of the Rivendell Documents where reasonably necessary to satisfy any such duty or obligation.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

"Section 4.01" Creation of the Lien and Personal Obligations for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges as provided in this Declaration for the purpose of funding the maintenance fund;
- b. Special assessment for capital improvements and other purposes as stated in this Declaration; such annual and special assessments to be fixed, established and collected from time to time provided below; and
- c. Default assessments which may be assessed against an Owner's Lot pursuant to the Rivendell Documents for the failure to perform an obligation under the Rivendell Documents or because the Association has incurred an expense on behalf of the Owner under the Rivendell Documents. The annual, special and default assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due.
- d. The Class B Member shall be exempt from assessments for five (5) years from the date hereof and thereafter shall pay one-third (1/3) of the annual and special assessments for each lot owned by the Declarant.

"Section 4.02" Purposes of Assessments. The assessments levied by the Association shall

be used exclusively to promote the recreation, health, safety and welfare of the Owners and occupants of Rivendell Subdivision and for the improvement and maintenance of the Common Area, including but not limited to the payment of taxes and insurance on the common area and repair, replacement and additions to any improvements on the Common Area, reserve accounts, the cost of labor, equipment, materials, management and supervision, and for the salary or fee of the manager.

"Section 4.03" Calculation and Appointment of Annual Assessments. The Board of Directors shall prepare a budget by April 15 of each year estimating its net cash flow requirements for the next year and an estimate of the assessments to be charged each Owner, and the Board shall distribute the proposed budget to the Owners. On or before April 30 of each year, the Board shall approve the budget in final form and with the consent of the Class B member shall determine, levy and assess the Association's annual assessment for the approaching year. Each budget shall include funds for establishing and maintaining reserves for periodic repairs, replacement and maintenance of the open space and Common Area which must be replaced on a periodic basis, and for taxes, capital improvements, deficiencies from the prior years maintenance fund and other purposes, and shall include any expected income and surpluses from the prior year's maintenance fund.

"Section 4.04". Special Assessments. In addition to the annual assessments authorized in Section 4.01 above, the Board of Directors, with the consent of the Class B Member, may levy in any fiscal year one or more special assessments applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, repair or replacement of a described capital improvement on the open space or Common Area, including the necessary fixtures and personal property related thereto, or to make up any shortfall in the current year's budget. Notice of the amount and due dates for each special assessment must be sent to each Owner at least thirty (30) days prior to the due date.

"Section 4.05" Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for each rate of Lot classified by use or by project, but the basis and rate of assessments for each project or each type of use may be varied as provided below.

"Section 4.05.1" Residential Property. Residential lots shall be assessed on the basis appropriate for each type of such residential project, which types may be based upon classification, including but not limited to the Lots designated for single family and townhouse, condominiums or zero lot line houses, as determined by the Board of Directors from time to time. The rate of assessment levied against Lots within the various residential projects may be varied based upon the Board's sole and exclusive determination that any specific item in the Association's budget may more directly benefit a certain area or classification of the property in excess of its proportionate share, or that the Association has provided services to such project in excess of those to other projects within Rivendell; provided, however, that such rate of assessment shall be uniform within each project.

The rates of assessments for each project and type of use shall be established from time to time by resolution of the Board. The classification of a Lot as to use and assessment type shall be made by the Board in its sole discretion, and its discretion shall be final. The recreational facilities developed by Declarant are conceived to enhance the Rivendell Subdivision community in general and, accordingly, will not be assessed under this Declaration unless Declarant in its sole discretion

subjects such facilities to an obligation for assessments.

"Section 4.06" Date of Commencement of Annual Assessment: Due Date. Upon the sale of a Lot by Declarant to a new Owner, the annual assessments shall commence as to the Lot on the first day of the month following the conveyance of the Lot to the new Owner. In that case, the first annual assessments shall be prorated according to the number of months remaining in the calendar year. Builders who purchase Lots to build houses for resale to consumers shall be exempt from assessments for a period of one year from the date of purchase after which they shall begin to pay assessments in the same manner as an Owner.

"Section 4.07" Default Assessments. All monetary fines assessed against an Owner pursuant to the Association documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association documents, shall be a default assessment and shall become a lien against such Owner's Lot which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and the due date of such default assessment shall be sent to the Owner subject to such assessment at least thirty (30) days prior to the due date.

"Section 4.08" Effect of Non-Payment of Assessments; Lien; Remedies of Association. Any Association installment, whether pertaining to an annual, special or default assessment, which is not paid within thirty (30) days of its due date shall be delinquent. In the event that an assessment installment becomes delinquent, the Association, in its sole discretion may take any or all of the following action:

"Section 4.08.1" Assess a late charge of at least 15% delinquency;

"Section 4.08.2" Assess an interest charge from the date of delinquency at the rate per annum of 2 points above the prime rate charged by the Association's bank or such other rate as shall have been established by the Board of Directors;

"Section 4.08.3" Suspend the voting rights of the Owner during any period of delinquency;

"Section 4.08.4" Accelerate all remaining assessment installments for the fiscal year in questions so that unpaid assessments for the remainder of the year shall be due and payable at once;

"Section 4.08.5" Bring an action at law against any owner personally obligated to pay the delinquent installments; or

"Section 4.08.6" File a statement of lien with respect to the lot, and foreclose as set forth in more detail below.

The Association may file a statement of lien by recording with the Clerk of Court's office of Anderson County, South Carolina, a written statement with respect to the Lot, setting forth the name of the Owner, the legal description of the lot, the name of the Association, and amount of the delinquent assessments then owing, which statement shall be duly signed and acknowledged by the

President or Vice President of the Association or by the Manager, and which shall be served upon the Owner of the Lot by mail to the address of the lot or at such other address as the Association may have in its records for the Owner.

Thirty (30) days following the mailing of such Notice, the Association may proceed to foreclose the statement of lien in the same manner as provided for foreclosure of mortgages under the statutes of the State of South Carolina. Such lien shall be in favor of the Association and shall be for the benefit of all other Owners. In either a personal or foreclosure action, the Association shall be entitled to recover as a part of the action the interest, costs and reasonable attorney's fees with respect to the action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. The remedies herein provided shall not be exclusive and the Association may enforce any other remedies to collect delinquent assessments as may be provided by law.

"Section 4.09" Successor's Liability for Assessments. In addition to the personal obligation of each Owner to pay all assessments thereon and the Association's perpetual lien for such assessments, all successors to the fee simple title of a Lot, except as provided in Section 4.10 below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid assessments, interest, late charges, costs, expenses and attorney's fees against such Lot without prejudice to any successor's right to recover from any prior Owner any amounts paid by such successor. The liability of a successor shall not be personal and shall terminate upon termination of such successor's fee simple interest in the Lot. In addition, such successor shall be entitled to rely on the statement of the status of the assessments issued by or on behalf of the Association under Section 4.11 below.

"Section 4.10" Subordination of the Lien. The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any first mortgage. The lien of the assessments shall be superior to and prior to any homestead exemption provided now or in the future by laws of the State of South Carolina. No sale or transfer of any Lot pursuant to an decree of foreclosure or by a Public Trustee's foreclosure or any other proceeding or deed in lieu of foreclosure for the purpose of enforcing a first mortgage shall extinguish the lien of such assessments as to installments which become due prior to such sale or transfer, and the amount of extinguished lien may be reallocated and assessed to all Lots assessed to all Lots as a common expense at the direction of the Board of Directors. No sale or transfer shall relieve the purchaser or transferee of a Lot from liability for, nor the Lot from the lien of any assessments made after the sale or transfer.

"Section 4.11" Notice of Action. Any First Mortgage which makes a prior written request to the Secretary of the Association and furnishes its name and address in the legal description of the Lot in which it has an interest to the Secretary shall be entitled to timely written notice of any delinquency in payment of an annual, special or default assessment levied against the Lot encumbered by its First mortgage. In addition, any such First Mortgagee shall be entitled to cure such delinquency and obtain a release from the lien imposed or perfected by reason of such delinquency.

"Section 4.12" Exempt Property. The following portions of the property shall be exempt from the assessments, charges, and liens created under this Declaration:

"Section 4.12.1" All properties and other interests therein dedicated and accepted by Anderson County and devoted to public use;

"Section 4.12.2" All utility easements;

"Section 4.12.3" The Common Area; and

"Section 4.12.4" The recreational facilities, subject to the provisions of Section 4.05.1.

"Section 4.13" Statement of Status of Assessments. Upon ten (10) days written notice to the Treasurer of the Association or to the Manager and payment of a reasonable fee set by the Association from time to time, any Owner, prospective purchaser or mortgagee of a Lot shall be furnished a statement of the account for such Lot setting forth;

"Section 4.13.1" The amount of any unpaid assessments (whether annual, special or default assessments), interest, late charges, costs, expenses and attorney's fees then existing against a particular Lot;

"Section 4.13.2" The amount of the current periodic installments of the annual assessments and the date through which they are paid; and

"Section 4.13.3" Any other information deemed proper by the Association. The information contained in such statement which signed by the Treasurer or Manager, shall be conclusive upon the Association as to the person or persons to whom such statement is issued and who rely upon it in good faith.

"Section 4.14" Failure to Assess. The omission or failure of the Board to fix the assessment amounts or rates or to deliver or mail to each owner an assessment notice shall not be deemed a waiver, modification or release of any Owner from the obligation to pay assessments. In such event, the owner shall continue to pay annual assessments on the same basis as for the last year for which an assessment was made until a new assessment is made, at which time any shortfalls in collections may be assessed retroactively by the Association.

ARTICLE V PROPERTY RIGHTS OF OWNERS

"Section 5.01" Owners: Easements of Enjoyment. Every Owner shall have a non-exclusive easement for the use and enjoyment of the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the easements set forth in this Article V.

"Section 5.02" Delegation of Use. In accordance with the Rivendell Documents, any Owner may delegate his right of enjoyment in the Common Area and facilities to his tenants and guests or invitees when accompanied by said Owner or tenant.

"Section 5.03" Recorded Easements. The Property and all portions thereof shall be subject to easements shown on any recorded plat of the property or any portion thereof and to any other

easements of records as of the date of the recordation of this Declaration.

"Section 5.04" Utility Easements. There is hereby created a general easement upon, across, over, in and under the Property for ingress and egress and for installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electricity and cable television. By virtue of this easement, it shall be expressly permissible and property for the companies providing electricity, telephone, cable television and other communication services to install and maintain necessary equipment on the Property and to affix and maintain electricity, communications, cable television and telephone wires, conduits and circuits under the Property. No water, sewer, telephone, electricity, cable television or communications lines, systems or facilities may be installed or relocated on the surface of the property unless approved by Declarant and by the Architectural Review Board. Such utilities temporarily may be installed above ground during construction, if approved by Declarant or the ARB as stated above. Any utility company using this general easement shall use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the Association and Declarant; shall perform its installation and maintenance activities as promptly and expeditiously as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document either Declarant or the Association shall have and are hereby given, the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

"Section 5.05" Reservation for Expansion. Declarant hereby reserves to itself and its successors and assigns, a perpetual easement and rights of way for over, upon and across the Property for construction, utilities, drainage, ingress and egress and for the use of the Common Areas. The location of these easements and rights of way must be approved and may be documented by Declarant or the Association by recorded instruments.

"Section 5.06" Reservation of Easement, Exceptions and Exclusions. Declarant reserves to itself and hereby grants to the Association the concurrent right to establish from time to time, by Declaration or otherwise, utility and other easements, permits or licenses over the Common Areas for purposes including but not limited to streets, paths, walkways, drainage, irrigation, recreation areas, parking areas, ducts, shafts, flues, and conduit installation areas, and to create other reservations, exceptions and exclusions for the best interest of all the Owners and the Association in order to serve all the Owners within Rivendell. Declarant reserves the right to establish from time to time by Declaration or otherwise, utility and other easements and to create other reservations, exceptions and exclusions convenient or necessary for the use and operation of any other property of Declarant, as long as such action does not hamper the enjoyment of Rivendell by the Owners.

"Section 5.07" Emergency Easement. A general easement is hereby granted to all police, sheriff, fire protection, ambulance and other similar emergency agencies or persons to enter upon all streets and upon the property in the proper performance of their duties.

"Section 5.08" Maintenance Easement. An easement is hereby reserved to Declarant and granted to the Association and any member of the Board of Directors or the Manager and their

respective officers, agents, employees and assigns, upon, across, over, in and under the Lots and tracts and a right to make sure use of the lots and tracts as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Rivendell Documents, including the right to enter upon any lot or building site for the purpose of maintenance or the exterior of improvements on such lot as required by the Rivendell Documents.

"Section 5.09" Drainage Easement. An easement is hereby reserved to Declarant and granted to the Association, its officers, agents, employees, successors and assigns to enter upon, across, over, in and under any portion of the property for the purpose of changing, correcting or otherwise modifying the grade or drainage channels on the property so as to improve the drainage of water. Best efforts shall be made to use this easement so as not to disturb the uses of the Owners, the Association and the Declarant, as applicable to the extent possible to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a slightly and unable condition as soon as reasonably possible following such work. Declarant, its officers, agents, employees, successors and assigns must inform and obtain the approval of the Board of Directors prior to undertaking such drainage work, which approval shall not be unreasonably withheld.

"Section 5.10" Irrigation. Irrigation ditches, systems and pipelines may be constructed by the Association throughout the property for the maintenance of such spaces and areas as Declarant and the Association may from time to time decide. The Association is hereby granted the right to maintain these ditches, systems and pipelines and to enter upon Lots as necessary to perform such maintenance.

"Section 5.11" Declarant's Rights Incident to Construction. Declarant, for itself and its successors and assigns hereby retains a right and easement of ingress and egress over, in upon, under and across the Common Areas and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of Improvements on the Property or other real property owned by Declarant; provided however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment and access to an Owner's Lot by that Owner or his family, tenants, employees, guests or invitees.

"Section 5.12" Easements Deemed Created. All conveyances of Lots made after the date of recordation of this Declaration whether by Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article V, even though no specific reference to such easements or to this Article V appears in the instrument for such conveyance.

"Section 5.13" Partition or Combination of Lots. No part of a Lot may be partitioned or separated from any other part thereof, and no lots may be partitioned or separated from any other part thereof, and no lots may be combined, except as provided in this section. A lot may not be subdivided, however, two or more lots may be combined into one with the written consent of Declarant or the Association and full compliance with all applicable state and county zoning and subdivision regulations. Declarant's consent shall be conditioned upon payment by the Owner or Owners concerned of all expenses incident to giving the consent, including legal and accounting fees. Every agreement and recorded instrument for combination of lots shall make adequate provisions for the adjustment of voting rights and liability for payment of assessments appurtenant

to or imposed upon such Lots. In the event that Lots are combined, then the combined lots shall be treated as one for purposes of voting and assessments and they shall not be re-subdivided thereafter.

"Section 5.14" No Partition of Common Area. The Common Area shall be owned by the Association and no Owner shall bring any action for partition or division of the Common Area by acceptance of a deed or other instrument of conveyance or assignment, each Owner shall be deemed to have specifically waived such Owner's right to institute or maintain a partition action or any other action designed to cause a division of the Common Area, and this section may be plead as a bar to any such action. Any Owner who shall institute or maintain any such action shall be liable to the Association, and hereby agrees to reimburse the Association for its costs, expenses and reasonable attorney's fees in defending any such action.

ARTICLE VI ARCHITECTURAL REVIEW BOARD

"Section 6.01" Membership. There is hereby established an ARB which shall be responsible for the establishment and administration of the Architectural Guidelines to carry out the purposes and intent of this Declaration. The ARB shall be composed of three (3) persons appointed, removed and replaced by Declarant in its sole discretion until such time as Declarant shall assign the right and responsibility for same to the Association, and at that time, the Board of Directors shall succeed to Declarant's right to appoint, remove or replace the members of the ARB.

"Section 6.02" Purpose. The ARB shall review, study and either approve or reject proposed improvements on the property, all in compliance with this Declaration and as further set forth in the rules and regulations of the ARB and the Architectural Guidelines adopted and established from time to time by the ARB.

"Section 6.02.1" The ARB shall exercise its best judgment to see that all improvements conform and harmonize with any existing structures as to external design, quality and type of construction, materials, color, tree removal, location on the building site, height, grade and finished ground elevation, and all aesthetic considerations set forth in this Declaration or in the Architectural Guidelines.

"Section 6.02.2" No improvements on the Property shall be erected, placed or altered on any Lot or building site, nor shall any construction be commenced until plans for such improvements shall have been approved by the ARB; provided, however, that improvements and alterations which are completely within a building may be undertaken without such approval.

"Section 6.02.3" The actions of the ARB in the exercise of its discretion by its approval or disapproval of plans or other information submitted to it, or with respect to any other matter before it, shall be conclusive and binding on all interested parties subject to appeal as provided in the By-laws.

"Section 6.03" Organization and Operation of the ARB.

"Section 6.03.1" Term. The term of office for each member of the ARB, subject to Section 6.01, shall be one (1) year commencing on January 1 of each year and continuing until his successor shall have been appointed. Should an ARB member die, retire or become incapacitated, or in the event of a temporary absence of a member, a successor may be appointed as provided in Section 6.01.

"Section 6.03.2" Chairman. So long as Declarant appoints the ARB, Declarant shall appoint the Chairman. At such time as the ARB is appointed by the Board of Directors, the Chairman shall be elected annually from among the members of the ARB by a majority vote of said members.

"Section 6.03.3" Operations. The Chairman shall preside over and conduct all meetings and shall provide for reasonable notice to each member of the ARB prior to any meeting. The notice shall set forth the time and place of the meeting and notice may be waived by any member. In the absence of the Chairman, the party responsible for appointing or electing the Chairman may appoint or elect a successor, or if the absence is temporary, a temporary successor.

"Section 6.03.4" Voting. The affirmative vote of a majority of the members of the ARB shall govern its actions and be the act of the ARB. A quorum shall be consist of a majority of the members.

"Section 6.03.5" Expert Consultation. The ARB may avail itself of technical and professional advice as it deems appropriate.

"Section 6.04" Expenses. Except as provided below, all expenses of the ARB shall be paid by the Association. The ARB shall have the right to charge a fee for each application submitted to it for review in an amount which may be established by the ARB from time to time, and such fees shall be collected by the ARB and remitted to the Association to help defray the expenses of the ARB's operation. The filing fee shall not exceed \$100.00 per dwelling unit but may be subject to reasonable increase as determined by the Association Board on recommendation from the ARB.

"Section 6.05" Architectural Guidelines and Rules. The ARB shall adopt, establish and publish from time to time Architectural Guidelines, which shall be a Rivendell Document. The Architectural Guidelines shall not be inconsistent with the Declaration, but shall more specifically define and describe the design standards for the Rivendell Subdivision and various uses within Rivendell. The Architectural Guidelines may be modified or amended from time to time by the ARB. Further, the ARB, in its sole discretion, may excuse compliance in specific situations and may permit compliance with different or alternative requirements. Compliance with the Rivendell design review process is not a substitute for compliance with the Anderson County building, zoning, and subdivision regulations, and each Owner is responsible for obtaining all approvals, licenses and permits as may be required prior to commencing construction.

"Section 6.06" Procedures. As part of the Architectural Guidelines and Rules, the ARB shall make and publish such rules and regulations as it may deem appropriate to govern its proceedings. Appeals shall be conducted as provided in the By-laws.

"Section 6.07" Limitation of Liability. The ARB shall use responsible judgment in accepting or disapproving all plans and specifications submitted to it. Neither the ARB nor any individual ARB member shall be liable to any person for any act of the ARB in connection with submitted plans and specifications except to the extent the ARB or any individual ARB member acted with malice or wrongful intent. Approval by the ARB does not necessarily assure approval by the appropriate governmental board of commission for Anderson County, South Carolina. Notwithstanding that the ARB has approved plans and specifications, neither the ARB nor any of its members shall be responsible or liable to any owner, developer or contractor with respect to any loss, liability, claim or expense which may arise by reason of such approval of the construction of the improvements. Neither the Board, the ARB nor any agent thereof, nor Declarant or any of its partners, employees, agents or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions of the Rivendell Documents, nor for any structural or other defects in any work done according to such plans and specifications. In all events, the ARB shall be defended and indemnified by the Association in any such suit or proceeding which may arise by reason of the ARB's decision. The Association, however, shall not be obligated to indemnify each member of the ARB to the extent that any such member of the ARB shall be judged to be liable for negligence or misconduct in the performance of this duty as a member of the ARB, unless and then only to the extent that the Court in such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses as such Court shall deem proper.

"Section 6.08" Penalties for Violations or Non-compliance. The ARB may seek any and all legal or equitable remedies available to it in the event of a violation of ARB guidelines or non-compliance with such guidelines by an Owner. The ARB may assess \$50.00 per day against an owner for each event of non-compliance or violation, and collection of such shall be subject to enforcement under all provisions contained herein, including those that provided for such sums owned to become a lien on the lot.

ARTICLE VII CONSTRUCTION AND ALTERATION OF IMPROVEMENTS

"Section 7.01" General. The Architectural Guidelines and the general instructions set forth in these Covenants shall govern the right of an Owner, developer or other entity to construct, reconstruct, refinish, alter or maintain any improvement upon, under or above any of the property (except as provided in Section 6.02.2 above), and to make or create any excavation or fill on the property or make any change in the natural or existing surface contour or drainage, or install any utility line or conduit on or over the property.

"Section 7.02" Approval Required. Except to the extent permitted in Section 6.02.2 above, any construction, reconstruction, refinishing or alteration of any part of the exterior of any buildings or other improvement on the property is absolutely prohibited until and unless the Owner or developer first obtains approval from the ARB and otherwise complies with the provisions of these Covenants. All improvements shall be constructed only in accordance with approved plans.

"Section 7.03" Deemed Nuisances. Every violation of these Covenants is hereby declared