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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Roger M. Young, Circuit Court Judge

Appellate Case No. 2022-001385
Case No. 2017-CP-08-02238

Matthew Zetz,

Appellant,

v.

Daniel Island Company, Inc.,

Respondent.

RECORD ON APPEAL – VOLUME 1

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IN THE STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
FOR THE 9TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-08-02238

MATTHEW ZETZ,

Plaintiff,

v.

DANIEL ISLAND COMPANY, INC.;
DANIEL ISLAND COMMUNITY
FOUNDATION, INC.; DANIEL ISLAND
TOWN ASSOCIATION, INC.; DANIEL
ISLAND COMMUNITY ASSOCIATION,
INC.; and MGR RESOURCES, INC. d/b/a
MOONLIGHTING LANDSCAPE
LIGHTING SYSTEMS,

Defendants.

ORDER

This matter came before the Court on September 2, 2020, October 5, 2020 and again October 20, 2020 on Plaintiff's Motion to Compel discovery responses from Defendant Daniel Island Community Association, Inc. ("DICA"), Plaintiff's Motion to Compel discovery responses from Defendant Daniel Island Company ("DIC") and Defendant Daniel Island Company's ("DIC") Motion for Summary Judgment. For the reasons set forth below, Plaintiff's Motion to Compel is partially GRANTED and Defendant's Motion for Summary Judgment is STAYED.

This is a premises liability matter arising out of an alleged nighttime fall at a park. Plaintiff alleges that on the night of November 11, 2016, while walking in the Children's Park and Community Pier on Daniel Island, South Carolina, he fell into a concrete trench and injured his left ankle, which ultimately resulted in amputation below the knee. Plaintiff alleges that the property where the accident occurred is owned and operated by the various Daniel Island Defendants, who purportedly act in concert so as to render each liable for the accident.

Plaintiff filed the motion to Compel DICA's discovery responses on July 21, 2020. Plaintiff filed the motion to Compel DIC's discovery responses on September 28, 2020. DICA and DIC objected to Plaintiff's request based on scope. Accordingly, this Court hereby orders that DICA and DIC provide emails related to corporate ownership and daily operations between DICA and DIC for the time period of one year prior to the incident and two years after the incident; meeting minutes and employment records for the day of the incident.

In addition, DICA made claims of privilege and provided a supplemental privilege log and documents listed in privilege log for in camera review. Specifically, photographs, emails and a declaration of easements. A party may withhold information otherwise discoverable by expressly claiming such material is privileged or subject to protection as trial preparation material. SCRCP, Rule 26(b)(5). Accordingly, this Court deems those objections to be valid. DICA is not required to provide responses as to the supplemental privilege log and documents listed in privilege log for in camera review.

Furthermore, discovery is ongoing. Therefore, Defendant's Motion for Summary Judgment is not ripe and will be stayed. The issue of discoverability of the net worth of defendants DICA and DIC is premature and will be addressed at a later date, once the motion for Summary Judgment is decided by the court.

Lastly, Defendant DICA and DIC's conduct does not merit sanctions under Rule 37, SCRCP. Counsel for DICA conceded during the September 2, 2020 hearing that DICA withheld discovery responses without sufficient reason. Thereafter, DICA provided responses by Friday, September 4, 2020 and subsequently provided a supplemental privilege log and documents listed in privilege log for in camera review.

WHEREFORE, this Court hereby orders as follows, Plaintiff's Motion to Compel is partially GRANTED and Defendant's Motion for Summary Judgment is STAYED.

AND IT SO ORDERED.

Charleston, South Carolina

Judge Roger M. Young, Sr.
Circuit Court Judge



Berkeley Common Pleas

Case Caption: Matthew Zetz VS Daniel Island Community Foundation , defendant,
et al
Case Number: 2017CP0802238
Type: Order/Compel

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	
	)	C/A No. 2017-CP-08-02238
MATTHEW ZETZ,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER GRANTING DEFENDANT
	)	DANIEL ISLAND COMPANY'S MOTION
	)	FOR SUMMARY JUDGMENT
DANIEL ISLAND COMPANY, INC.,	)	
DANIEL ISLAND COMMUNITY	)	
FOUNDATION, INC., DANIEL ISLAND	)	
TOWN ASSOCIATION, INC., DANIEL	)	
ISLAND COMMUNITY ASSOCIATION,	)	
INC., AND MGR RESOURCES, INC.	)	
D/B/A MOONLIGHTING LANDSCAPE	)	
LIGHTING SYSTEMS,	)	
	)	
Defendants.	)	

This matter came before the Court for a hearing on Defendant Daniel Island Company's ("DIC") Motion for Summary Judgment on October 20, 2020. At that hearing, Plaintiff's counsel requested additional time to find and present evidence in opposition to DIC's Motion for Summary Judgment. After hearing from both attorneys, this Court agreed to allow the Plaintiff additional time to discover and provide this Court with evidence of a disputed material fact. On August 24, 2022, this Court held a second hearing on DIC's Motion and the Plaintiff did not present any substantive evidence to challenge DIC's position. Having carefully reviewed and considered all submissions before the Court and arguments of counsel, DIC's Motion for Summary Judgment is hereby GRANTED.

FINDINGS OF FACT

This case arises out of an incident that occurred in what was known as the Children's Park on Daniel Island on the night of November 11, 2016. The Plaintiff, Matthew Zetz, accompanied his brother to inspect a vendor's booth that had been set up to promote his brother's orthodontics practice during Daniel Island Park Day, which was to take place the following day. Mr. Zetz's brother walked into the park with the guidance of a police officer with a flashlight. Mr. Zetz, who was unfamiliar with the park, walked some distance behind them without the aid of a flashlight.

The Children's Park, which was recently razed to allow for the construction of a new park and public marina, was built to resemble a map of the Charleston area. Some of the local waterways depicted on the hardscape surface of the children's play area were built as an actual water feature, consisting of a fountain that filled shallow concrete trenches with water. On the night of the incident, the fountain had been turned off and, by all accounts, there was no water in the trenches. Mr. Zetz stepped into one of the water feature trenches and fractured his left ankle.

DIC is a for profit corporation. It was the original developer entity for the entirety of Daniel Island. As part of the master plan to develop the island, the City of Charleston mandated a number of parks and greenspaces be built and be open to the public. The City also mandated that all such parks must be conveyed to one of the nonprofit property owners' associations on the island or to the City itself. The Children's Park where the Plaintiff was injured was constructed by DIC in 1999 and conveyed to the Daniel Island Town Association ("DITA") immediately upon its completion, per the City's requirements. DITA has been the sole owner of the Children's Park since that conveyance. DITA, a South Carolina non-profit corporation, is managed by a board of directors and operated in accordance with a Master Deed. DIC, as the declarant entity listed in the DITA Master Deed, has the right to appoint DITA's directors until a given number of properties

with that association have been sold to third party owners, at which time its board members will be elected from the association's members.

LEGAL STANDARD

Summary judgment is appropriate where there is no genuine issue of material fact and it is clear that the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRCP; *Sapp v. Ford Motor Co.*, 386 S.C. 143, 687 S.E.2d 47 (2009). Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact. *Standard Fire Ins. Co. v. Marine Contracting & Tooling Co.*, 301 S.C. 418, 422, 392 S.E.2d 460, 462 (1990). However, the moving party's initial responsibility is discharged by showing that "there is an absence of evidence to support the nonmoving party's case." *Baughman v. Am. Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986)).

In determining whether any triable issue of fact exists so as to preclude summary judgment, the evidence and all inferences that can be reasonably drawn must be viewed in the light most favorable to the non-moving party. *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, S.E.2d 117 (1998); *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997). However, "summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner." *Guinan v. Tenet Healthsystems of Hilton Head*, 383 S.C. 48, 53, 677 S.E.2d 32, 35 (Ct. App. 2009) (quoting *Davis v. McLeod Reg'l Med. Center*, 367 S.C. 242, 250, 626 S.E.2d 1, 5) (2006)).

CONCLUSIONS OF LAW

I. DIC is not liable to the Plaintiff because DIC owed no legal duties to the Plaintiff at the time he was injured on the property of another party.

The Plaintiff's negligence claim against DIC can be divided into two general categories: 1) negligent design/construction of the park; and 2) failure to properly maintain the park. The Plaintiff cannot prevail on either of these theories. First, as to the Plaintiff's claims for negligent design/construction of the park, the statute of repose bars the Plaintiff from any recovery. The park was completed in 2002. The Plaintiff's injuries were sustained in 2016. This action was filed in 2017. Given that the project was completed prior to 2005, the old thirteen-year statute of repose applies. Thus, the statute of repose expired roughly two years before this action commenced.

Furthermore, the Plaintiff cannot prevail on his negligence claim against DIC under a premises liability theory because DIC did not owe a legal duty to the Plaintiff. The Plaintiff alleged that DIC is liable to him for his injuries because DIC controlled DITA and DITA controlled the property where the Plaintiff was injured. The Court disagrees. "Control" is not a word with a single legal definition. In the context of horizontal property regimes, master deeds frequently refer to a "declarant control period." That is simply common parlance for the time during which the original developer of a community may appoint the board members of a property owners association it has formed. That said, if proper corporate formalities are observed, the declarant does not actually exercise direct operational control over the POA, much less the common elements that are owned by its members. In the context of the kinds of premises liability cases upon which the Plaintiff relies, "control" is used as a way to describe the circumstances under which a legal duty arises to protect occupants and visitors to a property. That is a very different analysis than what is appropriate to examine the relationships between separate corporate entities.

In this case, one must go through each link in the chain: DIC selects the board of DITA. DITA's board makes upper-level decisions for that entity. DITA's employees and vendors carry out those decisions. The Children's Park is one of the common elements owned by the many property owners that actually own all of the property that comprises DITA. An injury occurred in that park, allegedly because of inadequate lighting. The Plaintiff failed to provide any support for the notion that DIC has sufficient control over the park to create a legal duty in that entity. As a result, DIC is entitled to summary judgment on the Plaintiff's negligence claims.

II. DIC is not liable for the negligence of another entity based on a single enterprise or corporate amalgamation theory.

While the Plaintiff argued that he had asserted claims for corporate amalgamation and veil piercing during the hearing on DIC's Motion for Summary Judgment, the Plaintiff was not able to point to any facts in the record to support either of those claims.

The South Carolina Supreme Court formally recognized the amalgamation of interests, or single business enterprise theory, in *Pertuis v. Front Roe Rests., Inc.*, 423 S.C. 640, 655, 817 S.E.2d 273, 280. In doing so, the Court emphasized that "corporations are often formed for the purpose of shielding shareholders from individual liability; there is nothing remotely nefarious in doing that." *Id.* Notably, the Court held that "the single business enterprise theory requires a showing of more than the various entities' operations are intertwined." *Id.* Rather, "[c]ombining multiple corporate entities into a single business enterprise requires further evidence of bad faith, abuse, fraud, wrongdoing, or injustice resulting from the blurring of the entities' legal distinctions." *Id.* at 655, 817 S.E.2d at 281.

In this case, the Plaintiff was apparently attempting to demonstrate the existence of a single business enterprise among DIC and the other Daniel Island Defendants based on DIC's involvement with the other Daniel Island Defendants' property owners associations. However, the

Plaintiff cannot point to any facts in the record to make such a showing. Prior to developing the island, and in compliance with the South Carolina Horizontal Property Act, DIC executed a master deed setting forth the necessary details of the development. That master deed expressly states that DIC, as the developer of the property, would retain control over the boards of the property owners' associations until control was automatically and completely turned over to the members of the association. Despite the Plaintiff's efforts to demonstrate that the Daniel Island entities should be legally classified as a single business venture, the evidence clearly demonstrates that the opposite is true: DIC is completely separate from the other Daniel Island entities. There is nothing remotely nefarious about the formation or structure of the Daniel Island entities. As a result, because the Plaintiff cannot provide the Court with any evidence of "bad faith, abuse, fraud, wrongdoing, or injustice resulting from the blurring of the entities' legal distinctions," as is required to establish a claim for amalgamation, DIC is entitled to summary judgment on all of the Plaintiff's claims against it.

CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that Defendant DIC's Motion for Summary Judgment is **GRANTED**.

IT IS SO ORDERED.

ELECTRONIC SIGNATURE PAGE TO FOLLOW



Berkeley Common Pleas

Case Caption: Matthew Zetz VS Daniel Island Community Foundation, Inc ,
defendant, et al

Case Number: 2017CP0802238

Type: Order/Summary Judgment

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

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STATE OF SOUTH CAROLINA
COUNTY OF BERKELEY

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
) CASE NO: 17-CP-08-2238

Matthew Zetz,

Plaintiff,

v.

Daniel Island Community Foundation,

Defendant.

**SUMMONS
(JURY TRIAL DEMANDED)**

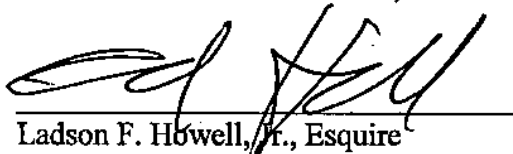
CLERK OF COURT
BERKELEY COUNTY, SC

FILED
OCT -2 PM 3:18

TO: DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and REQUIRED to Answer the Complaint of the Plaintiff in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint on the subscriber at his office located at 250 Mathis Ferry Rd., Ste. 102, Mt. Pleasant, South Carolina, 29464, within thirty (30) days after the service hereof, exclusive of the day of such service; and, if you fail to Answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the said Complaint.

HOWELL & CHRISTMAS, LLC



Ladson F. Howell, Jr., Esquire
James G. Christmas, Esquire
250 Mathis Ferry Rd., Ste. 102
Post Office Box 1896 (29465)
Mt. Pleasant, South Carolina 29464
(843) 849-2800

Attorneys for Plaintiff

Mt. Pleasant, South Carolina
Dated: September 29, 2017

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Matthew Zetz,

Plaintiff,

v.

Daniel Island Community Foundation,

Defendant.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE NO: 17-CP-08- **2238**

**COMPLAINT
(JURY TRIAL DEMANDED)**

CLERK OF COURT
BERKELEY COUNTY, SC

2017 OCT -2 PM 3:18

FILED

Plaintiff, complaining of the above-named Defendant, would respectfully show the court:

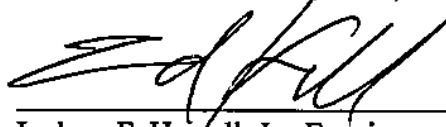
1. Plaintiff is a resident of Daniel Island, South Carolina.
2. Defendant is a corporation organized under the laws of the state of South Carolina doing business in Berkeley County, South Carolina.
3. Defendant is the owner of the Children's Park and Community Pier area of Daniel Island, South Carolina [hereinafter], "Public Park". The Public Park is open for use by the public at large.
4. On or about November 11, 2016, Plaintiff entered the Public Park in the evening for the purpose of assisting in the setting up of materials for an event planned in the park for the following day.
5. Plaintiff enjoyed status as an invitee upon Defendant's property at the time of his injury.
6. In the Public Park is a compass-theme fountain with simulated rivers painted onto the concrete and actual man-made bodies of water made to look like rivers that are painted blue in their interior and are recessed.

7. The areas surrounding the recessed man-made bodies of water have no markings upon or around them intended to distinguish them from the surrounding flat concrete surfaces.
8. There are no markings upon or around the man-made bodies of water to distinguish them from the surrounding surfaces.
9. The man-made bodies of water pose a danger to those who walk in the Public Park.
10. At all relevant times hereto, Defendant had in place no signs, warnings or other indications that there were changes in the elevation of the surface of the Public Park.
11. There is inadequate lighting in the Public Park.
12. At the time of this accident, the Public Park area's fountain was not running nor were the man-made bodies of water illuminated.
13. Lighting fixtures located in the Public Park area were primarily located at the base of trees and illuminating upward.
14. Plaintiff was walking across the Public Park the evening of this accident and stepped into a man-made river causing him to break his left ankle.
15. Plaintiff's fall caused Plaintiff to suffer now, and in the future, the following damages: physical pain and suffering; permanent loss of mobility of his left ankle ; mental anguish; past and future economic loss; loss of enjoyment of life; and, past and future medical bills for treatment and care of injuries received in the accident.
16. Defendant by its acts or omissions were negligent, grossly negligent, wanton, and reckless in the following particulars to wit:
 - a. In creating the defective and hazardous condition which posed a danger to its patrons;

- b. In failing to correct the defective or hazardous condition;
 - c. In failing to warn by any method of the danger posed by the defective or hazardous condition; and
 - d. In failing to properly supervise, control and maintain the area of the defective or hazardous condition.
17. The injuries and damages suffered by Plaintiff resulted directly and proximately from the acts and omissions of the defendant.
18. Plaintiff is entitled to judgment against Defendant for such actual damages as the trier of fact may find, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

WHEREFORE, Plaintiff prays for judgment against Defendant in an amount of actual and punitive damages as the trier of fact determines, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

HOWELL & CHRISTMAS, LLC



Ladson F. Howell, Jr., Esquire
James G. Christmas, Esquire
250 Mathis Ferry Rd., Ste. 102
Post Office Box 1896 (29465)
Mt. Pleasant, South Carolina 29464
(843) 849-2800

Mt. Pleasant, South Carolina
Dated: September 29, 2017

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

MATTHEW ZETZ

Plaintiff(s)

vs.

DANIEL ISLAND COMMUNITY FOUNDATION

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

17-CP - 08- 2238

Submitted By: Ladson F. Howell, Jr.

Address: 250 Mathis Ferry Road, Ste 102

Mt. Pleasant, South Carolina 29464

SC Bar #: 66282

Telephone #: 843-849-2800

Fax #: 843-884-2007

Other:

E-mail: lad@hcinjury.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
- ☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- ☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|---|---|---|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Conversion (310) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Motor Vehicle Accident (320) | ☐ Condemnation (410) |
| ☐ General (130) | ☐ Medical Malpractice (220) | ☐ Premises Liability (330) | ☐ Foreclosure (420) |
| ☐ Breach of Contract (140) | Previous Notice of Intent Case # | ☐ Products Liability (340) | ☐ Mechanic's Lien (430) |
| ☐ Fraud/Bad Faith (150) | 20 <u>-NI-</u> | ☒ Personal Injury (350) | ☐ Partition (440) |
| ☐ Failure to Deliver/
Warranty (160) | ☐ Notice/ File Med Mal (230) | ☐ Wrongful Death (360) | ☐ Possession (450) |
| ☐ Employment Discrim (170) | ☐ Other (299) _____ | ☐ Assault/Battery (370) | ☐ Building Code Violation (460) |
| ☐ Employment (180) | | ☐ Slander/Libel (380) | ☐ Other (499) _____ |
| ☐ Other (199) _____ | | ☐ Other (399) _____ | |
| Inmate Petitions | Administrative Law/Relief | Judgments/Settlements | Appeals |
| ☐ PCR (500) | ☐ Reinstate Drv. License (800) | ☐ Death Settlement (700) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Judicial Review (810) | ☐ Foreign Judgment (710) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Relief (820) | ☐ Magistrate's Judgment (720) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) _____ | ☐ Permanent Injunction (830) | ☐ Minor Settlement (730) | ☐ Municipal (930) |
| | ☐ Forfeiture-Petition (840) | ☐ Transcript Judgment (740) | ☐ Probate Court (940) |
| | ☐ Forfeiture-Consent Order (850) | ☐ Lis Pendens (750) | ☐ SCDOT (950) |
| | ☐ Other (899) _____ | ☐ Transfer of Structured
Settlement Payment Rights
Application (760) | ☐ Worker's Comp (960) |
| Special/Complex /Other | | ☐ Confession of Judgment (770) | ☐ Zoning Board (970) |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) | ☐ Petition for Workers
Compensation Settlement
Approval (780) | ☐ Public Service Comm. (990) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) | ☐ Other (799) _____ | ☐ Employment Security Comm (991) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) | | |
| ☐ Other (699) _____ | ☐ Motion to Quash Subpoena in
an Out-of-County Action (660) | | |
| ☐ Sexual Predator (510) | ☐ Pre-Suit Discovery (670) | | |
| ☐ Permanent Restraining Order (680) | | | |

Submitting Party Signature: _____

Date: September 29, 2017

Notes: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

SCCA / 234 (03/2016)

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO: 17-CP-08-2238
	)	
Matthew Zetz,	)	
	)	
Plaintiff,	)	
	)	FIRST AMENDED
v.	)	SUMMONS
	)	(JURY TRIAL DEMANDED)
Daniel Island Community Foundation, Daniel	)	
Island Town Association, Daniel Island	)	
Community Association,	)	
The Daniel Island Company, Inc.,	)	
Moonlighting Landscape Lighting Systems,	)	
& Daniel Island Town Center Owners	)	
Association,	)	
	)	
Defendants.	)	
	)	

TO: DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and REQUIRED to Answer the Complaint of the Plaintiff in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the Complaint on the subscriber at his office located at 250 Mathis Ferry Rd., Ste. 102, Mt. Pleasant, South Carolina, 29464, within thirty (30) days after the service hereof, exclusive of the day os such service; and, if you fail to Answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the said Complaint.

HOWELL LAW GROUP, LLC

s/Ladson F. Howell, Jr.
Ladson F. Howell, Jr., Esquire
250 Mathis Ferry Rd., Ste. 102
Post Office Box 1896 (29465)
Mt. Pleasant, South Carolina 29464
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Attorneys for Plaintiff

Mt. Pleasant, South Carolina
Dated: November 8, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	CASE NO: 17-CP-08-2238
	)	
	)	
Matthew Zetz,	)	
	)	
Plaintiff,	)	
	)	
v.	)	FIRST AMENDED
	)	COMPLAINT
	)	(JURY TRIAL DEMANDED)
Daniel Island Community Foundation, Daniel	)	
Island Town Association, Daniel Island	)	
Community Association,	)	
The Daniel Island Company, Inc.,	)	
Moonlighting Landscape Lighting Systems,	)	
& Daniel Island Town Center Owners	)	
Association,	)	
	)	
	)	
Defendants.	)	
	)	

Plaintiff, complaining of the above-named Defendant, would respectfully show the court:

1. Plaintiff is a resident of Daniel Island, South Carolina.
2. Defendants are corporations organized under the laws of the state of South Carolina doing business in Berkeley County, South Carolina.

FACTUAL ALLEGATIONS AS TO ALL DEFENDANTS

- 3 On or about November 11, 2016, Plaintiff entered the Public Park in the evening for the purpose of assisting in the setting up of materials for an event planned in the park for the following day.
4. Plaintiff enjoyed status as an invitee upon Defendants' property at the time of his injury.

5. In the Public Park is a compass-theme fountain with simulated rivers painted onto the concrete and actual man-made bodies of water made to look like rivers that are painted blue in their interior and are recessed.
6. The areas surrounding the recessed man-made bodies of water have no markings upon or around them intended to distinguish them from the surrounding flat concrete surfaces.
7. There are no markings upon or around the man-made bodies of water to distinguish them from the surrounding surfaces.
8. The man-made bodies of water pose a danger to those who walk in the Public Park.
9. There is inadequate lighting in the Public Park.
10. That Defendant failed to maintain lighting in the Public Park up to code standards.
11. At the time of this accident, the Public Park area's fountain was not running nor were the man-made bodies of water illuminated.
12. Lighting fixtures located in the Public Park area were primarily located at the base of trees and illuminating upward.
13. Plaintiff was walking across the Public Park the evening of this accident and stepped into a man-made river causing him to break his left ankle.
14. Plaintiff's fall caused Plaintiff to suffer now, and in the future, the following damages: physical pain and suffering; permanent loss of mobility of his left ankle ; mental anguish; past and future economic loss; loss of enjoyment of life; and, past and future medical bills for treatment and care of injuries received in the accident.
15. At all relevant times hereto, Defendants had in place no signs, warnings or other indications that there were changes in the elevation of the surface of the Public Park

AS TO DANIEL ISLAND COMMUNITY FOUNDATION

16. Defendant, [hereinafter, "DICF"] is the owner of the Children's Park and Community Pier area of Daniel Island, South Carolina [hereinafter, "Public Park"]. The Public Park is open for use by the public at large.
17. DCIF by its acts or omissions were negligent, grossly negligent, wanton, and reckless in the following particulars to wit:
 - a. In creating the defective and hazardous condition which posed a danger to its patrons;
 - b. In failing to correct the defective or hazardous condition;
 - c. In failing to warn by any method of the danger posed by the defective or hazardous condition; and
 - d. In failing to properly supervise, control and maintain the area of the defective or hazardous condition.
18. The injuries and damages suffered by Plaintiff resulted directly and proximately from the acts and omissions of the DCIF.
19. Plaintiff is entitled to judgment against DCIF for such actual damages as the trier of fact may find, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

AS TO DANIEL ISLAND TOWN ASSOCIATION

20. Defendant, [hereinafter “DITA”], is the owner of the Children’s Park and Community Pier area of Daniel Island, South Carolina [hereinafter, “Public Park”]. The Public Park is open for use by the public at large.
21. DITA by its acts or omissions were negligent, grossly negligent, wanton, and reckless in the following particulars to wit:
- a. In creating the defective and hazardous condition which posed a danger to its patrons;
 - b. In failing to correct the defective or hazardous condition;
 - c. In failing to warn by any method of the danger posed by the defective or hazardous condition; and
 - d. In failing to properly supervise, control and maintain the area of the defective or hazardous condition.
22. The injuries and damages suffered by Plaintiff resulted directly and proximately from the acts and omissions of DITA.
23. Plaintiff is entitled to judgment against DITA for such actual damages as the trier of fact may find, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

AS TO THE DANIEL ISLAND COMPANY, INC

24. Defendant, [hereinafter “DIC”], is the owner of the Children’s Park and Community Pier area of Daniel Island, South Carolina [hereinafter, “Public Park”]. The Public Park is open for use by the public at large.

25. DIC by its acts or omissions were negligent, grossly negligent, wanton, and reckless in the following particulars to wit:
 - a. In creating the defective and hazardous condition which posed a danger to its patrons;
 - b. In failing to correct the defective or hazardous condition;
 - c. In failing to warn by any method of the danger posed by the defective or hazardous condition; and
 - d. In failing to properly supervise, control and maintain the area of the defective or hazardous condition.
26. The injuries and damages suffered by Plaintiff resulted directly and proximately from the acts and omissions of the defendant.
27. Plaintiff is entitled to judgment against DIC for such actual damages as the trier of fact may find, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

AS TO THE DANIEL ISLAND COMMUNITY ASSOCIATION

28. Defendant, [hereinafter "DICA"], is the owner of the Children's Park and Community Pier area of Daniel Island, South Carolina [hereinafter, "Public Park"]. The Public Park is open for use by the public at large.
29. DICA by its acts or omissions were negligent, grossly negligent, wanton, and reckless in the following particulars to wit:
 - a. In creating the defective and hazardous condition which posed a danger to its patrons;
 - b. In failing to correct the defective or hazardous condition;

- c. In failing to warn by any method of the danger posed by the defective or hazardous condition; and
 - d. In failing to properly supervise, control and maintain the area of the defective or hazardous condition.
30. The injuries and damages suffered by Plaintiff resulted directly and proximately from the acts and omissions of the defendant.
31. Plaintiff is entitled to judgment against DICA for such actual damages as the trier of fact may find, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

AS TO THE DANIEL ISLAND TOWN CENTER OWNERS ASSOCIATION

32. Defendant, [hereinafter "DITCOA"], is the owner of the Children's Park and Community Pier area of Daniel Island, South Carolina [hereinafter, "Public Park"]. The Public Park is open for use by the public at large.
33. DITCOA by its acts or omissions were negligent, grossly negligent, wanton, and reckless in the following particulars to wit:
- a. In creating the defective and hazardous condition which posed a danger to its patrons;
 - b. In failing to correct the defective or hazardous condition;
 - c. In failing to warn by any method of the danger posed by the defective or hazardous condition; and
 - d. In failing to properly supervise, control and maintain the area of the defective or hazardous condition.

34. The injuries and damages suffered by Plaintiff resulted directly and proximately from the acts and omissions of the defendant.
35. Plaintiff is entitled to judgment against DITCOA for such actual damages as the trier of fact may find, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

AS TO MOONLIGHTING LANDSCAPE LIGHTING SYSTEMS

36. That Defendant failed to maintain lighting in the Public Park up to code standards.
37. Defendant, [hereinafter "MLLS"], is the owner of the Children's Park and Community Pier area of Daniel Island, South Carolina [hereinafter, "Public Park"]. The Public Park is open for use by the public at large.
38. MLLS by its acts or omissions were negligent, grossly negligent, wanton, and reckless in the following particulars to wit:
- a. In creating the defective and hazardous condition which posed a danger to its patrons;
 - b. In failing to correct the defective or hazardous condition;
 - c. In failing to warn by any method of the danger posed by the defective or hazardous condition; and
 - d. In failing to properly supervise, control and maintain the area of the defective or hazardous condition.
39. The injuries and damages suffered by Plaintiff resulted directly and proximately from the acts and omissions of the defendant.

40. Plaintiff is entitled to judgment against MLLLS for such actual damages as the trier of fact may find, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

WHEREFORE, Plaintiff prays for judgment against Defendants in an amount of actual and punitive damages as the trier of fact determines, for the costs and disbursements of this action, and for such other relief as the Court deems just and proper.

HOWELL LAW GROUP, LLC

s/Ladson F. Howell, Jr.
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Mt. Pleasant, South Carolina
Dated: November 8, 2019

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
FOR THE 9TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-08-022038

MATTHEW ZETZ,

Plaintiff,

v.

DANIEL ISLAND COMPANY, INC.;
DANIEL ISLAND COMMUNITY
FOUNDATION, INC.;
DANIEL ISLAND TOWN
ASSOCIATION, INC.;
DANIEL ISLAND COMMUNITY
ASSOCIATION, INC.; and
MGR RESOURCES, INC. d/b/a
MOONLIGHTING LANDSCAPE
LIGHTING SYSTEMS,

Defendants

**SECOND AMENDED SUMMONS
(Jury Trial Demanded)**

TO: THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to Answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the Plaintiff or Plaintiff's attorneys, Ivey B. Franklin, Lane D. Jefferies, Eric M. Poulin, and Roy T. Willey, IV, at their offices at 32 Ann Street, Charleston, South Carolina, 29403, within (30) days after the service hereof, exclusive of the day of such service and if you fail to Answer the Complaint within the time aforesaid, Plaintiff will apply to the court for the relief demanded in the Complaint.

Dated at Charleston, South Carolina on the 21st day of April, 2020.

ANASTOPOULO LAW FIRM, LLC

s/ Lane D. Jefferies

Lane D. Jefferies, Esquire

S.C. Bar No.:101764

Ivey B. Franklin, Esquire

S.C. Bar No.:104131

Eric M. Poulin, Esquire

S.C. Bar No.:100209

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Anastopoulos Law Firm, LLC

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Charleston, SC 29403

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IN THE STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
FOR THE 9TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-08-022038

MATTHEW ZETZ,

Plaintiff,

v.

**SECOND AMENDED COMPLAINT
(Jury Trial Demanded)**

DANIEL ISLAND COMPANY, INC.;
DANIEL ISLAND COMMUNITY
FOUNDATION, INC.;
DANIEL ISLAND TOWN
ASSOCIATION, INC.;
DANIEL ISLAND COMMUNITY
ASSOCIATION, INC.; and
MGR RESOURCES, INC. D/B/A
MOONLIGHTING LANDSCAPE
LIGHTING SYSTEMS,

Defendants

The Plaintiff, complaining of the Defendants, alleges and says as follows:

CASE SYNOPSIS

1. Defendants are responsible for an unmarked and unlighted concrete trench in a park on Daniel Island.
2. Due to Defendants' negligence, Plaintiff fell into the unmarked and unlighted concrete trench while walking through the park.
3. Plaintiff suffered serious injuries as a result, including but not limited to the loss of his left leg just below the knee.

SPECIFIC AVERMENTS

4. That the Plaintiff, Matthew Zetz, (herein referred to as "Plaintiff") is a citizen and resident of Berkeley County, State of South Carolina.

5. That Defendant DANIEL ISLAND COMPANY, INC. (“Daniel Island Company”) is a corporation incorporated and existing under the laws of the State of South Carolina, doing business and owning real property in Berkeley County, South Carolina.
6. That Defendant MGR RESOURCES, INC. D/B/A MOONLIGHTING LANDSCAPE LIGHTING SYSTEMS (“Lighting Company”) is a corporation incorporated and existing under the laws of the State of South Carolina, doing business Berkeley County, South Carolina.
7. That Defendant DANIEL ISLAND COMMUNITY FOUNDATION, INC. (“Community Foundation”) is a corporation incorporated under the laws of the State of South Carolina, doing business and/or owning real property in Berkeley County, South Carolina.
8. That Defendant DANIEL ISLAND TOWN ASSOCIATION, INC. (“Town Association”) is a corporation incorporated under the laws of the State of South Carolina, doing business and/or owning real property in Berkeley County, South Carolina.
9. That Defendant DANIEL ISLAND COMMUNITY ASSOCIATION, INC. (“Community Association”) is a corporation incorporated under the laws of the State of South Carolina, doing business and/or owning real property in Berkeley County, South Carolina.
10. That Daniel Island Company; Lighting Company; Community Foundation; Town Association; and Community Association are referred to herein collectively as “Defendants” and each individually by name or as “Defendant.”
11. That on or about November 11, 2016, Plaintiff was an invitee at the Daniel Island Children’s Park located at or near 101 River Landing Dr., Charleston, South Carolina 29492 (“Premises” or “Public Park”).
12. That on or about November 11, 2016, if Plaintiff was not an invitee, then Plaintiff was a

licensee at the Public Park.

13. That on or about November 11, 2016, Plaintiff was not a trespasser at the Public Park.
14. Town Association owned the Public Park prior to and at the time of Plaintiff's injury.
15. Town Association purchased the Public Park in a non-arms-length transaction from a related entity named DIBS-SALES CENTER LLC.
16. Upon information and belief, at all times relevant, DIBS-SALES CENTER LLC was and is controlled, either directly or through intermediaries, by Matthew R. Sloan.
17. Matthew R. Sloan is President of Defendant Daniel Island Company, Inc.
18. The Daniel Island Company, Inc. is the master developer for Daniel Island, within which the Public Park is located.
19. Matthew R. Sloan was part of the team that created the master plan for Daniel Island.
20. Matthew R. Sloan has been involved in the development of the island's master planned community since 1992.
21. Matthew R. Sloan has worked on the development of Daniel Island for most of his adult life.
22. Formerly a project manager representing the Guggenheim family, which previously owned Daniel Island, Matthew R. Sloan went on to maintain overall responsibility for development, marketing and sales activities within the Daniel Island community as it developed.
23. In addition to serving as President of the Daniel Island Company, Inc., Matthew R. Sloan also serves as President of the Daniel Island Development Company, Inc.

24. Daniel Island Development Company, Inc.'s role as a management and development services provider for master planned communities extends beyond the building of infrastructure, residential and commercial product and amenities.
25. Daniel Island Development Company, Inc.'s in-house team consists of sales and marketing experts, land planners, project managers and accounting professionals who work hand-in-hand with staffs at the affiliated entities within the communities it helps develop.
26. Daniel Island Development Company, Inc. also retains long-standing relationships with other key partners and service providers such as engineers and contractors.
27. Upon information and belief, Matthew R. Sloan is involved with at least a dozen Daniel Island entities, including:
 - a. Daniel Island Associates L.L.C.
 - b. Daniel Island Community Association, Inc.
 - c. The Daniel Island Company, Inc.
 - d. Daniel Island Development Company, Inc.
 - e. Daniel Island Golf/Social Club
 - f. Daniel Island Investments L.L.C.
 - g. Daniel Island Office Park Owners Association, Inc.
 - h. Daniel Island Park Association, Inc.
 - i. Daniel Island Real Estate, Inc.
 - j. Daniel Island Real Estate Company, LLC
 - k. Daniel Island Rhoden, L.L.C.
 - l. Daniel Island Town Association, Inc.

28. Upon information and belief, Matthew R. Sloan is involved with at least a nine “DIBS” entities, including:
- a. DIBS Alexan, L.L.C.
 - b. DIBS Apartments I, L.L.C
 - c. DIBS Holding Company, L.L.C
 - d. DIBS-Office Center, L.L.C.
 - e. DIBS-Preschool, L.L.C.
 - f. DIBS-Sales Center, L.L.C.
 - g. DIBS Sun, L.L.C.
29. Upon information and belief, DIBS-SALES CENTER LLC acquired the Public Park in a non-arms-length transaction (or multiple such transactions) leading back to Daniel Island Company, Inc.
30. Upon information and belief, at all times relevant, Daniel Island Company, Inc. was and is controlled, either directly or through intermediaries, by Matthew R. Sloan.
31. Upon information and belief, at all times relevant, the intermediaries in the chain of ownership between Daniel Island Company, Inc. and Town Association were and are controlled, either directly or through intermediaries, by Matthew R. Sloan.
32. Upon information and belief, at all times relevant, Town Association was and is controlled, either directly or through intermediaries, by Matthew R. Sloan.
33. Upon information and belief, at all times relevant, Community Foundation was and is controlled, either directly or through intermediaries, by Matthew R. Sloan.
34. Upon information and belief, at all times relevant, Community Association was and is controlled, either directly or through intermediaries, by Matthew R. Sloan.

35. Upon information and belief, Daniel Island Company, Community Foundation, Community Association, and Town Association (Collectively the “Daniel Island Defendants”) are separate in name only.
36. Upon information and belief, The Daniel Island Defendants each do as they are instructed to do by Matthew R. Sloan.
37. Upon information and belief, The Daniel Island Defendants treat the Public Park as if it belongs to them, i.e. as if they each own and manage it.
38. Upon information and belief, the Daniel Island Defendants do not deal with each other at arm’s length with respect to the Public Park.
39. Upon information and belief, the Daniel Island Defendants do not observe formalities among themselves with respect to the Public Park, such as paying for use of the Public Park, signing contracts with one another, requiring applications for use, requiring proof of insurance, etc.
40. Upon information and belief, Daniel Island Company, Inc. owned, designed, constructed, inadequately lit, maintained, managed, repaired, renovated, and secured the Public Park prior to Plaintiff’s injury.
41. Upon information and belief, Community Foundation owned (either as owner of record, or as a beneficial owner through its intertwined relationships with the other Daniel Island Defendants), inadequately lit, maintained, managed, repaired, renovated, and secured the Public Park at the time of Plaintiff’s injury.
42. Upon information and belief, Community Association (either as owner of record, or as a beneficial owner through its intertwined relationships with the other Daniel Island

Defendants), inadequately lit, maintained, managed, repaired, renovated, and secured the Public Park at the time of Plaintiff's injury.

43. Upon information and belief, Town Association owned, inadequately lit, maintained, managed, repaired, renovated, and secured the Public Park at the time of Plaintiff's injury.

44. Upon information and belief, Lighting Company designed, installed, and maintained the lighting systems in the Public Park.

45. Upon information and belief, Lighting Company is the only defendant that was not created or controlled by Matthew R. Sloan.

46. That at all times relevant, one or more of the Defendants was responsible for and/or participated in the ownership, design, construction, lighting, maintenance, management, repair, renovation, and/or security of the Public Park.

47. That at all times relevant, one or more of the Defendants had responsibility for cleaning, monitoring, and maintaining the Premises to ensure that they were safe, clean, and not dangerous to persons such as Plaintiff.

48. That Daniel Island Company; Lighting Company; Community Foundation; Town Association; and Community Association, are jointly and severally liable for Plaintiff's damages.

49. That the fall which is the subject of this action occurred in Berkeley County, State of South Carolina.

50. That this Court has jurisdiction over the parties and the subject matter of this action.

51. That on or about, November 11, 2016, due to the negligence of Defendants, Plaintiff fell into an unlighted and unmarked concrete trench while walking upon the Premises.

52. That as a natural and foreseeable result of Plaintiff's trip and fall, Plaintiff suffered an extreme high-impact collision with the concrete, resulting in severe, acute, and permanent injury including the loss of his leg.
53. That Defendants either knew or should have known that the area where Plaintiff fell presented a danger to persons upon the Premises; or that Defendants created the dangerous condition.
54. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness, wantonness, and acts and/or omissions of the Defendants, as is set forth more fully herein, Plaintiff was injured, has endured pain and suffering, has suffered mentally and emotionally, and has incurred, and will incur various medical expenses, and has otherwise been damaged and injured.
55. The fall and resulting injuries and damages to Plaintiff were caused directly and proximately by one or more of the following negligent, negligent *per se*, grossly negligent, careless, reckless, willful, wanton and unlawful acts, and/or omissions of the Defendants in any one or more of the following ways:
- a. In negligently designing the Public Park;
 - b. In negligently constructing the Public Park;
 - c. In negligently lighting the Public Park;
 - d. In negligently maintaining the Public Park;
 - e. In negligently managing the Public Park;
 - f. In negligently repairing the Public Park repair;
 - g. In negligently renovating the Public Park;
 - h. In negligently securing the Public Park;

- i. In failing to observe the dangerous condition presented by the trench;
 - j. In failing to properly keep the Public Park clear of dangerous unlighted and unmarked concrete trenches;
 - k. In failing to appreciate the gravity of the dangers associated with dangerous unlighted and unmarked concrete trenches in the Public Park;
 - l. In failing to enact policies that would ensure the safety of licensees and invitees in the Public Park;
 - m. In failing and omitting to take any precaution whatsoever of a reasonable nature to protect this Plaintiff from the dangers of the Public Park on the occasion that the Plaintiff was using the same;
 - n. In failing to adequately warn the Plaintiff as to any dangers that may be present in the Public Park;
 - o. In any such manner the Plaintiff may discover through the discovery process or trial.
56. That as a direct and proximate result of the negligence, gross negligence, carelessness, recklessness, willfulness and wantonness of the Defendants, as is set forth more fully above, Plaintiff has been damaged and injured in the following respects:
- p. Plaintiff has been required to expend a significant amount of money for Plaintiff's medical care, treatment and attendant services;
 - q. Upon information and belief, the nature of the Plaintiff's injuries will require Plaintiff to expend a significant amount of money for future medical care, treatment and attendant services;
 - r. Upon information and belief, the nature of Plaintiff's injuries will deprive

Plaintiff of employment opportunities and income in the future; and

- s. The pain of Plaintiff's injuries has resulted in Plaintiff's loss of enjoyment of life and change in Plaintiff's personality, all to the permanent detriment of Plaintiff's health and physical well-being.

57. That Defendants' acts and omissions, as are set forth more fully above, show willful misconduct, malice, wantonness and an entire want of care, raising a presumption of the Defendants' conscious indifference to the consequences of such acts and omissions.

58. That because of the Defendants' acts and omissions and the proximate harm resulting to Plaintiff, Plaintiff should be awarded punitive damages in an amount to be determined by the trier of fact, in order to punish and penalize the Defendants and to deter the Defendants and others from similar behavior.

59. That upon information and belief, Plaintiff is entitled to judgment against the Defendants for actual, compensatory and exemplary or punitive damages for Plaintiff's personal injuries set forth here in an amount that is fair, just and reasonable under the circumstances, plus whatever costs, interest and attorney fees to which Plaintiff may be entitled to be determined by a jury.

WHEREFORE, the Plaintiff prays for judgment against the Defendants for an amount to be ascertained by the jury at the trial of this action for all damages, punitive and actual, for the cost and disbursements of this action, and both prejudgment and post judgment interest, and for such other and further relief, in law or in equity, as this court may deem just and proper.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

ANASTOPOULO LAW FIRM, LLC

s/ Lane D. Jefferies

Lane D. Jefferies, Esquire

S.C. Bar No.:101764

Ivey B. Franklin, Esquire

S.C. Bar No.:104131

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Charleston, South Carolina
April 21, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	C/A No. 2017-CP-08-02238
Matthew Zetz,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DEFENDANT DANIEL ISLAND
	)	COMPANY, INC.'S ANSWER TO
Daniel Island Company, Inc., Daniel Island	)	PLAINTIFF'S SECOND AMENDED
Community Foundation, Inc., Daniel Island	)	COMPLAINT
Town Association, Inc., Daniel Island	)	
Community Association, Inc., and MGR	)	
Resources, Inc. d/b/a Moonlighting	)	
Landscape Lighting Systems,	)	
	)	
Defendants.	)	

Defendant Daniel Island Company, Inc. ("Defendant"), by and through its undersigned counsel, hereby answers Plaintiff's Second Amended Complaint as follows:

FOR A FIRST DEFENSE

1. All allegations of the Plaintiff's Second Amended Complaint not specifically admitted herein are hereby denied.
2. The allegations of Paragraphs 1 through 3 are denied as to this answering Defendant.
3. The allegations of Paragraph 4 are admitted, upon information and belief.
4. The allegations of Paragraph 5 are admitted.
5. The allegations of Paragraph 6 are admitted, upon information and belief.
6. The allegations of Paragraph 7 are admitted, with the exception that the Daniel Island Community Foundation, Inc. does not own real property in Berkeley County, South Carolina.
7. The allegations of Paragraphs 8 and 9 are admitted.

8. The allegations of Paragraph 10 require no response.

9. The allegations of Paragraphs 11, 12, and 13 state conclusions of law and therefore require no response. To the extent that a response may be required, Defendant denies the same and demands strict proof thereof.

10. The allegations of Paragraph 14 are admitted.

11. The allegations of Paragraphs 15 and 16 are denied.

12. The allegations of Paragraph 17 are admitted.

13. The allegations of Paragraph 18 are denied as characterized. It is admitted that Daniel Island Company, Inc. was the original developer entity for Daniel Island. However, it is not presently the “master developer” for Daniel Island. It is admitted that the Public Park is located on Daniel Island.

14. Responding to the allegations of Paragraph 19, this Defendant admits that Matt Sloan participated in the creation of the original plan to develop Daniel Island. It is unclear what the Plaintiff means by “part of the team that created the master plan for Daniel Island.” To the extent that the quoted language is inconsistent with Matt Sloan’s actual role in the creation of the plan of development, it is denied.

15. The allegations of Paragraph 20 are admitted only insofar as they are consistent with the level of Matt Sloan’s actual role in the development to Daniel Island, which did begin in 1992. However, the phrase “involved in” is overly vague and ambiguous. To the extent that the use of that phrase implies the Matt Sloan’s role in the development of the island community was or is greater than it actually was or is, the allegations of Paragraph 20 are hereby denied.

16. The allegations of Paragraph 21 are admitted.

17. The allegations of Paragraph 22 are admitted insofar as they allege that Matt Sloan was formerly a project manager for the Guggenheim family, which previously owned Daniel Island, and that he has played a roll in the development marketing and sales activities at various times over the ensuing years as an owner and/or board member of various entities. However, it is denied that Sloan presently maintains, or at the time of the Plaintiff's injury, maintained "overall responsibility" for the development, marketing and sale activities on Daniel Island.

18. The allegations of Paragraph 23 are denied, in that Daniel Island Development Corporation is not a going concern.

19. The allegations of Paragraphs 24 and 25 are admitted.

20. The allegations of Paragraph 26 are denied, in that Daniel Island Development Corporation is not a going concern.

21. The allegations of Paragraph 27, including its sub-parts, are denied as to sub-parts g. and i., but are otherwise admitted. However, the phrase "involved with" is overly vague; therefore, this Defendant denies all allegations of Paragraph 27 to the extent they are inconsistent with Matt Sloan's actual role in any of the entities listed.

22. The allegations of Paragraph 28, including its sub-parts, are denied, with the exception of sub-parts d. and f. However, the phrase "involved with" is overly vague; therefore, this Defendant denies all allegations of Paragraph 28 to the extent they are inconsistent with Matt Sloan's actual role in any of the entities listed.

23. Defendant is unable to respond to the allegations of Paragraph 29 in that they are unclear; Defendant requests a more definite statement. To the extent that a response may be required, the allegations are denied.

24. The allegations of Paragraphs 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, and 40 are denied.

25. The allegations of Paragraph 41 are admitted insofar as they allege that the Community Foundation secured the Public Park at the time of the Plaintiff's injury. The remaining allegations of Paragraph 41 are hereby denied.

26. The allegations of Paragraph 42 are denied.

27. The allegations of Paragraph 43 are admitted insofar as they allege that the Town Association owned, maintained, repaired, renovated, and secured the Public Park at the time of the Plaintiff's injury. The remaining allegations of Paragraph 43 are hereby denied.

28. The allegations of Paragraph 44 are admitted, upon information and belief to the extent that it is alleged the Lighting Company designed and installed the lighting systems in the Public Park. This Defendant lacks sufficient information to respond to the allegations regarding the maintenance of the lighting systems and therefore denies them and demands strict proof thereof.

29. The allegations of Paragraph 45 are denied.

30. The allegations of Paragraphs 46 and 47 are denied as to this Defendant. To the extent said allegations are directed to other Defendants, this Defendant admits said allegations, upon information and belief.

31. The allegations of Paragraph 48 are denied.

32. The allegations of Paragraphs 49 and 50 are admitted.

33. The allegations of Paragraphs 51 and 52 are denied.

34. The allegations of Paragraph 53 are denied as to this Defendant. To the extent said allegations are directed to other defendants, this Defendant lacks sufficient information with which to answer and, therefore, denies the same and demands strict proof thereof.

35. The allegations of Paragraphs 54, 55, 56, 57, 58, and 59, including all sub-parts, are denied.

FOR A SECOND DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Contributory/Comparative Negligence)

36. Any damage suffered by the Plaintiff is a direct and proximate result of his own comparative and contributory negligence, and Plaintiff's recovery should be barred or, alternatively, reduced proportionately to Plaintiff's comparative negligence.

FOR A THIRD DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Failure to Mitigate)

37. Plaintiff has failed to mitigate his damages as required by law.

FOR A FOURTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Sole Negligence of Third Parties)

38. Upon information and belief, whatever injuries and damages, if any, which may have been sustained by the Plaintiff, as described in Plaintiff's Second Amended Complaint, were due solely to, caused wholly by, and were the direct and proximate result of the negligence, carelessness and recklessness of third parties, so far as to bar the Plaintiff from recovery against this Defendant.

FOR A FIFTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(Punitive Damages)

39. Defendant would show that any award of punitive damages is subject to the limitations set forth in S.C. Code §15-32-530.

FOR A SIXTH DEFENSE
AND BY WAY OF AN AFFIRMATIVE DEFENSE THERETO
(No Legal Duty)

40. The Plaintiff should be barred from recover against this Defendant because this Defendant owed the Plaintiff no duties under the law.

WHEREFORE, having amend its answer to the Plaintiff's Second Amended Complaint, Defendant prays that the same be dismissed with attorneys' fees, costs and for such other relief as this Honorable Court deems just and proper.

Barnwell Whaley Patterson & Helms, LLC

s/K. Michael Barfield

K. Michael Barfield

D Summers Clarke

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Counsel for Daniel Island Company, Inc.

May 20, 2020
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF BERKELEY	)	C/A No. 2017-CP-08-02238
Matthew Zetz,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	DANIEL ISLAND COMPANY, INC.’S
	)	NOTICE OF MOTION AND MOTION
	)	FOR SUMMARY JUDGMENT
Daniel Island Company, Inc., Daniel Island	)	
Community Foundation, Inc., Daniel Island	)	
Town Association, Inc., Daniel Island	)	
Community Association, Inc., and MGR	)	
Resources, Inc. d/b/a Moonlighting	)	
Landscape Lighting Systems,	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that within ten days after service of this notice or as soon thereafter as it may be heard, Daniel Island Company, Inc. (“DIC”), by and through the undersigned counsel, will move before this Honorable Court, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, for an Order granting summary judgment to DIC. This motion is based on DIC’s position that the Plaintiff’s claims against DIC were filed well beyond the applicable statute of repose and that DIC owed the Plaintiff no legal duty at the time of the incident that is the subject of this litigation.

This Motion will be based on the pleadings filed in this matter, along with any affidavits, memoranda, and oral argument presented to the Court.

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Counsel for The Daniel Island Company, Inc.

September 14, 2020
Charleston, South Carolina

IN THE STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

IN THE COURT OF COMMON PLEAS
FOR THE 9TH JUDICIAL CIRCUIT
CASE NO: 2017-CP-08-022038

MATTHEW ZETZ,

Plaintiff,

v.

DANIEL ISLAND COMPANY, INC.;
DANIEL ISLAND COMMUNITY
FOUNDATION, INC.; DANIEL ISLAND
TOWN ASSOCIATION, INC.; DANIEL
ISLAND COMMUNITY ASSOCIATION,
INC.; and MGR RESOURCES, INC. d/b/a
MOONLIGHTING LANDSCAPE
LIGHTING SYSTEMS,

Defendants.

**PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANT
DANIEL ISLAND COMPANY'S
MOTION FOR SUMMARY JUDGMENT**

TO: THE HONORABLE COURT AND ALL COUNSEL OF RECORD

COMES NOW PLAINTIFF, and does respectfully submit this Memorandum in Opposition to Defendant Daniel Island Company, Inc.'s Motion for Summary Judgment.

While preparing for a charity event, Plaintiff Matthew Zetz fell into an unmarked and unlighted concrete trench at the "Children's Park" on Daniel Island. Matthew suffered serious injuries to his left leg as a result – injuries that required multiple surgeries over several years to attempt to repair the damage. Unfortunately, the damage was so severe that, despite roughly half-a-million dollars in medical care, doctors were ultimately forced to amputate Matthew's left leg just below the knee. Prior to his injury, Matthew was physically active and incorporated vigorous exercise in his daily routine. Now, Matthew has been forced to develop ways to overcome the adversity and complications of adjusting to a new way of life. Matthew continues to show gratitude and willpower as he manages his daily activities and challenges himself to perform exercises just as he once did before the persistent swelling, pain, and amputation of his left leg.

Defendant Daniel Island Company, Inc. built the park with the unmarked and unlighted trench, and continues to control it – both directly, and through its control of the shell company that holds the deed. Moreover, the only company name to be found in the park itself is that of the Daniel Island Company – it is right on the bronze plaque set in the sidewalk at the main entrance to the park which begins, “Welcome to the Daniel Island Children’s Park. Established Summer 2001. Dedicated by the Daniel Island Company to the children of Charleston . . .”



Despite building, owning, and controlling the park with the dangerous unmarked and unlighted concrete trench that maimed Matthew Zetz, Defendant Daniel Island Company recently moved for summary judgment on the basis that it “owed the Plaintiff no legal duty at the time of the incident that is the subject of this litigation.” [Def.’s Mot. Summ. J., at 1].

Defendant Daniel Island Company’s motion should be denied for any one or more of the following reasons, each one of which is sufficient on its own to defeat summary judgment:

1. There is evidence that Defendant Daniel Island Company controlled the park prior to and on the date of Plaintiff’s injury.
2. Plaintiff has not had a full and fair opportunity to complete discovery.
3. There is evidence that Defendant Daniel Island Company is the controlling member of the single business enterprise that owns and controls the park.
4. Defendant Daniel Island Company’s motion is so vague and ambiguous that Plaintiff cannot reasonably be required to frame a response.

I. Summary judgment must be denied because there is evidence that Defendant Daniel Island Company controlled the park prior to and on the date of Plaintiff's injury.

Despite Defendant Daniel Island Company's refusal to fully comply with Plaintiff's discovery requests¹, there is already evidence provided by codefendants that raises a genuine issue of material fact as to Defendant Daniel Island Company's control of the park at the time of Plaintiff's injury. Here is what the evidence shows:

- That Defendant Daniel Island Town Association holds the deed to the park. **(Def. DITA's Answer to Pl.'s Sec. Am. Compl., ¶ 9).**
- That Defendant Daniel Island Town Association² controls the park per its by-laws. **(Ex. A, at 42).**
- That Defendant Daniel Island Company controls Defendant Daniel Island Town Association. **(Ex. B)** ("I have already explained to the insurance carrier that DIC controls the DITA board.").
- That the officers of Defendant Daniel Island Company are the same men who are the officers of Defendant Daniel Island Town Association – Matt Sloan and Frank Brumley. **(Ex. C, at 13-14 and Ex. D, at 11).**
- That Defendant Daniel Island Company conveyed the park – a prime piece of waterfront real estate – to Defendant Daniel Island Town Association through a wholly controlled intermediary for just ten dollars. **(Ex. E).**

This chain of ownership and control is graphically depicted on the following page in a typical organizational-chart format showing two direct lines of control from Matt Sloan and Defendant Daniel Island Company straight down to the park.

¹ Described in detail in Pl.'s Mot. Compel Def. DIC's Disc. Resp., filed September 28, 2020.

² Former name was Daniel Island Town Center Owners Association, Inc. **Ex. F.**

Daniel Island Company



Matthew Sloan: President & COO



Frank Brumley: Chairman & CEO

CONTROLS

Daniel Island Town Association



Matthew Sloan: President



Frank Brumley: Vice President



David Crawford: Secretary & Treasurer

OWNS

CONTROLS



Defendant does not dispute that control of premises may give rise to liability. Whether or not the evidence thus far of Defendant Daniel Island Company's control of the park is sufficient to meet Plaintiff's burden of proof at trial is not the issue here, as the Court does not weigh evidence in deciding a motion for summary judgment. Instead of weight, this Court considers only the *existence* of evidence. Because Plaintiff has come forward with at least a scintilla of evidence that Defendant Daniel Island Company controlled the park through its control of Defendant Daniel Island Town Association, there exists a genuine issue of material fact for the jury to decide. As a result, summary judgment must be denied.

II. Summary judgment must be denied because Plaintiff has not had a full and fair opportunity to complete discovery.

"Summary judgment is a drastic remedy and must not be granted until the opposing party has had a full and fair opportunity to complete discovery." *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). Here, Defendant Daniel Island Company has refused to fully comply with Plaintiff's discovery requests as to the very facts at issue in Defendant's motion for summary judgment. On September 28, 2020, Plaintiff filed a Motion to Compel complete and proper responses from Defendant Daniel Island Company, and that motion is pending at this time. Until the motion to compel is resolved, and Defendant Daniel Island Company fully responds to discovery, it would be premature to grant summary judgment.

Among the items not provided are emails as requested in Request for Production 34. The emails are relevant to this Defendant's control of Defendant Daniel Island Town Association – a link in the chain of control described in Section I above. Whether or not the emails specifically mention the park does not determine the discoverability or relevance, as the emails are anticipated to show this Defendant's control over the entity that controls the park. Defendant Daniel Island Company should not be heard to argue "We don't control that entity" while at the same time

refusing to produce emails which would show exactly that control. In addition, because this Defendant has not fully complied with discovery, it has not been prudent for Plaintiff to take this Defendant's deposition.

The remainder of the deficiencies in Defendant Daniel Island Company's discovery responses are set forth in detail in Plaintiff's Motion to Compel filed September 28, 2020 which Plaintiff incorporates herein by reference. That motion is still pending. Until Plaintiff has enjoyed a full and fair opportunity to complete discovery, summary judgment must be denied.

III. Summary judgment must be denied because there is evidence that Defendant Daniel Island Company is the controlling member of the single business enterprise that owns and controls the park.

Even at this early stage of discovery, Plaintiff has gathered evidence showing "an amalgamation of corporate interests, entities, and activities so as to blur the legal distinction between the corporations and their activities" as described in Section I above. *Pertuis v. Front Roe Restaurants, Inc.*, 423 S.C. 640, 651, 817 S.E.2d 273, 278 (2018), reh'g denied (Aug. 16, 2018); *Magnolia North Property Owners' Association v. Heritage Communities, Inc.*, 397 S.C. 348, 725 S.E.2d 112 (Ct. App. 2012); *Pope v. Heritage Communities, Inc.*, 395 S.C. 404, 717 S.E.2d 765 (Ct. App. 2011); *Kincaid v. Landing Development Corp.*, 289 S.C. 89, 344 S.E.2d 869 (Ct. App. 1986). For example, recall that Defendant Daniel Island Company controls Defendant Daniel Island Town Association. And recall that the entities are both run by Matt Sloan and Frank Brumley. Then see **Exhibit G**, excerpt below (highlighting added).

The Daniel Island Town Association is the legal entity charged with the management of the Daniel Island Town, Park and Community Associations as well as the Daniel Island Community Fund and Foundation. The Property Owners Association is the common name that is used as the umbrella entity for all associations. Currently the Daniel Island Town Association employs 11 full time and 2 part time

Whether or not such evidence of intertwining is sufficient to get Plaintiff across the finish line with a jury as to single-business-enterprise liability is not the issue at this stage. Rather, the issue now is whether Plaintiff has at least a mere scintilla of evidence, which, as shown above, he does. Likewise, Plaintiff has also unearthed evidence of “bad faith, abuse, fraud, wrongdoing, [and/] or injustice resulting from the blurring of the entities' legal distinctions.” *Pertuis v. Front Roe Restaurants, Inc.*, 423 S.C. 640, 655, 817 S.E.2d 273, 281 (2018), reh'g denied (Aug. 16, 2018).³ Defendant Daniel Island Company took a valuable piece of waterfront real estate right outside its sales center door and conveyed it at a non-market price (\$10) to an entity that it controls for the sole purpose of enjoying a damages cap for which the Daniel Island Company itself is not eligible. Moreover, Defendant Daniel Island Company not only did not tell the public about this sleight-of-hand, it actively misrepresented the true facts by maintaining a plaque at the main entrance to the park proclaiming that the park is “Dedicated by the Daniel Island Company.”

It is the public policy of South Carolina that entities must not conceal their true identity from the public. *See, e.g.* S.C. Code Section 33-4-101(b) (“a corporate name must be distinguishable upon the records of the Secretary of State”); Burnet R. Maybank, III, 1991 S.C. Op. Atty. Gen. 87 (1991) (“The principal justifications for requiring a distinguishable official name are (1) to prevent confusion within the secretary of state's office and the tax office and (2) ***to permit accuracy in naming and serving corporate defendants in litigation.***”) (emphasis added). By creating a web of wholly controlled entities and then surreptitiously transferring the park into one of them so as to enjoy a damages cap to which the Daniel Island Company is not entitled – all the while leaving its own corporate name on the park – the Daniel Island Company subverted the

³ Such a showing of injustice as described in *Pertuis* is not necessary in a premises liability case such as this. However, even if injustice were an element, Plaintiff has at least some evidence to satisfy that element.

public policy of this state. As a result, the public had no way of knowing that they were not entering a park owned by the wealthy and well-insured Daniel Island Company. Accordingly, even if the Court were to hold that injustice is a necessary element of single-business-enterprise liability then summary judgment must still be denied because Plaintiff has at least some evidence of injustice.

Plaintiff anticipates finding more evidence in support of single-business-enterprise liability as discovery proceeds. However, Plaintiff already has the mere scintilla required to defeat summary judgment. Unless this Court is able to rule that, as a matter of law, there is no possible way for Plaintiff to prevail on this issue, summary judgment must be denied.

IV. Defendant Daniel Island Company's motion for summary judgment is so vague and ambiguous that Plaintiff cannot reasonably be required to frame a response.

Defendant Daniel Island Company's motion for summary judgment that is so vague and ambiguous that Plaintiff cannot reasonably be required to frame a response. Plaintiff asked Defendant to clarify, but on September 30, 2020 Defendant refused to do so. Accordingly, on October 1, 2020 Plaintiff moved for a more definite statement of the basis for Defendant's Motion for Summary Judgment. As of 3:00 p.m. today, October 12, 2020 – with the hearing just a week away – Defendant Daniel Island Company has yet to provide one. The entire substance of Daniel Island Company's motion is the single highlighted sentence shown below.

YOU WILL PLEASE TAKE NOTICE that within ten days after service of this notice or as soon thereafter as it may be heard, Daniel Island Company, Inc. ("DIC"), by and through the undersigned counsel, will move before this Honorable Court, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, for an Order granting summary judgment to DIC. This motion is based on DIC's position that the Plaintiff's claims against DIC were filed well beyond the applicable statute of repose and that DIC owed the Plaintiff no legal duty at the time of the incident that is the subject of this litigation.

This Motion will be based on the pleadings filed in this matter, along with any affidavits, memoranda, and oral argument presented to the Court.

Unfortunately, Defendant's motion provides nary a hint as to its legal or factual basis. This is not a construction defect case, which might be bared by the statute of repose. It is a premises liability cased based on ongoing control of premises with a dangerous unmarked and unlighted trench upon them. Despite its control over the park, Defendant Daniel Island Company claims to have "no legal duty" to Plaintiff, but it does not say why. As the Court is aware, there are any number of reasons that an entity might have "no legal duty" to a person injured upon premises. For example,

- Entity does not own the land;
- Entity owns the land, but does not control it because it is subject to a commercial lease;
- Entity owns and/or controls the land, but it is subject to recreational use statutes;
- Entity owns and/or controls the land, but Plaintiff was a trespasser;
- Entity owns and/or controls the land, but Plaintiff was injured by a natural condition on the land;
- Entity owns and/or controls the land, but the dangerous condition was open and obvious;
- Entity owns and/or controls the land, but Plaintiff created the dangerous condition;
- Etc., etc.

The list of possible "no legal duty" defenses goes on and on, and is limited only by the imagination of defense attorneys. Plaintiff cannot reasonably be expected to guess which legal argument Defendant will spring upon him immediately prior to the hearing and then be reasonably expected to frame a response in the limited time remaining to do so.

Plaintiff's arguments against summary judgment set forth in Sections I – III above are based purely on what Plaintiff *thinks* the basis of Defendant's motion might be. Unfortunately, neither the Court nor Plaintiff know what the basis actually is, because Defendant has not said. Accordingly, if this Court does not deny Defendant's motion for summary judgment for the reasons set forth above, Plaintiff would respectfully request that the Court order Defendant to

provide a more definite statement pursuant to Rule 12(e), and allow Plaintiff sufficient time after provision of that statement to frame a response.

CONCLUSION

WHEREFORE, for the reasons set forth above – to wit, that there is evidence that Defendant Daniel Island Company controlled the park prior to and on the date of Plaintiff’s injury; that Plaintiff has not had a full and fair opportunity to complete discovery; that there is evidence that Defendant Daniel Island Company is the controlling member of single business enterprise that owns and controls the park; that Defendant Daniel Island Company’s motion is so vague and ambiguous that Plaintiff cannot reasonably be required to frame a response – Plaintiff respectfully requests that Defendant Daniel Island Company’s motion for summary judgment be denied.

Respectfully Submitted,

ANASTOPOULO LAW FIRM, LLC

BY: s/ Lane D. Jefferies

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ATTORNEYS FOR THE PLAINTIFF

Charleston, South Carolina
October 12, 2020

BY-LAWS
OF
DANIEL ISLAND TOWN CENTER OWNERS ASSOCIATION, INC.

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BY-LAWS
OF
DANIEL ISLAND TOWN CENTER OWNERS ASSOCIATION, INC.

ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1. Name. The name of the corporation is Daniel Island Town Center Owners Association, Inc. (the "Association").

1.2. Principal Office. The principal office of the Association shall be located in the City of Charleston or Berkeley County, South Carolina. The Association may have such other offices, either within or outside the State of South Carolina, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone filed in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

ARTICLE 2: ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

2.1. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Properties or as convenient as is possible and practical. Meetings may be held by means of telephone conference, video conference or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation by one of these methods shall constitute presence in person at such meeting.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. Subsequent regular meetings shall be held annually on a date and at a time set by the Board.

2.4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting within thirty (30) days if so directed by resolution of the Board or upon a petition signed by Members representing at least ten percent (10%) of the total Class "A" votes in the Association or upon written request of the Declarant.

2.5. Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Member entitled to vote at such meeting, not less than ten (10) nor

more than sixty (60) days before the date of such meeting, by or at the direction of the President or the Secretary or the officers or persons calling the meeting.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Association shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Association, either before or after such meeting. Attendance at a meeting shall be deemed a waiver of any objection as to notice of the time, date, and place thereof, unless specific objection as to the lack of proper notice is given at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members or their proxies holding a Majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) nor more than twenty (20) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice for reconvening the meeting shall be given to Members in the manner prescribed in Section 2.5.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access.

2.9. List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members entitled to notice of such meeting. The list shall show the address of the Member and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with South Carolina law.

2.10. Proxies. At all meetings of Members, each Member may vote in person (if a corporation, partnership, or limited liability company, or trust, through any officer, director, partner, member, manager or fiduciary duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of South Carolina law. Every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the Secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given, or upon receipt of notice by the Secretary of the death or judicially declared incompetence of a Member who is a natural person, or of written revocation, or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

2.11. Quorum. The presence, in person or by proxy, of Members representing ten percent (10%) of the total Class "A" votes in the Association shall constitute a quorum at all meetings of the Association. If a quorum is present, business may be continued until adjournment, notwithstanding the withdrawal of Members leaving less than a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

2.12. Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Association may be taken without a meeting, without prior notice and without a vote, if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the Secretary shall give written notice to all Members summarizing the material features of the authorized action.

ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS

A. Composition and Selection

3.1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors, each of whom shall have one (1) equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative of the Declarant, the directors shall be representatives of eligible Members. No Member shall be deemed to be eligible if any assessment for such Member's Unit is delinquent. A "representative" shall be any officer, director, partner, member, manager, employee, or fiduciary of a Member or any natural person designated by written notice signed by the Member and delivered to the Association; provided however, no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as representatives of the Class "B" Member or the Declarant.

3.2. Number, Nomination and Election of Directors. Except as provided in Section 3.3, the Board shall consist of three (3) directors elected by the Class "A" Members of the Association. The number of directors may be changed to an odd number by resolution of the Board.

Elected directors shall be nominated from the floor at a meeting of the Members and may also be nominated by a nominating committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

Each Owner may cast the entire vote assigned to such Owner's Unit for each position to be filled. There shall be no cumulative voting or splitting of votes. That number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.3. Directors During Class "B" Control Period. The directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member during the Class "B" Control Period.

3.4. Removal of Directors and Vacancies. Any director elected by the Class "A" Members may be removed, with or without cause, by Members holding two-thirds (2/3) of the votes entitled to be cast for the election of such director, but shall not be subject to removal solely by the Class "B" Member. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Class "A" Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Class "A" Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent (or is the resident of a Unit that is delinquent or is the representative of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members may elect a successor for the remainder of the term.

In the event of the death, disability, or resignation of an elected director or the adoption of a Board resolution increasing the number of directors, the Board may declare a vacancy and appoint a successor to fill the vacancy until the next annual meeting, at which time the Class "A" Members shall elect a successor for the remainder of the term.

This Section shall not apply to directors appointed by the Class "B" Member nor to any director serving as a representative of the Declarant. The Class "B" Member or the Declarant shall be entitled to appoint a successor to fill any vacancy on the Board resulting from the death, disability or resignation of a director appointed by or elected as a representative of the Class "B" Member or the Declarant.

B. Meetings.

3.5. Organizational Meetings. Within thirty (30) days after the election or appointment of new directors, the Board shall hold an organizational meeting at such time and place as the Board shall set.

3.6. Regular Meetings. Regular meetings of the Board may be held at such time and place as a Majority of the directors shall determine, but at least one (1) such meeting shall be held during each quarter.

3.7. Special Meetings. Special meetings of the Board shall be held when called by written notice signed by the President or Vice President or by any two (2) directors.

3.8. Notice. Notice of a regular meeting shall be communicated to directors not less than four (4) days prior to the meeting. Notice of a special meeting shall be communicated to directors not less than seventy-two (72) hours prior to the meeting. No notice need be given to any director who has signed a waiver of notice or a written consent to holding of the meeting. The notice shall specify the time and place of the meeting and, in the case of a special meeting, the nature of any special business to be considered. Notices shall be given to each director by: (a) personal delivery; (b) first class mail, postage prepaid; (c) telephone communication, either directly to the director or to a person at the director's office or home

who would reasonably be expected to communicate such notice promptly to the director; (d) telecopier transmission to the director's home or office, with confirmation of receipt by the receiving telecopier; (e) telegram, charges prepaid; (f) overnight or same day delivery, charges prepaid; or (g) electronic mail or e-mail using Internet accessible equipment and services if the director has consented in writing to such method of delivery and has provided the Board with an electronic mail or e-mail address. All such notices shall be given at the director's telephone or telecopier number or sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deemed communicated when deposited into a United States mailbox. Notices given by personal, overnight or courier delivery, telephone, telecopier, telegraph, electronic mail or e-mail shall be deemed communicated when delivered, telephoned, telecopied, electronically mailed, e-mailed or given to the telegraph company.

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

3.10. Participation in Meetings. Members of the Board or any committee designated by the Board may participate in a meeting of the Board or committee by means of telephone conference, video conference, or similar communications equipment, by means of which all persons participating in the meeting can converse with each other. Participation in a meeting pursuant to this Section shall constitute presence in person at such meeting.

3.11. Quorum of Board of Directors. At all meetings of the Board, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board, unless otherwise specifically provided in these By-Laws or the Declaration. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a Majority of the directors present at such meeting may adjourn the meeting to a time not less than four (4) nor more than twenty (20) days from the date of the original meeting. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

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

3.13. Conduct of Meetings. The President shall preside over all meetings of the Board, and the Secretary shall keep a minute book of Board meetings, recording all Board resolutions and all transactions and proceedings occurring at such meetings. In the case of a tie vote on a motion or resolution before the Board, the motion or resolution is considered lost.

3.14. Open Meetings. Subject to the provisions of Sections 3.10 and 3.15, all meetings of the Board shall be open to all Members, but Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on a Member's behalf by a director. In such case, the President may limit the time any Member may speak. Notwithstanding the above, the President may adjourn any meeting of the Board, reconvene in executive session, and exclude Members to discuss matters of a sensitive nature, such as pending or threatened litigation or personnel matters.

3.15. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

3.16. Powers. The Board shall have all of the powers and duties necessary for the administration of the Association's affairs and for performing all responsibilities and exercising all rights of the Association as set forth in the Governing Documents and as provided by law. The Board may do or cause to be done all acts and things which the Governing Documents or South Carolina law do not direct to be done and exercised exclusively by the membership generally.

3.17. Duties. The duties of the Board shall include, without limitation:

- (a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses and any District Expenses;
- (b) levying and collecting such assessments from the Owners;
- (c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility;
- (d) designating, hiring, and dismissing the personnel necessary to carry out the rights and responsibilities of the Association and where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;
- (e) depositing all funds received on behalf of the Association in a bank depository which it shall approve and using such funds to operate the Association, provided any reserve funds may be deposited, in the directors' best business judgment, in depositories other than banks;
- (f) making and amending use restrictions and rules in accordance with the Declaration;

- (g) opening of bank accounts on behalf of the Association and designating the signatories required;
- (h) contracting for repairs, additions, and Improvements to or alterations of the Common Area in accordance with the Governing Documents;
- (i) enforcing by legal means the provisions of the Governing Documents and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;
- (j) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;
- (k) paying the costs of all services rendered to the Association;
- (l) keeping books with detailed accounts of the receipts and expenditures of the Association;
- (m) making available to any Owner, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Governing Documents and all other books, records, and financial statements of the Association as provided in Section 6.4;
- (n) permitting Utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties;
- (o) indemnifying a director, officer or ARB or committee member, or former director, officer or ARB or committee member of the Association to the extent such indemnity is required or permitted under South Carolina law, the Articles of Incorporation or the Declaration; and
- (p) assisting in the resolution of disputes between Owners and others without litigation as set forth in the Declaration.

3.18. Right of Class "B" Member to Disapprove Actions. So long as the Class "B" membership exists, the Class "B" Member shall have the right to disapprove any action, policy or program of the Association, the Board and any committee which, in the sole judgment of the Class "B" Member, would tend to impair rights of the Declarant under the Governing Documents, or interfere with development of or construction on any portion of the Properties, or diminish the level of services being provided by the Association.

(a) The Class "B" Member shall be given written notice of all meetings and proposed actions approved at meetings (or by written consent in lieu of a meeting) of the Association, the Board or any committee. Such notice shall be given by certified mail, return receipt requested, or by personal delivery at the address the Class "B" Member has registered with the Secretary of the Association, which notice complies with Section 3.8 and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at such meeting; and

(b) The Class "B" Member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein.

No action, policy or program subject to the right of disapproval set forth herein shall become effective or be implemented until and unless the requirements of subsections (a) and (b) above have been met.

The Class "B" Member, its representatives or agents may make its concerns, thoughts, and suggestions known to the Board and/or the members of the subject committee. The Class "B" Member, acting through any officer or director, agent or authorized representative, may exercise its right to disapprove at any time within ten (10) days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within ten (10) days following receipt of written notice of the proposed action. No action, policy or program shall be effective or implemented if the Class "B" Member exercises its right to disapprove. This right to disapprove may be used to block proposed actions but shall not include a right to require any action or counteraction on behalf of any committee, or the Board or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services which the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

3.19. Management. The Board may employ for the Association a professional management agent or agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties, but shall not delegate policy-making authority. The Declarant or an affiliate of the Declarant may be employed as managing agent or manager.

The Board may delegate to one (1) of its members the authority to act on behalf of the Board on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board.

3.20. Accounts and Reports. The following management standards of performance shall be followed unless the Board by resolution specifically determines otherwise:

- (a) cash accounting, as defined by generally accepted accounting principles, shall be employed;
- (b) accounting and controls should conform to generally accepted accounting principles;
- (c) cash accounts of the Association shall not be commingled with any other accounts;
- (d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; any item of value received shall benefit the Association;
- (e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board; and
- (f) an annual financial report shall be made available to all Members within one hundred twenty (120) days after the close of the fiscal year. Such annual report may be prepared on an audited, reviewed or compiled basis, as the Board determines.

3.21. Borrowing. The Association shall have the power to borrow money for any legal purpose; provided however, if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous twelve (12) month period, exceeds or would exceed ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, the Board shall obtain the approval of Members holding at least sixty-seven percent (67%) of the total votes allocated to Units prior to borrowing such money.

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

3.23. Enforcement.

(a) Notice. Prior to imposition of any sanction requiring compliance with these procedures as set forth in the Declaration, the Board or its delegate shall serve the alleged violator with written notice including (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a statement that the alleged violator may present a written request for a hearing to the Board or the covenants committee, if one has been appointed pursuant to Article 5, within ten (10) days of the notice; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within ten (10) days of the notice. If a timely request is not received, the sanction stated in the notice shall be imposed; provided however, the Board or covenants committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the ten (10) day period. Such suspension shall not constitute a waiver of the right to sanction future violations of the same or other provisions and rules by any Person. In the event of a continuing violation, each day the violation continues beyond the ten (10) day period shall constitute a separate offense, and fines may be imposed on a per diem basis without further notice to the violator. In the event of a violation which recurs within one (1) year from the date of any notice hereunder, the Board or covenants committee may impose a sanction without further notice to the violator.

(b) Hearing. If a hearing is requested within the allotted ten (10) day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or delegate who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator or its representative appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed. The Board may adopt a schedule of sanctions for violations of the Governing Documents.

(c) Appeal. If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee's decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within ten (10) days after the hearing date.

ARTICLE 4: OFFICERS

4.1. Officers. The officers of the Association shall be a President, Secretary and Treasurer. The President and Secretary shall be elected from among the members of the Board; other officers may, but need not be members of the Board. The Board may appoint such other officers, including a Vice President, one (1) or more Assistant Secretaries and one (1) or more Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office. The Board shall elect the officers of the Association at the first meeting of the Board following each election of new directors. Such officers shall serve until their successors are elected.

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

4.4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may specifically be conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The Treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both. The Secretary shall be responsible for preparing minutes of meetings of the Association and the Board and for authenticating records of the Association.

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

4.6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks, and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by Board resolution.

4.7. Compensation. Compensation of officers shall be subject to the same limitations as compensation of directors under Section 3.12.

ARTICLE 5: COMMITTEES

5.1. General. The Board may appoint such committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution. No committee appointed by the Board shall be empowered to take any affirmative action or to bind the Board or the Association without the consent of the Board.

5.2. Covenants Committee. In addition to any other committees which the Board may establish pursuant to the Declaration, these By-Laws and, specifically, Section 5.1, the Board may appoint a covenants committee consisting of at least three (3) and no more than seven (7) Members. Acting in

accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the covenants committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Section 3.23 of these By-Laws.

5.3. District Committees. In addition to any other committees appointed as provided above, each District which has no formal organizational structure or association may elect a District Committee to determine the nature and extent of services, if any, to be provided to the District by the Association in addition to those provided to all Members of the Association in accordance with the Declaration. A District Committee may advise the Board on any other issue, but shall not have the authority to bind the Board or the Association. Such District Committees, if elected, shall consist of three (3) to five (5) Members, as determined by the vote of at least a Majority of the Owners of Units within the District.

District Committee members shall be elected for a term of one (1) year or until their successors are elected. Any director elected to the Board of Directors from a District shall be an ex officio member of the District Committee. The District Committee shall elect a chairperson who shall preside at its meetings and shall be responsible for transmitting any and all communications to the Board.

In the conduct of its duties and responsibilities, each District Committee shall abide by the meeting, notice and quorum requirements applicable to the Board under Sections 3.8, 3.9, 3.10, and 3.11. Meetings of a District Committee shall be open to all Owners of Units in the District and their representatives; provided however, a District Committee may act by unanimous written consent in lieu of a meeting.

ARTICLE 6: MISCELLANEOUS

6.1. Fiscal Year. The fiscal year of the Association shall be the calendar year unless the Board establishes a different fiscal year by resolution.

6.2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rules of Order Newly Revised (current edition) shall govern the conduct of Association proceedings when not in conflict with South Carolina law, the Articles of Incorporation, the Declaration, or these By-Laws.

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

6.4. Books and Records.

(a) Inspection by Members and Mortgagees. The Board shall make available for inspection and copying by any holder, insurer or guarantor of a first Mortgage on a Unit, any Member, or the duly appointed representative of any of the foregoing at any reasonable time and for a purpose reasonably related to its interest in a Unit: the Declaration, By-Laws, and Articles of Incorporation, any amendments and supplements to the foregoing, the rules of the Association, and the minutes of meetings of the Members, the Board, and committees. The Board shall provide for such inspection to take place at the office of the Association or at such other place within the Properties as the Board shall designate during normal business hours.

(b) Rules for Inspection. The Board may establish rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

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

6.5. Notices. Except as otherwise provided in the Declaration or these By-Laws, all notices, demands, bills, statements, and other communications under the Declaration or these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States mail, first class postage prepaid:

(a) if to a Member, at the address which the Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Unit of such Member; or

(b) if to the Association, the Board, or the managing agent, at the principal office of the Association or the managing agent or at such other address as shall be designated by notice in writing to the Members pursuant to this Section.

If mailed, any notice shall be deemed to be delivered when deposited in the United States mail addressed with postage prepaid. To increase flexibility, any Person, including the Association, may consent to or request in writing additional methods of receiving notice, including but not limited to, facsimile, electronic mail or e-mail.

6.6. Amendment.

(a) By Declarant. So long as Declarant owns property described on Exhibit "A" or "B" to the Declaration, or has the right to annex property pursuant to Section 7.1 of the Declaration and for a period of twenty (20) years thereafter, Declarant hereby reserves and shall have the sole right to:

(i) amend these By-Laws for the purpose of curing any ambiguity or any inconsistency among the provisions contained herein;

(ii) amend these By-Laws in any manner if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of Mortgage loans, to make, purchase, insure or guarantee Mortgage loans on the Units; (d) to enable any reputable private insurance company to insure Mortgage loans on the Units; or (e) to satisfy the requirements of any local, state or federal governmental agency; and

- (iii) amend these By-Laws without vote or consent of the Owners for any other purpose.

The foregoing amendments may be made without the joinder or approval of any Owner, Mortgagee, or the Association.

(b) By Members. Except as provided above, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members holding at least sixty-seven percent (67%) of the total Class "A" votes in the Association, and the consent of the Declarant, so long as the Declarant has an option to subject additional property to the Declaration pursuant to Section 7.1. In addition, the approval requirements set forth in Article XII of the Declaration shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date. Any amendment to these By-Laws shall become effective upon recordation in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

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

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

BOOK 509 PAGE 182

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STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

DECLARATION OF
COVENANTS AND RESTRICTIONS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS ("Declaration") is made and entered into this 19th day of May, 1994, by The Harry Frank Guggenheim Foundation ("Owner").

R E C I T A L S :

WHEREAS, The Harry Frank Guggenheim Foundation is the owner of certain real property (the "Property") located in the City of Charleston, Berkeley County, South Carolina, generally known as "Daniel Island," as more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, in consideration of certain permits issued or to be issued by the United States Army Corps of Engineers and the South Carolina Coastal Council (collectively, the "Agencies"), the Owner has agreed to place certain restrictive covenants on that portion of the Property hereinafter defined as the "Wetlands Mitigation Areas"; now, therefore,

KNOW ALL MEN BY THESE PRESENTS, that Owner, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby declare that the Property is and shall be held, transferred, sold, conveyed, given, purchased, leased, occupied and otherwise disposed of and used subject to the following covenants and restrictions, which shall run with the land. These covenants and restrictions are irrevocably granted herein for the purpose of maintaining the designated Wetlands Mitigation Areas in their natural state for perpetuity, for the Owner's enjoyment and the enjoyment of its successors and assigns, and the protection or enhancement of property, environmental and scenic values associated therewith.

1. When used in this Declaration, the term "Wetland Mitigation Areas" shall mean all areas shown on the Wetland Mitigation Plat prepared by Southeastern Surveying, Inc., recorded in the RMC Office for Berkeley County in Plat Cabinet K, Pages 290 to 295, and incorporated herein by reference (the "Wetland Mitigation Plat"), which are delineated as "Wetlands" or "Wetland Buffers." The Wetland Buffers shall have varying widths as shown on the Wetland Mitigation Plat, such widths averaging approximately 35 feet.

2. Owner, and its successors and assigns, shall be prohibited from clearing, filling, draining, flooding, dredging,

impounding, cultivating, excavating, constructing or erecting in, or otherwise altering or improving the Wetland Mitigation Areas described herein, and from removing, burning, cutting, altering or otherwise destroying any vegetation, and from the introduction of exotic species, within said designated Wetland Mitigation Areas, except for the following:

(a) Any activities which are part of a stormwater management plan approved by the Agencies;

(b) Removal of shrubs and trees no greater than four (4") inches in diameter (measured at breast height) to create a pathway within such Wetland Mitigation Areas;

(c) Removal of dead or dying trees determined to be a hazard;

(d) In-planting of native shrubbery and trees shall be permitted so long as such in-planting complies with all other terms of this Declaration;

(e) Nature trails and pedestrian boardwalks and/or bridges;

(f) Management activities beneficial to wildlife and in compliance with a wildlife management plan approved by the Agencies, which approval shall not be unreasonably withheld;

(g) Clearing associated with golf course construction in accordance with Permit No. PN 93-2T-154-P-C within Wetlands W-11, W-12 and W-13 as shown on the Wetland Mitigation Plat or as revised and approved by the Agencies;

(h) Any filling of Wetland W-19 as shown on the Wetland Mitigation Plat (or as revised and approved by the Agencies) necessitated by construction of the Mark Clark Expressway off-ramp; and

(i) Alterations within Wetlands W-11, W-12 and W-13 as shown on the Wetland Mitigation Plat to facilitate drainage as approved by the Agencies.

3. In relation to the Wetland Mitigation Areas, there shall be no changing of grade or elevation, no impairing of the flow or circulation of waters nor reducing the reach of

waters, and no discharge or other activity covered by the Federal Clean Water Act, as amended, without first obtaining the requisite wetlands, water and/or flood plain permits from the appropriate authorities, including the United States Army Corps of Engineers.

4. It is expressly understood and agreed that these Restrictive Covenants do not grant or convey to members of the general public any rights of ownership or use of the Property described herein. These Restrictive Covenants are created solely for the protection of the designated Wetland Mitigation Areas and associated values, and Owner, its successors and assigns, reserves the ownership of the fee simple estate and all rights appertaining thereto, including the right to use the Wetland Mitigation Areas for all purposes not inconsistent with these Restrictive Covenants. Any actual use of the Wetland Mitigation Areas by any person or entity other than those who are given or acquire such rights from the Owner, its successors and assigns, shall constitute and shall be deemed to be a trespass or other violation under the common law or statutes of South Carolina.

5. These Restrictive Covenants shall be binding upon the Owner, its successors and assigns, and the restrictions contained herein shall run with the Property and shall be legally binding upon all subsequent property owners.

6. Any violation or attempted violation of any of the covenants or terms hereof may be enforced by the South Carolina Coastal Council or by the United States Army Corps of Engineers in an action at law or in equity against the person or person or corporations or other entity violating or attempting to violate this Declaration; provided, however, that no violation of these Restrictive Covenants shall result in a forfeiture or reversion of title, notwithstanding any other provision of this instrument. The United States Army Corps of Engineers shall be entitled to a complete restoration in any enforcement action, as well as any other remedy available under law.

7. Nothing contained herein shall be held or construed to impose similar restrictions on any adjoining land or neighboring property of Owner, its successors and assigns, other than the Wetland Mitigation Areas designated herein.

8. The provisions of this Declaration may be amended only by a recorded agreement executed by the Owner and the Agencies.

WITNESS our hands and seals the date first above written.

WITNESSES:

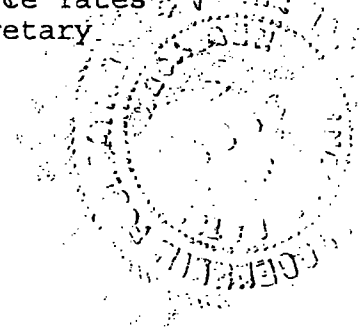
Karen Colvard
Joseph A. Conybeare

THE HARRY FRANK GUGGENHEIM
FOUNDATION

By: James M. Hester
James M. Hester
Its President

Attest: Mary-alice Yates
Mary-alice Yates
Its Secretary

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rev. 5/18/94



BOOK 509 PAGE 186

STATE OF NEW YORK)

COUNTY OF NEW YORK)

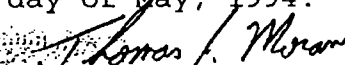
PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named The Harry Frank Guggenheim Foundation, by James M. Hester, its President, and attested by Mary-alice Yates, its Secretary, sign, seal and as its act and deed, deliver the within written instrument, and that (s)he with the other witness named above witnessed the execution thereof.



(Signature of Witness)

SWORN to before me this 19TH
day of May, 1994.


Notary Public for New York
My Commission Expires: 1995

THOMAS MORAN
Notary Public, State of New York
No. 5018397
Qualified in Suffolk County
Certificate Filed in New York County
Commission Expires September 27, 1995

BOOK 509 PAGE 187

EXHIBIT "A"

Property Description

ALL those certain pieces, parcels or tracts of land situate, lying and being in the City of Charleston, Berkeley County, South Carolina, known as Daniel Island, measuring and containing 3,036 acres, more or less, as shown on Sheet 1 of 3 of a plat prepared by Mark S. Busey, Registered Land Surveyor, dated June 18, 1992, recorded in the RMC Office for Berkeley County in Plat Book J, Pages 343 through 345; the said tracts of land having such size, shape, dimensions, buttings and boundings, more or less, as will by reference to said plat more fully appear.

FILED-RECORDED

MAY 23 11 34 AM '91

 CYRIL R. JONES
 REGISTERED
 MESSENGER
 BERKELEY COUNTY, SC

TOWN CENTER

Upon recording, please return to:

M. Maxine Hicks
COFER, BEAUCHAMP, STRADLEY & HICKS, LLP
Attorneys at Law
Suite 200
99 West Paces Ferry Road, N.W.
Atlanta, Georgia 30305

FILED, RECORDED, INDEXED
03/24/1999 01:44:00PM
Rec Fee: 69.00 St Fee: 0.00
Co Fee: 0.00 Pages: 63
Issued to: WARREN & SINKLER
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

DANIEL ISLAND TOWN CENTER ZONE

THIS AGREEMENT CONTAINS AN ARBITRATION AGREEMENT SUBJECT
TO THE SOUTH CAROLINA ARBITRATION ACT, §15-48-10 et seq.
CODE OF LAWS OF SOUTH CAROLINA, 1976

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<u>Exhibit</u>	<u>Subject Matter</u>
"A"	Land Initially Submitted
"B"	Land Subject to Annexation
"C"	Initial Use Restrictions and Rules
"D"	Formula For Assessment and Voting Rights
"E"	Rules of Arbitration

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS

FOR

DANIEL ISLAND TOWN CENTER

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (this "Declaration") is made this 21st day of March, 1999, by The Daniel Island Company, Inc., a South Carolina corporation ("Declarant").

Declarant is the owner of the real property described in Exhibit "A," which is attached and incorporated by reference. This Declaration imposes upon the Properties (as defined in Article I below) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties, and for the maintenance of sidewalks, streets, street lights, stormwater drainage and retention areas and improvements, open spaces, landscaping, and other common areas and improvements located on the Properties, and, to this end, desires to subject the Properties to the covenants, conditions, restrictions, easements, and liens hereinafter set forth. In furtherance of such plan, this Declaration provides for the creation of the Daniel Island Town Center Owners Association, Inc. to own, operate and maintain Common Areas, as defined below, and to administer and enforce the provisions of this Declaration, the By-Laws, and the Use Restrictions and Rules promulgated pursuant to this Declaration.

It is contemplated that the Properties, will be developed as a mixed use commercial and residential area comprised of various office, retail, institutional, service, multi-family residential and other permitted uses allowed under the Zoning Ordinance (as defined in Article I below) with public and/or private streets, sidewalks, street lights, open spaces, stormwater drainage and retention areas, and other common areas and improvements for the benefit of the owners of lands made subject to the terms of this Declaration.

Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I below) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

This document does not and is not intended to create a condominium within the meaning of the South Carolina Horizontal Property Act, South Carolina Code Annotated, §27-31-10, *et seq.*

**THIS AGREEMENT CONTAINS AN ARBITRATION AGREEMENT SUBJECT
TO THE SOUTH CAROLINA ARBITRATION ACT, §15-48-10 et seq.
CODE OF LAWS OF SOUTH CAROLINA, 1976**

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Article I DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1 "Architectural Review Board or "ARB"": The review board and applicable committees appointed pursuant to Section 9.2 hereof with the rights and obligations conferred upon such review board pursuant to this Declaration.

1.2 "Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration or other applicable covenants, contracts, or agreements.

1.3 "Articles of Incorporation" or "Articles": The Articles of Incorporation of Daniel Island Town Center Owners Association, Inc., as filed with the Secretary of State of the State of South Carolina.

1.4 "Association": Daniel Island Town Center Owners Association, Inc., a South Carolina nonprofit corporation, its successors or assigns.

1.5 "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under South Carolina corporate law.

1.6 "By-Laws": The By-Laws of Daniel Island Town Center Owners Association, Inc., as they may be amended.

1.7 "Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint all of the members of the Board of Directors as provided in Section 3.2.

1.8 "Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including any property to be maintained by the Association pursuant to any Covenant to Share Costs.

1.9 "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserves, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.

1.10 "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Board.

1.11 "Covenant to Share Costs": Any agreement or contract between the Association and an owner(s) or operator(s) of property adjacent to the Properties for the allocation of expenses that benefit both the Association and the owner(s) or operator(s) of such property.

1.12 "Daniel Island Community Association" or "Residential Association": Daniel Island Community Association, Inc., a South Carolina nonprofit corporation, formed to serve as the mandatory membership owners association under the Residential Declaration.

1.13 "Daniel Island Office Park Owners Association" or "Office Park Association": Daniel Island Office Park Owners Association, Inc., a South Carolina nonprofit corporation, formed to serve as the mandatory membership owners association under the Office Park Declaration.

1.14 "Declarant": The Daniel Island Company, Inc., a South Carolina corporation, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.15 "Deed": Any deed, lease, assignment or other instrument other than a Mortgage conveying any interest in any Unit.

1.16 "Design Guidelines": The design, use and construction guidelines and application and review procedures applicable to the Properties promulgated and administered pursuant to Article IX which may also be referred to as the "Town Center Architectural Standards".

1.17 "District Association": Any condominium association or other owners association having concurrent jurisdiction with the Association over any District.

1.18 "District Assessments": Assessments levied against the Units in a particular District or Districts to fund District Expenses, as described in Sections 8.1 and 8.4.

1.19 "District Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of Owners of Units within a particular District or Districts, which may include a reasonable reserve for capital repairs and replacements, as the Board may specifically authorize from time to time and as may be authorized herein or in Supplemental Declarations applicable to such District(s).

1.20 "District": one or more Units which share common interests, other than those common to all Units in the Properties, as more particularly described in Section 3.3. For example, and by way of illustration and not limitation, an office complex comprised of several Units surrounding a common plaza, a medical park comprised of several Units sharing an entry feature or other common public areas, or a retail/commercial center comprised of various Units sharing common public areas, or a business condominium, each might be designated as separate Districts. Where the context so permits or requires, the term "District" also refers to a District Association or a District Committee established to act for the Units within the District. District boundaries may be established and modified as provided in Section 3.3.

1.21 "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Districts or Units, as more particularly described in Article II.

1.22 "General Assessment": Assessments levied on all Units subject to assessment under Article VIII to fund Common Expenses for the general benefit of all Units, as more particularly described in Sections 8.1 and 8.3.

1.23 "Governing Documents": This Declaration, the By-Laws, the Articles of Incorporation, any Supplemental Declaration, the Design Guidelines and the Use Restrictions and Rules, or any of the above, as each may be amended from time to time.

1.24 "Improvement": Shall mean and include, but not be limited to, buildings of a permanent or temporary nature (with temporary buildings being permitted only during the construction of other improvements, subject to approval by the ARB), outbuildings, underground installations, slope alterations, surface water drainage facilities, sediment control devices, roads, berms, driveways, alley ways, parking areas or facilities, loading docks and areas, fences, screening walls, retaining walls, enclosures, stairs, decks, windbreaks, planting or removal of trees, shrubs and other landscaping materials, poles, signs, antennas and satellite dishes, utilities, water lines, sewer, electrical and gas distribution facilities, heating, cooling and air circulation equipment and facilities, roofed structures, railroad trackage, hedges, exterior illumination, changes in exterior color or shape, staking, clearing, excavation, grading, exterior alteration of existing improvements, and all other structures or landscaping improvements of every type and kind initially or at any time thereafter placed or constructed on any Unit.

1.25 "Leasehold Owner": The lessee under any lease of a Unit with an initial term of not less than twenty (20) years, and which lessee has been assigned all of the owner's rights and obligations under this Declaration with respect to the leased premises.

1.26 "Master Plan": The Daniel Island Master Plan submitted by the Harry Frank Guggenheim Foundation, Inc., dated March 11, 1993, and adopted by the City Council of the City of Charleston, South Carolina, as it may be amended from time to time, which plan includes the property described on Exhibit "A" and all or a portion of the property described on Exhibit "B" that Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the exclusion of property described on Exhibit "B" from the Master Plan bar its later annexation in accordance with Article VII.

1.27 "Member": A Person subject to membership in the Association pursuant to Section 3.1.

1.28 "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Unit.

1.29 "Mortgagee": A beneficiary or holder of a Mortgage.

1.30 "Mortgagor": Any Person who gives a Mortgage.

1.31 "Occupant": The Owner or Leasehold Owner of any Unit and their respective employees, agents, tenants, independent contractors, invitees and licensees or any other person who either lawfully or unlawfully occupies or comes upon such Unit. All actions or omissions of any Occupant shall be deemed the action or omission of the Owner or Leasehold Owner of such Unit.

1.32 "Office Park Declaration": the declaration of covenants, conditions, and restrictions, by whatever name denominated, which has been separately recorded by Declarant in the records of Berkeley County, South Carolina, applicable to the office park properties within Daniel Island and providing for the Daniel Island Office Park Owners Association, Inc.

1.33 "Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded land sales contract, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner. An Owner (including the Declarant) who has transferred or otherwise conveyed a leasehold interest in and to any Unit to a Leasehold Owner may, in its sole discretion, assign in such lease, all of such Owner's rights and obligations as an owner herein; provided, however, that any such assignment shall not relieve such Owner from its duties and obligations hereunder except as expressly provided herein. From and after receipt of such assignment, Declarant and the Architectural Review Board shall recognize the Leasehold Owner as the Owner of such Unit.

1.34 "Person": A natural person, a corporation, a partnership, a trustee, a limited liability company, or any other legal entity.

1.35 "Private Amenity": Certain real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis or otherwise, and may include, without limitation, any golf course(s) so located and all related and supporting facilities and improvements.

1.36 "Properties": The real property described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article VII.

1.37 "Public Records": The Register of Deeds Office for Berkeley County, South Carolina.

1.38 "Residential Declaration": the declaration of covenants, conditions, and restrictions, by whatever name denominated, which has been separately recorded by Declarant in the records of Berkeley County, South Carolina, applicable to the residential properties within Daniel Island and providing for the Daniel Island Community Association, Inc.

1.39 "Special Assessment": Assessments levied in accordance with Section 8.5.

1.40 "Specific Assessment": Assessments levied in accordance with Section 8.6.

1.41 "Supplemental Declaration": An instrument filed in the Public Records which subjects additional property to this Declaration, designates Districts, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.42 "Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy within the Daniel Island Town Center Zone as set forth in the Master Plan, subject to compliance with the Governing Documents. The term shall refer to the land, if any, which is part of the Unit as well as any Improvements thereon. In the case of a portion of the Properties intended and suitable for subdivision but as to which no final lot subdivision map has been filed, such property shall be deemed to be a single Unit until such time as a final lot subdivision map is filed of record with respect to all or a portion of the property. This term shall not include Common Area, common property of any District Association, or property dedicated to the public. Notwithstanding the foregoing, any portion of the Properties developed as a condominium shall be treated as and deemed a single Unit (notwithstanding the fact that individual units within the condominium may be individually owned and conveyed) for all purposes under this Declaration, including membership and voting rights and assessments, all of which such rights and obligations shall be held by and/or the responsibility of the applicable condominium owners' association, which shall be a District Association as specified in Section 3.3, and which such association shall be treated as a single Member/Owner for all purposes hereunder. Additionally, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 7.1, Declarant shall have the right to designate and treat other interest holders, including, without limitation, parcels of land developed with fee simple town homes, in the same manner, and with the same effect as specified in the preceding sentence with respect to condominiums.

Each separately platted lot shall be deemed to be a separate Unit, regardless of the number of uses or businesses operated on such lot, unless otherwise specified by Supplemental Declaration.

In the case of a parcel of vacant land or land on which Improvements are under construction, the parcel shall be deemed to be a single Unit until such time as a subdivision plat or condominium plat is filed of record on all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

1.43 "Use Restrictions and Rules": Those use restrictions and rules affecting the Properties, which may be adopted, modified and repealed as set forth in Article X. The initial Use Restrictions and Rules are set forth on Exhibit "C."

1.44 "Utilities": Any utilities serving any portion of the Properties or any Common Areas, including, without limitation, water, public or private sewage and sewer service, storm drains, steam, gas, electricity, telephone, cable tv, solar or passive energy sources or any other utilities of any nature whatsoever.

1.45 "Zoning Ordinance": The Master Plan and The City of Charleston Zoning Ordinance, as the same may be amended from time to time.

Article II PROPERTY RIGHTS

2.1 Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to each Unit, subject to:

- (a) this Declaration and all other Governing Documents;
- (b) any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) the right of the Board to adopt, amend, and repeal rules regulating the use and enjoyment of the Common Area;
- (d) the right of the Board to allow persons other than Owners, Leasehold Owners, Occupants and their respective employees, lessees, invitees, clients, customers and guests to use any facilities situated upon the Common Area upon such conditions as may be established by the Board;
- (e) the right of the Board to suspend the right of an Owner to use facilities within the Common Area (i) for any period during which any charge against such Owner's Unit remains delinquent, and (ii) for a period not to exceed 30 days for a single violation or for a longer period in the case of any continuing violation, of the Governing Documents after notice and a hearing pursuant to Section 3.25 of the By-Laws;
- (f) the right of the Association, acting through the Board, to dedicate or transfer all or any part of the Common Area as set forth in this Declaration;
- (g) the right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and
- (h) The rights of certain Owners to the exclusive use, access and enjoyment in and to those portions of the Common Area designated "Exclusive Common Areas", as more particularly described in Section 2.4.

Any Owner may extend its right of use and enjoyment to such Owner's employees, lessees, invitees, clients, customers and guests, as applicable, subject to reasonable regulation by the Board and further subject to all such parties' obligation to abide and be bound by the Governing Documents and any such rules and regulations promulgated thereunder.

2.2 No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Article shall not prohibit the Board from acquiring and disposing of real property which may or may not be subject to this Declaration.

TOWN CENTER

2.3 Condemnation. If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain, or conveyed in lieu of and under threat of condemnation, each Owner shall be entitled to written notice prior to disbursement of the condemnation award or proceeds of conveyance. The award made for such taking or proceeds of such conveyance shall be payable to the Association.

2.4 Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners and Occupants of specified Units or Districts. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, parking areas, lakes and other portions of the Common Area within a particular District or Districts. All costs associated with maintenance, repair, replacement, and insurance of an Exclusive Common Area shall be assessed against the Owners of Units to which the Exclusive Common Areas are assigned either as a District Assessment or as a Specific Assessment, as applicable.

Initially, any Exclusive Common Area shall be designated as such, and the exclusive use thereof shall be assigned, in the deed by which the Declarant conveys the Common Area to the Association or on the subdivision plat relating to such Common Area, or in a Supplemental Declaration; provided, however, any such assignment shall not preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Units and/or Districts, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 7.1. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of particular Units or a particular District or Districts and Exclusive Common Area may be reassigned upon approval of the Board and the vote of a majority of the Class "A" votes within the District(s) to which the Exclusive Common Area is assigned, if previously assigned, and within the District(s) to which the Exclusive Common Area is to be assigned or reassigned. As long as the Declarant owns any property described on Exhibits "A" or "B" for development and/or sale, or has the right to annex property pursuant to Section 7.1, any such assignment or reassignment shall also require the Declarant's written consent.

The Association may, upon approval of a majority of the Owners to which the Exclusive Common Area is assigned, the majority of the members of the District Committee or the board of directors of the District Association for the District(s) to which any Exclusive Common Area is assigned, permit Owners of Units in other Districts to use all or a portion of such Exclusive Common Area upon payment of reasonable user fees, which fees shall be used to offset the District Expenses or specific assessments attributable to such Exclusive Common Area.

2.5 Private Amenities. Access to and use of any Private Amenity is strictly subject to the rules and procedures of the owner of such Private Amenity, and no Person gains any right to enter or to use any Private Amenity by virtue of membership in the Association or ownership or occupancy of a Unit.

Article III MEMBERSHIP AND VOTING RIGHTS

3.1 Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation, and the restrictions on voting

set forth in Section 3.2 and in the By-Laws and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners hereunder. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.2 Voting. The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any.

Class "A" Members shall have a weighted vote for each Unit in which they hold the interest required for membership under Section 3.1; provided, there shall be only one weighted vote per Unit. The vote for each Unit shall be weighted in accordance with the formula set forth in Exhibit "D." In any situation where there is more than one Owner of a Unit, the vote for such Unit shall be exercised as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint all members of the Board of Directors during the Class "B" Control Period which shall continue until the first to occur of the following:

- (i) December 31, 2025; or
- (ii) when, in its discretion, the Class "B" Member so determines.

After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws. The Class "B" membership shall terminate upon the earlier of:

- (i) two years after expiration of the Class "B" Control Period; or
- (ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Upon termination of the Class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Unit which it owns.

(c) Additional Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Units within any additional property made subject to this Declaration pursuant to Article VII, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

3.3 Districts.

(a) General. Every Unit shall be located within a District; provided, however, unless and until additional Districts are established, the Properties shall consist of one District. The Units within a particular District may be made subject to additional covenants and the Owners of Units within a particular District may also be mandatory members of a District Association; however, there shall be no requirement that a District Association be created for any District except in the case of a District which is developed as a condominium or as may be otherwise provided by law. Any District which does not have a District Association may establish an advisory committee (a "District Committee") to serve as a liaison between that District and the Board, but any such District Committee shall have no binding authority or any voting rights hereunder. The Board may in its discretion establish criteria for appointment to and/or creation of District Committees to represent the interests of Owners of Units in any District or Districts.

(b) Establishment. Districts shall be established not later than, and may be modified until, the date of the termination of the Class "B" membership. Declarant shall establish and may modify Districts by filing an addendum to this Declaration designating by map or other description all of the Units within each District. No District Association or District Committee shall be formed or otherwise established without the prior submission to and written approval of Declarant of all documents creating or establishing such District Association or District Committee, including without limitation, the submission of any declaration of condominium, articles of incorporation, by-laws and other organizational and governing documents. After the termination of the Class "B" membership, Declarant may unilaterally amend such addendum as additional property is subjected to this Declaration to change the composition of existing Districts or to establish new Districts to account for the additional property.

After expiration of Declarant's right to submit additional property under Article VII, the Board shall have the right to file or amend such addendum. Neither recordation nor amendment of such addendum shall constitute an amendment to this Declaration, and no consent or approval of any Person shall be required. Until such time as an addendum is filed, all of the Properties shall constitute a single District. After an addendum is filed, any and all portions of the Properties which are not assigned to a specific District shall constitute a single District.

Article IV RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1 Common Area. The Association, subject to the rights of the Owners set forth in this Declaration, shall manage and control the Common Area and all improvements thereon (including, without limitation, landscaping, furnishings, equipment, and other personal property of the Association), and shall keep it in attractive condition and good repair, consistent with the Community-Wide Standard. The Board is specifically authorized, but not obligated, to retain or employ professional management to assist in carrying out the Association's responsibilities under this Declaration, the cost of which shall be a Common Expense.

4.2 Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be

maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3 Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violation of the Governing Documents, after compliance with the notice and hearing procedures set forth in Section 3.25 of the By-Laws. Such sanctions may include, without limitation:

- (a) imposing monetary fines which shall constitute a lien upon the Unit of the violator (in the event that any employee, lessee, occupant, invitee, client, customer or guest of a Unit violates the Governing Documents, and a fine is imposed, the fine shall first be assessed against the Occupant; provided however, if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);
- (b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;
- (c) suspending an Owner's right to vote;
- (d) suspending any Person's right to use any facilities within the Common Area; provided however, nothing herein shall authorize the Board to limit ingress or egress to or from a Unit;
- (e) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 Days delinquent in paying any assessment or other charge owed to the Association; and
- (f) levying Specific Assessments to cover costs incurred in bringing a Unit into compliance in accordance with Section 8.5.

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to the filing liens in the Public Records for nonpayment of any assessments or fees, the towing of vehicles that are in violation of parking rules or the correction of any maintenance, construction or other violation of the Governing Documents) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of the Governing Documents, if the Association prevails, it shall be entitled to recover, to the maximum extent permissible, all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board in the exercise of its business judgment determines is, or is likely to

be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or stop the Association from enforcing any other covenant, restriction or rule.

The Association may, but is not required to, by contract or other agreement, enforce county, city, state and federal ordinances, rules, regulations and laws, if applicable, and permit local and other governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

4.4 Implied Rights: Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5 Governmental Interests. For so long as the Declarant owns any portion of the property described on Exhibits "A" or "B," the Declarant may designate sites within the Properties for public or quasi-public facilities. The sites may include Common Area, in which case the Association shall take whatever action is required with respect to such site to permit such use, including conveyance of the site, if so directed by Declarant. The sites may include other property not owned by Declarant provided the owner consents. No membership approval shall be required for such designation.

4.6 Dedication of Common Area. The Association, or the Declarant for so long as the Declarant owns any portion of the properties described on Exhibits "A" or "B", may dedicate portions of the Common Area to the City of Charleston or County of Berkeley, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity without obtaining any membership approval.

4.7 Indemnification. The Association shall indemnify every officer, director, and committee member, against all damages and expenses, including attorneys' fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles and South Carolina law.

The officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled.

The Association shall also indemnify and forever hold harmless the Declarant to the extent that any officer, director or employee of the Declarant serves as an officer, director or committee member of the Association and the Declarant incurs any damages or expenses, including attorneys' fees, in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding) by reason of having its officers, directors or employees serve as officers, directors, or committee members of the Association, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles and South Carolina law. This right to indemnification shall not be exclusive of any other rights to the Declarant may be entitled.

The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.8 Rezoning. No Owner or any other Person may apply or join in an application to amend, vary or modify the Zoning Ordinance or rezone or apply for any zoning variance or waiver as to all or any portion of the Properties without the prior written consent of Declarant where such amendment, variance or modification will materially affect the development or uses of a Unit or Units within the Properties. Declarant may apply for such rezoning as to any portion of the Properties owned by it at anytime.

4.9 Security. The Association, the Declarant, or any successor Declarant may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. Neither the Association, the Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measure, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all Occupants of its Unit that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Units and the contents of Units, resulting from acts of third parties. Any costs incurred by the Association to provide such services shall be paid by the Association and shall be charged to all Units, as a General Assessment or a Special Assessment, or only to those certain Districts or Units benefitted thereby, as a Specific Assessment or as a District Assessment, as determined by the Board in its sole discretion.

4.10 Provision of Services. The Association may provide services for the Members of the Association and their employees, lessees, invitees, clients, customers and guests. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services. The costs of services provided by the Association shall be charged to the benefitted Unit(s) as a Specific Assessment. By way of example only, some services which may be provided include landscape maintenance, pest control service, special and promotional events coordination, and security. The Association shall be permitted to add, modify or cancel any services being provided by the Association. Nothing contained herein may be relied upon as a representation as to the services, if any, will be provided by the Association.

4.11 Future Development. Each Owner acknowledges, understands and covenants to inform its lessees and all Occupants of its Unit that the Properties and areas adjacent to the Properties are subject to further development and expansion, and therefore, there may be certain inconveniences during any period of construction, and Owner waives all claims with respect thereto. Owner agrees that if Owner or Owner's employees, lessees, invitees, clients, customers, guests, contractors or agents enter onto any area of construction, they do so at their own risk, and neither the Declarant, the Association, nor their respective contractors, agents or employees shall be liable for any damage, loss or injury to such persons.

4.12 Powers of the Association Relating to Districts. Since any District Committee established under this Declaration is a committee of the Association, the Board shall have all of the power and control over any District Committee that it has under applicable law over other committees of the Association.

The Association may veto any action taken or contemplated by any District Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standards. The Association also may require specific action to be taken by any District Association to fulfill its obligations and responsibilities under this Declaration or any other applicable covenants. For example, the Association may require specific maintenance or repairs or aesthetic changes to be done by the District Association, and that a proposed budget include the cost of such work. If the District Association fails to comply with such requirements within a reasonable time as specified in writing by the Association, the Association may effect such action on behalf of the District Association and assess the Units in such District for their pro rata share of any expenses incurred by the Association in taking such action. Such assessments may be collected as a Specific Assessment under Article IX.

4.13 Municipal Services. The Association may, but is not obligated to, contribute funds to the City of Charleston or other applicable governmental authorities, for the purpose of increasing the city's capacity to provide municipal services, including, without limitation, enhanced infrastructure improvements (i.e., curbing, alternative paving surfaces, street improvements, traffic control devices, street and directional signage, etc.), and police and fire protection services, within Daniel Island Town Center Zone.

4.14 Covenant(s) to Share Costs. So long as the Class "B" membership exists, the Declarant may, but shall not be obligated to, execute and record various declarations, covenants, and deed restrictions which may constitute covenants running with the title to certain parcels of land outside the Properties, assigning to the owners and occupants of such parcels, including, without limitation, the Office Park Association and the Residential Association and their members, guests, employees, agents and invitees, as applicable, certain rights to use all or portions of the Common Areas and obligating the owners of such parcels to share in the certain costs incurred by the Association which benefit such parcels. Such Covenants to Share Costs may expand the Area of Common Responsibility and provide remedies to the owners of such parcels for the Association's failure to perform. Upon request of the Declarant, the Association shall join in such Covenants to Share Costs. The Association shall comply with the terms of any and all such Covenants to Share Costs.

Article V
MAINTENANCE

5.1 Association's Responsibility.

(a) The Association shall maintain and keep in good repair the Area of Common Responsibility, which may include, but need not be limited to:

(i) all landscaping and other flora, parks, lakes, structures, and improvements, including any private streets, bike and pedestrian pathways/trails, situated upon the Common Area;

(ii) landscaping and other flora, parks, pedestrian pathways/trails, structures and improvements within public rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board;

(iii) such portions of any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, or any contract or agreement for maintenance thereof entered into by the Association;

(iv) all ponds, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith;

(v) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association;

(vi) all storm water management facilities and retention basins serving the Properties (if not maintained by a governmental agency or located on or within a Unit);

(vii) all planter strips and landscaping within any rights-of-way or medians of the roadways within or adjacent to the Properties to the extent that the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard;

(viii) all entry signs and features serving the Properties, constructed by or on behalf of the Declarant; and

(ix) all signage within or adjacent to public rights-of-way within or adjacent to the Properties which the Board, in its sole discretion, deems appropriate.

The Association may, as a Common Expense, maintain other property which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services

related to such property over and above the level being provided by the property owner, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(b) There are hereby reserved to the Association easements over the Properties as necessary to enable the Association to fulfill such responsibilities. The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the Board, to perform required maintenance or repairs, unless Members representing 67% of the Class "A" votes in the Association and the Class "B" Member, if any, agree in writing to discontinue such operation.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means except with the prior written approval of the Declarant as long as the Declarant owns any property described on Exhibits "A" or "B" of this Declaration, or has the right to annex property pursuant to Section 7.1.

(c) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Units as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, any Covenant to Share Costs, other recorded covenants, or agreements with the owner(s) thereof. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a District Expense assessed as a District Assessment solely against the Units within the District(s) to which the Exclusive Common Areas are assigned, or a Specific Assessment against the particular Units to which the Exclusive Common Areas are assigned, notwithstanding that the Association may be responsible for performing such maintenance hereunder.

5.2 Owner's Responsibility. Each Owner shall maintain its Unit and all Improvements located thereon, including without limitation, all structures, parking areas, irrigation systems, drainage facilities, detention and retention ponds, landscaping, setback areas, and other improvements located in rights-of-way adjacent to the Owner's Unit in a manner consistent with the Community-Wide Standard, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a governmental agency pursuant to this Declaration, any Supplemental Declaration or other covenants applicable to such Unit, including, but not limited to, the Design Guidelines and the Zoning Ordinance. Such maintenance includes, but is not limited to the following, unless otherwise provided in the Design Guidelines:

- (a) Removal of all litter, trash, refuse and waste at least once a week and keeping the trash pick-up and service loading areas in a neat condition;
- (b) Lawn mowing on a regular basis such that the grass level on undeveloped land is not higher than 12" and the grass level on developed land is not higher than 4".
- (c) Tree and shrub pruning;
- (d) Keeping exterior lighting, signage, fixtures, and mechanical facilities in working order;

- (e) Keeping plant materials within lawn and garden areas alive, and any adjoining rights-of-way or drainage ditches attractive and free of trash and debris;
- (f) Promptly removing and replacing any dead plant material;
- (g) Keeping parking areas, driveways, alley ways and roads in good repair;
- (h) Striping of parking areas and repainting of Improvements, as applicable; and
- (i) Repair of exterior damage to Improvements and keeping exterior Improvements in good repair.

Every Owner shall also be responsible for the security and safety of its Unit notwithstanding any security systems or measures which may be provided by the Association.

In addition to any other enforcement rights, if an Owner fails to properly perform its maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Owner in accordance with Section 8.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3 District Responsibility. Upon resolution of the Board, the Owners of Units within each District shall be responsible for paying, through District Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such District. This may include, without limitation, the costs of maintaining any signage, entry features, rights-of-way and greenspace between the District and adjacent public roads, private streets within the District, and lakes or ponds within the District, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association.

Any District Association having responsibility for maintenance within a particular District pursuant to additional covenants applicable to such District shall perform such maintenance responsibility in a manner consistent with the Community-Wide Standard. If it fails to do so, the Association may perform such responsibilities and assess the costs as a Specific Assessment against all Units within such District as provided in Section 8.7.

5.4 Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard, the Zoning Ordinance and all applicable covenants. The Association and/or an Owner and/or a District Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which it does not own.

5.5 Party Walls and Similar Structures.

(a) General Rules of Law to Apply. Each wall, fence, driveway or similar structure built as a part of the original construction on the Units which serves and/or separates any two adjoining Units shall constitute a party structure. To the extent not inconsistent with the provisions of this Section,

the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party structure shall be shared equally by the Owners who make use of the party structure.

(c) Damage and Destruction. If a party structure is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the structure may restore it. If other Owners thereafter use the structure, they shall contribute to the restoration cost in equal proportions. However, such contribution will not prejudice the right to call for a larger contribution from the other users under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

5.6 Office of Ocean and Coastal Resource Management. Each Owner acknowledges that any portion of any Unit which may contain submerged land, coastal waters or other critical areas, is subject to the jurisdiction of the Office of Ocean and Coastal Resource Management. Each Owner shall be liable, to the extent of such Owners' ownership, for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning any such submerged land, coastal waters or other critical areas.

Article VI INSURANCE AND CASUALTY LOSSES

6.1 Association Insurance.

(a) Coverage. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect, if reasonably available and to the extent the Board deems reasonably necessary, blanket property insurance on any portions of the Area of Common Responsibility for which the Association has maintenance, repair and/or replacement responsibilities; commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members; directors and officers liability coverage; fidelity insurance covering Persons handling Association funds; and such additional insurance as the Board, in its best business judgment, determines advisable or is required by law. The Board shall annually review the types and amounts of insurance coverage and shall establish the requirements for such coverages. Association insurance premiums shall be a Common Expense. In addition, the Association may, on request of a District Association, and shall, if so specified in a Supplemental Declaration applicable to the District, obtain blanket property insurance, if reasonably available, for all insurable improvements maintained by such District Association. The face amount of the policy shall be sufficient to cover the full replacement cost of all insured structures. The costs thereof shall be charged to the Owners of Units within the District as a District Assessment.

In the event of an insured loss, the deductible, in such amount as established by the Board, shall be treated as a Common Expense in the same manner as the premiums for the applicable

insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.25 of the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their employees, lessees, invitees, clients, customers or guests, then the Board may specifically assess the full amount of such deductible against such Owner(s) and their Units pursuant to Section 8.7.

(b) Policy Requirements. Association insurance shall not be brought into contribution with insurance purchased by Owners, Occupants, Leasehold Owners or their Mortgagees individually. The Association's policies shall contain an agreed amount endorsement.

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

- (i) a waiver of subrogation as to any claims against the Board, its agents, officers, employees, Members, and guests;
- (ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash;
- (iii) an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Owners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;
- (iv) an endorsement excluding Owners' individual policies from consideration under any "other insurance" clause;
- (v) an endorsement requiring at least 30 Days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and
- (vi) a cross liability provision.

(c) Damage and Destruction. In the event of a loss covered by Association insurance, only the Board or its duly authorized agent shall be authorized to file any insurance claim, which the Board may or may not file in its sole discretion. Any damage to or destruction of the Common Area shall be repaired or reconstructed unless (i) the Members representing at least 67% of the total Class "A" votes in the Association, and the Class "B" Member, if any, decide within 60 Days after the loss, or such additional time deemed necessary by the Board, not to repair or reconstruct; and (ii) the failure to repair or reconstruct any damage to or destruction of the Common Area would not violate or breach the terms of the Zoning Ordinance, or any other agreement entered into by the Declarant or the Association with respect to the Properties or any applicable laws.

If the damage or destruction to the Common Area is not repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared and shall be maintained by the Association consistent with the Community-Wide Standard. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall

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be retained by and for the benefit of the Association and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall.

6.2 Owners' Insurance. By virtue of taking title to a Unit, each Owner covenants and agrees with all other Owners and with the Association to carry liability with limits of not less than \$1,000,000.00 and property insurance for the full replacement cost of all insurable improvements on its Unit, less a reasonable deductible. Each Owner further covenants and agrees that in the event of damage to or destruction of structures on its Unit, the Owner shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article IX. Alternatively, the Owner shall clear the Unit of all debris and ruins and maintain the Unit in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds. Additional covenants for any District may establish more stringent standards for repairing or reconstructing structures and for clearing and maintaining the Units if the structures are not rebuilt or reconstructed within the District.

Article VII ANNEXATION AND WITHDRAWAL OF PROPERTY

7.1 Annexation Without Approval of Membership. Until all property described on Exhibit "B" has been subjected to this Declaration or 20 years after the recording of this Declaration in the Public Records, whichever is earlier, Declarant may from time to time unilaterally subject to the provisions of this Declaration all or any portion of the real property described in Exhibit "B." The Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" and that such transfer is memorialized in a written, recorded instrument executed by Declarant.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Public Records describing the property being annexed. Such Supplemental Declaration shall not require the consent of any Members or Owners, but shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein. Any Supplemental Declaration may contain additional covenants, conditions and restrictions, including restrictions as to use, or modify those contained in this Declaration as appropriate to reflect the different character or use of any such annexed property.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" in any manner whatsoever.

7.2 Annexation With Approval of Membership. The Association may annex any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Members representing a majority of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 7.1.

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Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property, and by the Declarant, if the Declarant's consent is required. Any such annexation shall be effective upon filing unless otherwise provided therein.

7.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the Properties from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. If the property is Common Area, the Association shall consent to such withdrawal. Removal or withdrawal of all or any portion of the Properties shall be accomplished by recording a Supplemental Declaration in the Public Records. Any such removal or withdrawal shall be effective upon the recording of the Supplemental Declaration unless otherwise provided therein.

7.4 Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the Properties to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through District Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property, and shall require the written consent of the owner(s) of such property, if other than the Declarant. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property.

7.5 Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibit "A" or "B" or has the right to annex property pursuant to Section 7.1.

7.6 Conversion to Office Park or Residential Use. Declarant reserves the right to amend this Declaration unilaterally at any time so long as it has a right to annex or withdraw property under this Article, without prior notice or consent of any Person other than the Owner of the affected property, and to withdraw property from the provisions of this Declaration and simultaneously submit such property to the provisions of either of the Residential Declaration or the Office Park Declaration. Such withdrawal shall be accomplished by and effective upon filing, in the public records of Berkeley County, South Carolina, a Supplemental Declaration to both this Declaration and the Residential Declaration describing the property being converted to residential use.

Article VIII ASSESSMENTS

8.1 Creation of Assessments. There are hereby created assessments for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments: (a) General Assessments to fund Common Expenses for the general benefit of all Units; (b) District Assessments for District Expenses benefitting only Units within a particular District or Districts; (c) Special Assessments as described in Section 8.6; and (d) Specific Assessments as described

in Section 8.7. Each Owner, by accepting a deed or entering into a contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these assessments.

All assessments, together with interest at a rate to be set by the Board, (subject to the maximum interest rate limitations of South Carolina law), late charges in such amount as the Board may establish by resolution, costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Unit against which the assessment is made until paid, as more particularly provided in Section 8.8. Each such assessment, together with interest, late charges, costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Unit at the time the assessment arose. Upon a transfer of title to a Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance. However, no first Mortgagee who obtains title to a Unit by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

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

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

No Owner may exempt itself from liability for assessments by non-use of Common Area, including Exclusive Common Area reserved for such Owner's use, abandonment of its Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes. The Association is specifically authorized to fully or partially exempt certain Units from liability for and payment of assessments based on the Owner of and/or use of such Units or portions thereof as the Board may from time to time determine in its discretion.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses.

8.2 Computation of General Assessment. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget for the estimated Common Expenses of the Association during the coming year, including capital contributions in accordance with reserve fund budgets prepared under Section 8.5.

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The General Assessments against each Unit shall be calculated in accordance with Exhibit "D," in aggregate amounts reasonably expected to produce income equaling the total budgeted Common Expenses, including any reserves. In determining assessments, the Board may consider other sources of funds, including any surplus from prior years and any assessment income expected to be generated from additional Units anticipated to become subject to assessment in the fiscal year.

So long as the Declarant has the right unilaterally to annex additional property pursuant to Section 7.1, the Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy which may be treated as either a contribution or as a loan to the Association subject to repayment, in the Declarant's discretion. Any such subsidy shall be disclosed as a line item in the Common Expense budget and the treatment of such subsidy shall be made known to the membership. The payment of such subsidy in any year shall under no circumstances obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

The Board shall send a copy of the budget and notice of the amount of the General Assessment for the following year to each Owner at least 30 days prior to the beginning of the fiscal year for which it is to be effective. Such budget and assessment shall become effective unless disapproved at a meeting by Owners representing at least 67% of the total Class "A" votes in the Association and by the Class "B" Member, if such exists. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Owners as provided for special meetings in the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board shall send a copy of the revised budget to each Owner at least 30 days prior to its becoming effective. The revised budget shall become effective unless disapproved in accordance with the above procedure.

8.3 Computation of District Assessments. At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated District Expenses for each District on whose behalf District Expenses are expected to be incurred during the coming year. The Board shall be entitled to set such budget only to the extent that this Declaration, any Supplemental Declaration, or the By-Laws specifically authorizes the Board to assess certain costs as a District Assessment. Any District may request that additional services or a higher level of services be provided by the Association and, upon approval of the Board, any additional costs shall be added to such budget, provided that the Board shall not be obligated to approve or cause the Association to provide the requested level of additional or increased services. Such budget shall include a capital contribution establishing a reserve fund for repair and replacement of capital items maintained as a District Expense, if any, within the District.

The Board shall cause a copy of such budget and notice of the amount of the District Assessment for the coming year to be delivered to each Owner of a Unit in the District at least 30 days prior to the beginning of the fiscal year. Such budget and assessment shall become effective unless disapproved by Owners of a majority of the Units in the District to which the District Assessment applies. However, there shall be no obligation to call a meeting for the purpose of considering the budget except

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on petition of Owners of at least 10% of the Units in such District. This right to disapprove shall only apply to those line items in the District budget which are attributable to services requested by the District.

If the proposed budget for any District is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year.

8.4 Reserve Budget and Capital Contribution. The Board shall annually prepare reserve budgets for both general and District purposes which take into account the number and nature of replaceable assets within the Area of Common Responsibility, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual General Assessments or District Assessments, as appropriate, over the budget period.

8.5 Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if such Special Assessment is for Common Expenses, or against the Units within any District if such Special Assessment is for District Expenses.

Special Assessments shall become effective unless disapproved at a meeting by Owners representing at least a majority of the total Class "A" votes allocated to the applicable Units which will be subject to the Special Assessment, and the written consent of the Class "B" Member, if any. There shall be no obligation to call a meeting for the purpose of considering any Special Assessment except on petition of the Owners as provided for special meetings in the By-Laws, which petition must be presented to the Board within 10 days after delivery of the notice of assessments.

Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

8.6 Specific Assessments. The Board may specifically assess against particular Units expenses incurred by the Association to provide special benefits, items or services (a) on request of the Owner of a Unit; (b) made necessary by the conduct of the Owner or its licensees, invitees, or guests; or (c) necessary to bring the Unit, or the District in which it is located, into compliance with this Declaration, the Articles, the By-Laws, any applicable Supplemental Declaration and the Use Restrictions and Rules. Such Specific Assessments may be levied by the Board after notice to the Owner and an opportunity for a hearing.

8.7 Lien for Assessments. The Association shall have a lien against each Unit to secure payment of delinquent assessments, as well as interest, late charges (subject to the limitations of South Carolina law), and costs of collection (including attorneys fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

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

The sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments. However, the sale or transfer of any Unit pursuant to foreclosure of the first Mortgage shall extinguish the lien as to any installments of such assessments due prior to such sale or transfer. A Mortgagee or other purchaser of a Unit who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Unit due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.9, including such acquirer, its successors and assigns.

8.8 Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Unit on the first day after a Unit is conveyed to a Person who is not the Declarant. The first annual General Assessment and District Assessment, if any, levied on each Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit, and shall be payable on the date of conveyance to such Person.

8.9 Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments and District Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

8.10 Exempt Property. The following property shall be exempt from payment of General Assessments, District Assessments, and Special Assessments:

(a) All Common Area and such portions of the property owned by the Declarant as are included in the Area of Common Responsibility pursuant to Section 5.1,

(b) Any property dedicated or otherwise conveyed to and accepted by any governmental authority or public utility, unless otherwise specified by Declarant in a Supplemental Declaration; and

(c) Property owned by any District Association for the common use and enjoyment of its members, or owned by the members of a District Association as tenants-in-common.

8.11 Capitalization of Association. The Association may, but shall not be obligated to, levy against each Unit, upon acquisition of record title by the first Owner thereof other than the Declarant, a one-time contribution to the working capital of the Association in an amount equal to 25% of the annual General Assessment per Unit for that year. This amount shall be in addition to, not in lieu

of, the annual General Assessment and shall not be considered an advance payment of such assessment. This amount shall be collected and disbursed to the Association at closing of the purchase and sale of the Unit for use in covering operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws.

8.12 Variation of Level of Assessments. Notwithstanding anything to the contrary contained in this Article VIII or elsewhere in this Declaration, in setting the levels or amounts of the various assessments provided for herein, and the formula for determining same as provided in Exhibit "D", the Board may, but shall not be obligated to, consider the size of the Unit, the level of maintenance provided by the Association and the particular usage of any Unit, such as commercial, retail, service, institutional or residential (such designations being used as examples only). Such factors shall be considered a reasonable basis upon which to discriminate between assessments levied on various Units, or Districts within the Properties.

8.13 Payment of Assessments by Leasehold Owners and Improved Properties of Declarant. Notwithstanding anything provided in this Declaration to the contrary, the Declarant (as a Member of the Association or as the Owner of any Unit) shall not be responsible for the payment of any assessments with respect to any Units owned by Declarant unless the same have been leased to a Leasehold Owner or improved by the erection of Improvements thereon in which event Declarant or the Leasehold Owner of such Unit shall pay assessments in the manner set forth in this Article VIII.

8.14 Transfer Fee. Excluding the first sale of each Unit from the Declarant to an Owner, a transfer fee shall be assessed by the Association and collected from the purchaser of each Unit equal to one-fourth percent (.0025%) of the total purchase price of such Unit, which transfer fee shall be paid to the Association and used by the Association in its sole discretion for its regular operations and/or reserves, which in either case will benefit the Properties and Owners, promote and uphold the Community Wide-Standard by way of example only, if a Unit is sold by an Owner to a Purchaser for a purchase price of \$100,000.00, the transfer fee would be \$250.00 ($\$100,000.00 \times .0025 = \$250.00$). In the event of non-payment of such transfer fee, the amount due shall bear interest and shall be collectible as an assessment as set forth in this Article VIII. The Association may require the purchasing and/or selling Owner to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deed, or other such evidence.

Article IX ARCHITECTURAL STANDARDS

9.1 General. No Improvements shall be placed, erected, installed, constructed, or altered upon any Unit except in compliance with this Article, and approval of the Architectural Review Board under Section 9.3.

All Improvements constructed on any portion of the Properties shall be designed by and built in accordance with the plans and specifications of a person licensed in the State of South Carolina to practice architecture, engineering, or landscape architecture, or other work consistent with the intended construction in accordance with applicable laws, rules and regulations, unless otherwise acceptable to the Architectural Review Board, in its sole discretion. All plans and specifications shall be subject to review as provided herein. This Article shall not apply to the activities of the Declarant, nor to improvements to the Common Area by or on behalf of the Association. This Article may not be amended without the

The ARB shall adopt such Design Guidelines at its initial organizational meeting and thereafter shall have sole and full authority to amend them. Any amendments to the Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the ARB is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

The ARB shall make the Design Guidelines available to Owners who seek to engage in development or construction within the Properties.

The MC may promulgate detailed procedures and standards governing its area of responsibility, consistent with those set forth in the Design Guidelines and subject to review and approval or disapproval by the ARB. Any architectural guidelines and standards adopted by the MC may be more restrictive than the Design Guidelines, but under no circumstances shall they be inconsistent with the Design Guidelines.

(b) Procedures. No activities within the scope of Section 9.1 shall commence on any portion of the Properties until an application for approval of the proposed work has been submitted to and approved by the ARB or the MC, as appropriate, and the specific use for such portion of the Properties has been approved by Declarant in accordance with Article X. Either committee may require the submission of application forms and information as it deems necessary to consider any application and may require multiple stages of application and review for any use, construction or modification.

In the event that the ARB fails to approve or to disapprove in writing any stage of application within 30 days after submission of all information and materials reasonably requested, the application shall be deemed approved unless an extension of such time period is agreed to by the ARB and the applicant. However, no approval, whether expressly granted or deemed granted pursuant to the foregoing, shall be inconsistent with the Design Guidelines unless a variance has been granted in writing by the ARB pursuant to Section 9.5.

(c) Basis of Approval. In reviewing each submission, the ARB may consider (but shall not be limited to consideration of) the quality of workmanship and design, harmony of external design with existing structures, and location in relation to surrounding structures, topography, setbacks and finish grade elevation, among other things. Decisions of the ARB may be based solely on aesthetic considerations and shall be made by a Majority vote of all committee members. Each Owner acknowledges that opinions on aesthetic matters are subjective and may vary as committee members change over time.

Review of the plans shall be based on general adequacy of site dimensions, conformity and harmony of the exterior design, location with neighboring structures and sites, relation of finished grades and elevations to neighboring sites, compatibility with first class commercial, retail, and mixed use developments, and conformity to both the specific and general restrictions and covenants set forth herein, and in the Design Guidelines. The ARB shall have the right to disapprove any submitted plans of any Unit if such plans are not in conformity with the provisions of this Declaration or the Design Guidelines, or if the ARB, acting pursuant to Article 9 hereof in its discretion (which shall be exercised in a reasonable manner) determines that such plans are not in the best interest of the contemplated development of the Properties as a master planned mixed use development as described by this Declaration.

All work shall be commenced and completed within such period as provided in the Design Guidelines or as the ARB may specify in the notice of approval, unless commencement or completion within such time is delayed due to causes beyond the reasonable control of the Owner, as determined in the sole discretion of the ARB. In the event construction of the work called for by the approved plans has not substantially commenced within such period then approval shall be deemed expired and no construction shall thereafter commence unless a written renewal is granted by the ARB.

(d) Easements and Common Area Dedications. As a prerequisite of approval of plans, the ARB shall have the power to require an Owner who has submitted plans to grant any reasonable utility and drainage easements as may be required for the enjoyment and benefit of the Owners or the Association. Where possible, the ARB shall attempt to locate any such required easements along the perimeter of the Unit, within existing or proposed rights-of-way, within other existing or proposed easements, or in such a manner as to not materially impair the proposed use of the Unit.

9.4 No Waiver of Future Approvals. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

9.5 Variance. The ARB may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and regulations. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; or (c) estop the ARB from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

9.6 Limitation of Liability. The standards and procedures established pursuant to this Article are intended to provide a mechanism for maintaining and enhancing the overall aesthetics of the Properties only and shall not create any duty to any Person. Neither the Declarant, the Association, the Board, or the ARB shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications or the adequacy of soils or drainage, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, or the ARB, or any member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Unit. In all matters, the Declarant, the ARB and its members shall be defended and indemnified by the Association as provided in Section 4.7.

9.7 Enforcement. Any structure or improvement placed or made in violation of this Article shall be deemed to be nonconforming. Upon written request from the Board or the Declarant, Owners shall, at their own cost and expense, remove such structure or improvement and restore the property to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Board or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Unit and collected as a Specific Assessment.

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Unless otherwise specified in writing by the committee granting approval, all approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Unit, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Association shall be authorized, after notice to the Owner of the Unit and an opportunity to be heard in accordance with the By-Laws, to enter upon the Unit and remove or complete any incomplete work and to assess all costs incurred against the Unit and the Owner thereof as a Specific Assessment.

Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Board from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the ARB, and the MC.

Article X USE RESTRICTIONS AND RULES

10.1 Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Properties as a master planned mixed use development in order to enhance all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within the master planned mixed use development and to regulate and control the Area of Common Responsibility. The Properties are subject to the Master Plan, the Design Guidelines, the land development, architectural, and design provisions described in Article IX, the other provisions of this Declaration governing individual conduct and uses of and actions upon the Properties, any applicable Supplemental Declaration, and the Use Restrictions and Rules promulgated pursuant to this Declaration, all of which establish affirmative and negative covenants, easements, and restrictions on the Properties, and which are enforceable by the Association as set forth in this Declaration.

The Properties shall be used only for such purposes permitted within the Daniel Island Town Center Zone, as described in the Master Plan, and specifically approved by the Declarant or its designee, consistent with this Declaration and any Supplemental Declaration. As set forth in Article XIII, Declarant retains the right, in its discretion, as long as it owns any property described in Exhibit "A" or "B," or has the right to annex property pursuant to Section 7.1, to specifically determine, limit and otherwise review and designate the uses permitted for any Unit or group of Units to one or more of the uses permitted within the Daniel Island Town Center Zone, as described in the Master Plan. Such specific permitted use designations may be amended only as provided in Article XIII. The Declarant's rights with respect to approval, limitation, and designation of specific uses for any of the Properties shall be fully assignable or delegable by Declarant at any time and from time to time. As long as it owns any property described in Exhibit "A" or "B", or has the right to annex property pursuant to Section 7.1, Declarant may

further, in its discretion, establish such rules, regulations and procedures for initial and continuing review and approval of the use or uses for all Units on a case by case basis.

All provisions of this Declaration and any Use Restrictions and Rules shall apply to all Owners, Occupants, tenants, guests and invitees of any Unit. Any lease on any Unit shall provide that the lessee and all occupants of the leased Unit shall be bound by the terms of this Declaration, the By-Laws, and the Use Restrictions and Rules of the Association.

10.2 Authority to Promulgate Use Restrictions and Rules. The initial Use Restrictions and Rules applicable to all of the Properties are attached as Exhibit "C" to this Declaration. Subject to the terms of this Article, the initial Use Restrictions and Rules may be modified in whole or in part, repealed or expanded by the Declarant or its designee, in its discretion, so long as Declarant owns any property described in Exhibit "A" or "B" or has the right to annex property pursuant to Section 7.1. Thereafter, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and Rules as they are constituted at that time. At least 30 days prior to the effective date of any such modification, amendment, expansion or repeal of the Use Restrictions and Rules pursuant to this Section, the Board shall send a copy of such modification or amendment, etc., to each Owner. The Association shall provide, without cost, a copy of the Use Restrictions and Rules then in effect to any requesting Member or Mortgagee.

Nothing in this Article shall authorize the Board or the Owners to modify, repeal or expand the Design Guidelines. In the event of a conflict between the Design Guidelines and the Use Restrictions and Rules, the Design Guidelines shall control.

10.3 Procedures for Review and Enforcement of Unit Specific Uses. In order to carry out the general plan of development, create enhancements to the Properties and maintain the values thereof, Declarant has been given and retains in its discretion, as provided above in Section 10.1 and in Article XIII and throughout this Declaration, the specific right and authority to limit the specific use or uses of any portion of the Properties, including any one Unit or portions thereof or group of Units, or negatively restrict any Unit or portions thereof or group of Units from being used for a certain use or uses. Accordingly, no activities within the scope of Section 9.1 shall commence on any portion of the Properties until an application for approval of the proposed use or uses for the specific Unit or Units or other portion of the Properties in question, has been submitted to and approved in writing by Declarant or its designee. Thereafter, the use for all or any portion of a specific Unit or group of Units shall not be changed from that last approved by Declarant in accordance with this Article X unless and until an application for such change in use has been submitted to and approved in writing by Declarant or its designee. Declarant or its designee may require the submission of application forms and such information as it deems necessary to consider any application for approval of an initial use and/or for the approval of a change in use from one previously approved. Notwithstanding the foregoing, in the event the Declarant fails to approve or to disapprove in writing an application for initial use or for a change of use within thirty (30) days after submission of all requested information and materials, the application and the specific use for which approval is being sought shall be deemed approved unless an extension of such time period is agreed to by Declarant and the applicant. All such review and approval of the use or uses for any portion of the Properties shall be done and made in Declarant's sole and absolute discretion and an approval of a specific use for a Unit or portion thereof, or a group of Units shall not be deemed an approval for any other Units nor shall it constitute a waiver of the right to withhold approval as to any similar proposals for use of a specific Unit or of other Units within the general area. The failure of an Owner to submit and obtain

approval for the specific use to be carried out on or within its Unit (whether initial uses or change in use), or to comply with such use after approval thereof, shall be deemed a violation of this Declaration and shall be subject to enforcement by Declarant and/or the Association as provided in this Declaration and in the By-Laws. Declarant may, without limitation, designate all or certain of its rights and authority under this Section 10.3 to the ARB.

10.4 Owners' Acknowledgment and Notice to Purchasers. All Owners and Occupants of Units and purchasers are given notice that the specific operational use or uses of each Unit is limited by the use review and approval rights of Declarant and the general Use Restrictions and Rules as either of them may be amended, expanded and otherwise modified hereunder. Each Owner, by acceptance of a deed or entering into a contract for the purchase of a Unit, acknowledges the rights of Declarant with respect to review and approval of the specific uses of the Properties, agrees to abide thereby, and further acknowledges and agrees that the specific use and enjoyment and marketability of its Unit can be affected and that the Use Restrictions and Rules, including those attached as Exhibit "C", may change from time to time.

Article XI EASEMENTS

11.1 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

11.2 Easements for Utilities, Etc.

(a) There are hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, or has the right to annex property pursuant to Section 7.1, the Association, and the designees of each (which may include, without limitation, any governmental or quasi-governmental entity and any utility company) perpetual non-exclusive easements upon, across, over, and under all of the Properties (but not through a structure) to the extent reasonably necessary for the purpose of installing, constructing, monitoring, replacing, repairing, maintaining and operating cable television systems, master television antenna systems, and other devices for sending or receiving data and/or other electronic signals; security and similar systems; roads, walkways, alley ways, pathways and trails; lakes, ponds, wetlands, and drainage systems; street lights and signage; and all Utilities, including, but not limited to, water, sewers, telephone, gas, and electricity, and utility meters; and for the purpose of installing any of the foregoing on property which the Declarant or the Association owns or within easements designated for such purposes on recorded plats of the Properties.

Declarant specifically grants to the local water supplier, electric company, telephone company, and natural gas supplier easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes, as applicable.

(b) There is hereby reserved to the Declarant, so long as the Declarant owns any property described on Exhibit "A" or "B" of this Declaration, or has the right to annex property pursuant to Section 7.1, the non-exclusive right and power to grant such specific easements as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B."

(c) Any damage to a Unit resulting from the exercise of the easements described in subsections (a) and (b) of this Section shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of these easements shall not extend to permitting entry into the structures on any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry onto any Unit shall be made only after reasonable notice to the Owner or occupant.

11.3 Easement for Slope Control, Drainage and Waterway Maintenance. The Declarant, for itself and the Association, and their respective representatives, successors and assigns, contractors and agents, hereby establishes and reserves a permanent and perpetual non-exclusive easement appurtenant over, across, under, through and upon each Unit for the purposes of:

(a) controlling soil erosion, including grading and planting with vegetation any areas of any Unit which are or may be subject to soil erosion;

(b) drainage of natural or man-made water flow and water areas from any portion of the Properties;

(c) changing, modifying or altering the natural flow of water, water courses or waterways on or adjacent to any Unit;

(d) dredging, enlarging, reducing or maintaining any water areas or waterways within the Properties; and

(e) installing such pipes, lines, conduits or other equipment as may be necessary for slope control, drainage and waterway maintenance of any portion of the Properties.

11.4 Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, and employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B," whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for connecting and installing utilities and improvements on such property. In addition, Declarant reserves the non-exclusive right and power to grant such specific easements and licenses as may be necessary, in the sole discretion of Declarant, in connection with the orderly development of any property described on Exhibits "A" or "B."

11.5 Use of and Limitations on Easements and Licenses. The Owners of Units benefitted by the easements and licenses specified in Sections 11.1 and 11.3 (if any, and to the extent additional easements or licenses under Section 11.3 are for the benefit of Unit Owners) of this Declaration and those other persons granted rights herein shall be entitled to use and enjoy said easements and licenses in common with others entitled to use same and shall take no action in or with respect to any of said

easements and licenses which would interfere with the rights of other persons to use said easements and licenses or to enjoy the benefits therefrom.

11.6 Right of Entry. The Association shall have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform maintenance pursuant to Article V hereof, and to inspect for the purpose of ensuring compliance with this Declaration, any Supplemental Declaration, By-Laws, and the Use Restrictions and Rules. Such right may be exercised by any member of the Board, the Association's officers, agents, employees, and managers, the members of the Architectural Review Board and the Modifications Committee pursuant to Article IX, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner. This right of entry shall include the right of the Association to enter upon any Unit to cure any condition which may increase the possibility of a fire or other hazard in the event an Owner fails or refuses to cure the condition within a reasonable time after requested by the Board. The Owner shall hold the Association harmless for the exercise of the Association's rights under this provision.

11.7 Maintenance, Construction, Utility and Drainage Easements. The Owners of all Units recognize and agree that temporary construction and permanent and perpetual maintenance easements and all rights of access reasonably necessary to permit construction and maintenance of the Common Area, including reasonable permanent easements to permit installation and maintenance of utilities, roads, walkways and storm water drainage on the Properties are hereby granted to and retained by Declarant for the benefit of Declarant and of the Association and their respective Mortgagees, employees, independent contractors, agents and assigns. Such easements must be granted and conveyed hereafter by each Owner to Declarant and the Association for the benefit of Declarant and of the Association and their respective Mortgagees, employees, independent contractors, agents and assigns. Each Owner, by taking title to its respective Unit, hereby grants and conveys and shall be deemed to have consented and agreed to hereafter designate, grant and convey such easements when requested to do so by Declarant or the Association. Each Owner, by taking title to its respective Unit, shall also be deemed to have agreed to obtain from all appropriate parties, including its Mortgagees and trustees under deeds to secure debt, the written subordination of any and all Mortgages, deeds to secure debt, security interests and all other liens that encumber or in any way affect its respective Unit to such easements and to all other easements, rights-of-way and rights of ingress, egress, access and passage now set forth in or otherwise provided for in or contemplated by this Article and such written subordination instruments shall be provided promptly and without delay to Declarant and the Association when requested by Declarant or the Association. Each Mortgagee, noteholder under a deed to secure debt, trustee under a deed to secure debt and other holders of any security interest in any Unit by accepting a security interest in or legal or equitable title to a Unit, shall be deemed to have consented to and agreed that its security interest or legal or equitable title is subject to said easements and agrees to execute any instrument reasonably required to subordinate its debt and security instruments to such easements, rights-of-way and rights of ingress, egress, access and passage subject to the same not materially adversely affecting the Unit serving as the security for the obligations owed to such Mortgagee or noteholder. Such easements will contain terms and conditions reasonably requested by Declarant or the Association, as the case may be, but such easements will not unreasonably interfere with the development, use and occupancy of any Unit or unreasonably affect access to, or operation of, any such Unit. All temporary construction easements, and temporary access rights in connection therewith, of Declarant shall terminate automatically when construction of the Common Area for which such easement is granted or retained is completed, but the permanent and perpetual maintenance easements, and access rights in connection therewith, of Declarant and the

Association shall continue in full force and effect except as hereinafter provided. Prior to the Declarant's or the Association's exercise of any easement rights created by this Section, a written instrument defining the location of the respective easement shall be approved by the appropriate governmental entity.

11.8 Roadside Access Easements. There is hereby reserved to Declarant, the Association and the general public an easement for access, adjacent and parallel to all public road rights-of-way and Common Area roads within the Properties, extending from the curb to the far side of any sidewalk or jogging or bicycle path running more or less parallel to the curb, for the purpose of using such sidewalk or path. There is also hereby reserved to Declarant, the Association, and the designees of each, a right to go upon, over and across all property adjacent to public road rights-of-way and Common Area roads within the Properties to maintain, repair, and replace street trees, street furniture (e.g., park benches), sidewalks and paths, and traffic and directional signs.

11.9 Easements for Special Events. Declarant reserves, creates, establishes, promulgates and declares for itself, its successors, assigns and designees a perpetual, non-exclusive reciprocal, appurtenant easement over the Common Area for the purpose of conducting or allowing its designees to conduct educational, cultural, entertainment, promotional or sporting events, and other activities of general community interest at such locations and times as Declarant, in its sole discretion, deems appropriate. Each Owner, by accepting a Deed or other instrument conveying any interest in a Unit, acknowledges and agrees that the exercise of this easement may result in a temporary increase in traffic, noise, gathering of crowds, and related inconveniences, and each Owner agrees on behalf of itself and the Occupants of its Unit to take no action, legal or otherwise, which would interfere with the exercise of such easement or to recover damages for or as the result of any such activities.

Article XII MORTGAGEE PROVISIONS

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

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

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

Article XIII DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to the Association or to other Persons,

provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

The Declarant and others authorized by Declarant may maintain and carry on upon portions of the Properties such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Units, including, but not limited to, business offices, signs, and sales offices. The Declarant and its designees shall have easements for access to and use of such facilities.

The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by the Declarant and recorded in the Public Records.

Notwithstanding any contrary provision of this Declaration, no amendment to or modification of any Design Guidelines made after termination of the Class "B" Control Period shall be effective without prior notice to and the written approval of Declarant so long as the Declarant owns any portion of the Properties primarily for development and sale.

The Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, as long as it owns any property described in Exhibit "A" or "B," or has the right to annex property pursuant to Section 7.1, to limit the use of any portion of the Properties, including any one Unit or group of Units, to one or more, but less than all, of the permitted uses within the Daniel Island Town Center Zone. By way of example only, the Declarant may limit the use of certain Units or Districts to multi-family residential use. In the alternative, the use of a Unit or District may be limited to a nonresidential use permitted under the Master Plan such as a specific non food service retail use, or the use of certain Units in a District may be restricted against a use already being carried out by an Owner of a Unit within that District.

The limitations on use imposed by the Declarant may not be changed without the written consent of the Declarant as long as the Declarant owns any property described on Exhibit "A" or "B" or has the right to annex property pursuant to Section 7.1. Thereafter, or at such time as the Declarant assigns its rights in this regard to the Association, any change in the limitations on use shall require the consent of the Board and the Owner(s) of the affected Unit or Units set forth in a written instrument recorded in the Public Records. Declarant shall have the further right to establish such rules, regulations and procedures for initial and continuing review, approval and enforcement of the use or uses of and for all Units as provided in Article 10.

This Article may not be amended without the written consent of the Declarant. The rights contained in this Article shall terminate upon the earlier of (a) 20 years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

Article XIV
DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

14.1 Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Sections 14.2 ("Claims") shall be resolved using the procedures set forth in Section 14.3 in lieu of filing suit in any court.

14.2 Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of the Governing Documents, or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 14.3.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 14.3:

(a) any suit by the Association against any Bound Party to enforce the provisions of Article VIII (Assessments);

(b) any suit by the Association to obtain a temporary restraining order, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of Article IX (Architectural Standards) or Article X (Use Restrictions and Rules);

(c) any suit between Owners (other than Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under the laws of the State of South Carolina in the absence of a claim based on the Declaration, By-Laws, Articles or Use Restrictions and Rules of the Association;

(d) any suit by the Association in which similar or identical claims are asserted against more than one Bound Party;

(e) any suit by a Bound Party for declaratory or injunctive relief which seeks a determination as to applicability, clarification or interpretation of any provision of this Declaration;

(f) any suit in which any indispensable party is not a Bound Party; and

(g) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 14.3.

14.3 Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) Claimant's proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

(ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of any Berkeley County, South Carolina dispute resolution center or such other independent agency providing similar services upon which the Parties mutually agree.

(iii) If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five days after the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the

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Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

(i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "E" or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of South Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

14.4 Allocation of Costs of Resolving Claims.

(a) Subject to Section 14.4(b), each Party shall bear its own costs, including any attorneys fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

14.5 Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 14.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

Article XV
RIGHT OF FIRST REFUSAL AND OPTION TO REPURCHASE

15.1 Right of First Refusal.

(a) In the event that an Owner desires to elect to sell, transfer or assign a Unit, the Declarant shall have a right of first refusal to acquire the Unit upon the same terms and conditions as set forth in a bona fide written offer to purchase which is acceptable to the Owner (the "Contract").

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(b) Declarant shall have thirty (30) days from the date of the receipt of the Contract within which to give written notice of the Declarant's exercise of its right of first refusal; provided, however, if such Owner is then delinquent on any amounts owed to the Association, such time period shall be extended automatically such that Declarant shall have thirty (30) days from the date upon which all amounts owed to the Association by the Owner are paid, within which to give written notice of the Declarant's exercise of its right of first refusal. After such period of time, the Owner shall be free to transfer the Unit in accordance with the Contract.

(c) In the event that Declarant shall exercise its right of first refusal, the sale shall be consummated within thirty (30) days after delivery of the Declarant's written notice in accordance with Section 15.1(b). The terms of the sale shall be as set forth in the Contract, except as modified by the provisions of this Section.

(d) In the event that Declarant does not exercise its right of first refusal and the Owner elects not to sell the Unit pursuant to the Contract, the Declarant's right of first refusal shall continue.

(e) Notwithstanding the above, Declarant shall have no right of first refusal if the transfer of the Unit is to (i) a Leasehold Owner; (ii) the spouse of the Owner; (iii) a person who is a direct linear descendant of the Owner; (iv) a trust whose beneficiaries are solely the spouse and direct linear descendants of the Owner; (v) an entity in which the Owner owns, directly or indirectly, not less than 51% of such entity; (vi) an entity which owns, directly or indirectly, not less than 51% of the Owner; (vii) a person acquiring title pursuant to a foreclosure sale; or (viii) a person acquiring title by means of sale in lieu of foreclosure (each such transaction an "Exempt Transaction"). The Owner shall give Declarant at least thirty (30) days prior written notice of any transfer which is an Exempt Transaction with sufficient documentation to establish that the transfer is an Exempt Transaction.

15.2 Option to Repurchase. The Declarant shall have the right to repurchase ("Repurchase"), unless specifically waived or modified in writing by Declarant, any Unit upon the occurrence of any of the following events:

(a) the failure of the Owner to commence construction of a building on the Unit in accordance with plans approved by the Architectural Review Board within two (2) years of the transfer of the Unit by the Declarant. (The Declarant shall have no right of Repurchase under this Section 15.2(a) after construction has commenced pursuant to plans approved by the Architectural Review Board); or

(b) the failure of the Owner to obtain the final certificate of occupancy within eighteen (18) months of commencement of construction in accordance with plans approved by the Architectural Review Board.

15.3 Repurchase Price.

(a) In the event that the Declarant shall exercise its right to Repurchase a Unit in accordance with Section 15.2, the repurchase price ("Repurchase Price") shall be the sum of:

(i) the purchase price received by the Declarant, plus

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(ii) simple interest at the Prime Rate of The National Bank of South Carolina, or any successor thereto, as adjusted from time to time, from the time of transfer by the Declarant to the time of Repurchase, plus

(iii) the increase, if any, in the fair market value of the Unit as a result of any Improvements constructed thereon (the "Value of the Improvements").

(b) The Value of the Improvements shall be determined by mutual agreement of the Owner and Declarant within fifteen days of Exercise, as defined in Section 15.4.

(c) In the event that the Owner and the Declarant are unable to mutually agree on the Value of the Improvements, the Value of the Improvements shall be determined by an M.A.I. appraiser mutually approved by Declarant and the Owner. The decision of such appraiser shall be final and conclusive.

(d) If Declarant and the Owner cannot agree upon an M.A.I. appraiser within thirty (30) days after Exercise, then each of the Declarant and the Owner shall appoint within forty (40) days after Exercise one M.A.I. appraiser who in turn will select a third M.A.I. appraiser. The Value of the Improvements shall be determined by deriving the average of the two closest appraisals.

(e) The cost of determining the Value of the Improvements shall be split between Declarant and the Owner. The determination of such panel of appraisers shall be final and conclusive.

15.4 Declarant's Exercise of Repurchase Right. In order to exercise its Repurchase rights under Section 15.2 (the "Exercise"), Declarant shall deliver its written notice of Exercise to Owner, together with the Declarant's calculation of the Repurchase Price.

15.5 Repurchase Closing.

(a) The closing on the Repurchase pursuant to Section 15.2 shall take place within thirty (30) days of the final calculation of the Repurchase Price.

(b) The Owner shall transfer the Unit by a Deed in the same form (including warranties) and containing only those title exceptions as were contained in the original Deed executed by Declarant in favor of such Owner.

(c) The Owner shall be obligated to pay any and all outstanding assessments or other charges due and owing under this Declaration and shall cure or cause to be cured all title defects or exceptions not existing at the time the Owner acquired the Unit from the Declarant.

(d) Real Estate ad valorem taxes and prepaid assessments shall be prorated as of the date of closing.

(e) In the event that there are insufficient closing proceeds to cover all of the Owner's obligations pursuant to this Declaration (the unpaid amounts hereinafter, the "Deficiency"), Declarant shall have the right to take the Unit subject to such liens which are not paid from the closing proceeds and to

obtain a recorded judgment against the Owner in the amount of the Deficiency which amount shall bear interest at the rate payable on judgments in South Carolina from the date of closing until paid.

15.6 Subdivision of Unit. In the event that a Unit is subdivided in accordance with the provisions of this Declaration and subsequently transferred to a new Owner, the time period set forth in Section 15.2(a) shall run from the date of such transfer for any resulting Unit which is not an Improved Unit. For purposes of calculating the Repurchase Price under Section 15.3, the price paid to Declarant for the original Unit shall be allocated prorata on an acreage basis among the Units resulting from the subdivision.

15.7 Subordination to Mortgages. The Declarant's Repurchase rights under Section 15.2 are subordinate and junior to all rights of Mortgages under Mortgages recorded in the Public Records. Declarant shall have no right of Repurchase in the event of a foreclosure or proceedings in lieu of foreclosure; however, upon the transfer of title to the Unit, the Unit will be subject to all of the provisions of this Declaration, including the provisions of this Article 15.

Article XVI GENERAL PROVISIONS

16.1 Duration.

(a) Unless terminated as provided in Section 16.1(b), this Declaration shall have perpetual duration. If South Carolina law hereafter limits the period during which covenants may run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 10 years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise provided by South Carolina law, in which case such law shall control, this Declaration may not be terminated within 30 years of the date of recording without the consent of all Owners. Thereafter, it may be terminated only by an instrument signed by Owners of at least 75% of the total Units within the Properties and by the Declarant, if the Declarant owns any portion of the Properties, which instrument is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

16.2 Amendment.

(a) By Declarant. So long as Declarant owns property described on Exhibit "A" or "B", or has the right to annex property pursuant to Section 7.1 and for a period of twenty (20) years thereafter, Declarant hereby reserves and shall have the sole right to:

(i) amend this Declaration or any Supplemental Declaration for the purpose of curing any ambiguity or any inconsistency among the provisions contained herein;

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(ii) include in any contract or Deed or other instrument hereafter made any additional covenants and restrictions, including restrictions on use, applicable to any Unit which do not lower the standards of the covenants and restrictions herein contained;

(iii) release any Unit from any part of the covenants and restrictions contained herein which have been violated if the Declarant, in its sole judgment, determines such violation to be a minor or insubstantial violation;

(iv) amend this Declaration or any Supplemental Declaration in any manner if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (b) to enable any reputable title insurance company to issue title insurance coverage on the Units; (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, to make, purchase, insure or guarantee mortgage loans on the Units; (d) to enable any reputable private insurance company to insure mortgage loans on the Units; or (e) to satisfy the requirements of any local, state or federal governmental agency; and

(v) amend this Declaration or any Supplemental Declaration without vote or consent of the Owners for any other purpose.

The foregoing amendments may be made without the joinder or approval of any Owner, mortgagee, or the Association.

(b) By Members. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least 67% of the total Class "A" votes in the Association, including 67% of the Class "A" votes held by Members other than the Declarant, and the consent of the Declarant, so long as the Declarant has an option to subject additional property to this Declaration pursuant to Section 7.1. In addition, the approval requirements set forth in Article XII shall be met, if applicable.

Unless a higher percentage is required by Supplemental Declaration, any Supplemental Declaration may be amended by the vote of Members representing 67% of the total Class "A" votes subject to such Supplemental Declaration with the consent of the Board, and so long as the Declarant has an option to subject additional property to this Declaration pursuant to Section 7.1, the consent of the Declarant. Any amendment of the Use Restrictions and Rules shall comply with the procedure set forth in Section 10.2 and shall not be subject to the requirements set forth in this Section.

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

(c) Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of the Declarant or the Class "B" Member without the written consent of the Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege).

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

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

16.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

16.4 Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of Owners holding at least 75% of the total Class "A" votes. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article VIII; (c) proceedings involving challenges to ad valorem taxation; (d) counter claims brought by the Association in proceedings instituted against it or (e) actions brought by the Association against any contractor, vendor, or supplier of goods and services arising out of a contract for services or supplies. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This Section shall apply in addition to the provisions of Article XIV, if applicable.

16.5 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations applicable to any District, and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions applicable to any District; provided, however, in the event of a conflict between or among this Declaration and such covenants or restrictions, and/or the provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, this Declaration, the By-Laws, Articles, and Use Restrictions and Rules of the Association shall prevail over those of any District. The foregoing priorities shall apply, but not be limited to, the lien for assessments created in favor of the Association. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

16.6 Use of the Words "Daniel Island". No Person shall use the words "Daniel Island" or any derivative in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the terms "Daniel Island" in printed or promotional matter where such term is used solely to specify that particular property is located within Daniel Island and/or Daniel Island Town Center and the Association and any other community association located on Daniel Island shall be entitled to use the words "Daniel Island" in its name.

16.7 Compliance. Every Owner and Occupant of any Unit shall comply with the Governing Documents. Subject to the terms of Article XIV, failure to comply shall be grounds for an action by the Association, the Declarant or, in a proper case, by any aggrieved Unit Owner(s) to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, in addition to those enforcement powers granted to the Association in Section 4.3. In any legal or equitable proceeding for the enforcement of or to remedy the violation of these covenants or any provision hereof, the losing party or parties shall pay the reasonable attorney's fees and costs of the prevailing party or parties, in such amount as may be fixed by the court in such proceeding. Such fees upon appropriate docketing of a judgment to such effect shall become a lien against the Unit (if any) of the losing party. All remedies provided herein and/or otherwise available, at law or in equity, shall be cumulative and not exclusive.

16.8 Notice of Sale or Transfer of Title. Subject and in addition to the requirements and provisions of Article XV, any Owner desiring to sell or otherwise transfer title to its Unit shall give the Board at least seven days' prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Unit, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title.

16.9 Exhibits. Exhibits "A," "B," "C", "D" and "E" attached to this Declaration are incorporated herein by reference.

16.10 Conflict or Ambiguity. In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction relating to construction against the Declarant or the Architectural Review Board or any committee thereof are hereby waived by each Owner.

16.11 Further Assurances. Each Owner covenants and agrees to sign, execute and deliver, or cause to be signed, executed and delivered and to do or make, or cause to be done or made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably requested by the Declarant, the Association or the Architectural Review Board for the purpose of or in connection with clarifying, amending or otherwise consummating the transactions and matters set forth herein.

16.12 Standards for Review. Whenever in this Declaration the Declarant, the Association or the Architectural Review Board has the right to approve, consent or require any action to be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein, be in the sole and absolute discretion of the Declarant, the Association or the Architectural Review Board, respectively, and such approval, consent or required action shall be final and conclusive.

^ SIGNATURE PAGE ATTACHED

TOWN CENTER

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC., a
South Carolina corporation

Witness [Signature]
Witness [Signature]

(CORPORATE SEAL)
By: [Signature]
Its: [Signature]

ELECTRONICALLY FILED - 2020 Oct 12 3:40 PM - BERKELEY - COMMON PLEAS - CASE#2017CP0802238

TOWN CENTER

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PROBATE

PERSONALLY APPEARED BEFORE me the undersigned witness and made oath that s/he saw the within named The Daniel Island Company, Inc., a South Carolina corporation by FRANK W. BAUMLEY its PRESIDENT, sign, seal and as the act and deed of said corporation, deliver the foregoing Declaration; and that s/he, together with the other Witness(es) subscribed above, witnessed the execution thereof.

Witness [Signature] (SEAL)

SWORN TO BEFORE me this 24
day of March, 1999.

W. F. W. Baumley (L.S.)

Notary Public for SC
My commission expires: 10-20-2003

Exhibit A
Land Initially Submitted
Sale Center Site-0.43 Acres

All that lot, piece, parcel or tract of land, situate, lying and being in the City of Charleston, Berkeley County, South Carolina, measuring and containing 0.43 acres of land, more or less, known as Lot 1, Parcel R, Block L, Daniel Island and shown on that certain unrecorded plat by F. Elliott Quinn III, R.L.S. of Thomas & Hutton Engineering Co. dated February 12, 1999 and having the following metes and bounds:.

Commencing at the new iron pin located at the northern end of the line labeled "L13" on the Plat, more fully described below, being the Point of Beginning, thence S26°42'12"W a distance of 42.56 feet; thence turning and running N63°17'48"W a distance of 18.59 feet ; thence turning and running S26°42'12"W a distance of 107.57 feet; thence turning and running N63°17'48"W a distance of 39.01 feet; thence turning and running N26°42'12"W a distance of 24.47 feet; thence turning and running S63°17'48"E a distance of 38.51 feet; thence turning and running N26°42'12"E a distance of 37.16 feet; thence turning and running S63°17'48"E a distance of 101.90 feet thence turning and running N26°42'12"E a distance of 88.49 feet; thence turning and running N63°17'48"W a distance of 160.84 feet to a point, being the Point of Beginning.

Being a portion of Parcel R, Block L, Daniel Island more fully shown on that certain plat by F. Elliott Quinn III, R.L.S. of Thomas & Hutton Engineering Co. dated January 11, 1999 entitled "Plat of Parcel R, Block L, Daniel Island Owned By The Daniel Island Company, Inc., City of Charleston, South Carolina" (the "Plat") and recorded in Plat Cabinet O, Page 25-A and about to be conveyed by The Daniel Island Company, Inc. to DIBS-Sales Center, L.L.C.

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EXHIBIT "B"

Land Subject to Annexation

All property now or hereafter subject to the Master Plan as defined in Section 1.26 of this Declaration.

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EXHIBIT "C"**Initial Use Restrictions and Rules**

The following activities and uses are prohibited and restricted within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board of Directors or ARB. The prohibitions and restrictions shall apply to all of the Properties until such time as they are amended, modified, repealed or limited by rules of the Association adopted pursuant to Article X of the Declaration.

1. **Obnoxious or Offensive Activity.** No obnoxious or offensive activity shall be allowed on the Properties, nor shall any use or practice be allowed which is a source of annoyance, embarrassment or discomfort to Owners or their tenants or invitees, or which interferes with the peaceful possession and proper use and enjoyment of the Properties, nor shall any improper, unsightly, offensive or unlawful use be made of any Unit or of the Common Area, and all laws, zoning ordinances, and regulation of all governmental bodies having jurisdiction shall be observed. Restricted and prohibited activities include without limitation the following:

- a. The use, enjoyment and occupancy of the Properties shall be in such a manner so as not to cause or produce any of the following effects discernible outside the building located thereon, or affect the adjoining property or any portion by its volume, duration, pounding beat, frequency or shrillness; smoke, dust, or dirt; unusual fire or explosive hazards; or vibration or light.
- b. Loading, service and refuse areas shall be constructed in accordance with the Design Guidelines and approved by the ARB. No accumulation of rubbish, trash, or garbage shall be made except between regular garbage pick ups, and then only in approved containers and screened from view from streets and other Units.
- c. No use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device shall be audible to occupants of other Units, except alarm devices used exclusively for security purposes.
- d. Discharge of firearms, firecrackers and other fireworks is prohibited except under a license or permit issued for that purpose. The term "firearms" includes without limitation "B-B" guns, pellet guns, and firearms of all types. The Board shall have no obligation to take action to prevent or stop such discharge.
- e. Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties are prohibited.
- f. Structures, equipment or other items on a Unit which have become rusty, dilapidated or otherwise fallen into disrepair are prohibited and shall be removed or repaired by the Owner of the Unit at the request of the Board. If an Owner fails to honor such request, the Board may remove the offending structure, and charge the costs of removal thereof to the Owner as a Specific Assessment.

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- g. Bars, nightclubs, taverns, and book, video and gift stores engaged in the sale of obscene or pornographic materials or in the provision of entertainment featuring topless or nude performers are prohibited.
- h. No Unit may be used, in whole or in part, to operate or offer for use to the public or through private membership, any electronic gaming device, coin operated gaming device or other activity for the purpose of gambling or gaming for cash, credit or other reward to be gained by participation in such activities. This prohibition shall be observed irrespective of any referendum permitting such activities which may be adopted by Berkeley County, or any other governmental entity or agency; provided, however, this prohibition shall not include any lottery which may be established pursuant to the laws of and operated by the State of South Carolina, or other activities of a similar nature which are expressly authorized by the Board of Directors or ARB as provided above.

2. Fuel Storage and Dispensing. On-site storage and dispensing of gasoline, heating, or other fuels is prohibited, except that a reasonable amount of fuel may be stored on each Unit for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to fuels stored and dispensed incident to the retail operation of a gasoline service station or convenience store dispensing fuel for primarily passenger vehicles and household uses, nor to any underground fuel tank approved by the ARB, nor to any underground or above-ground fuel tank actively used for storage of fuels used incident to cooking operations in connection with the operation of a restaurant or other food service facility approved by the ARB, and provided in either case that operation and installation of such facilities shall be according to applicable laws, ordinances, and regulations, including without limitation zoning ordinances.

3. Animals and Pets.

- a. Raising, breeding or keeping of animals, livestock, or poultry of any kind is restricted within the Properties to the keeping of a reasonable number of dogs, cats, or other usual and common household pets. The Board, in its sole discretion, may make further restrictions regarding pets, including without limitation restrictions on the number, size, and types of pets permitted within Units.
- b. Pets shall be kept on a leash or otherwise confined in a manner acceptable to the Board, and shall not be permitted to roam free, or, in the sole discretion of the Board, make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the Owners of Units and their tenants and invitees. Pets shall be registered, licensed and inoculated as required by law. The owners of the pet shall be responsible for all of the pet's actions. Pet waste shall be promptly removed and disposed of in proper receptacles. If, in the sole opinion of the Board, any animal becomes dangerous or an annoyance or nuisance in the Properties or to nearby property or destructive of wildlife, they shall be removed from the Properties. By way of explanation and not limitation, this Section may be enforced by exercising self-help rights provided in Section 4.3 of the Declaration.

Nothing herein contained shall interfere with any provision under the Americans with Disabilities Act or any similar state or local law, ordinance or regulation.

4. Common Area, Plazas, Sidewalks, Pedestrian Ways and Bike Ways.
 - a. Owners of Units, as well as their tenants, guests, invitees, and pets shall refrain from any actions which deter from the enjoyment by other Owners of areas within the Properties designated as Common Area, pedestrian plazas, sidewalks, pedestrians ways, bike ways, *etc.* Prohibited activities shall include without limitation, maintenance of dogs or other pets under conditions which interfere with the use of the specified areas by other Owners, their tenants and invitees, playing of loud radios or musical instruments, holding of large gatherings without advance approval of the Board, loitering, or use of facilities, tents or other temporary structures, stages, vending machines or facilities, except for events approved in advance by the Board and otherwise permitted under this Declaration. The Board may promulgate other rules and restrictions for the use of these areas.
 - b. Special events held within the Properties by any Person other than the Declarant, including without limitation educational, cultural, entertainment, promotional, sporting or social events expected to draw increased vehicle, bicycle and pedestrian traffic to the Common Area, pedestrian plazas, sidewalks, pedestrians ways, bike ways within the Properties shall be approved in advance by the Board. Such approval shall be in the sole discretion of the Board.
5. Parking and Vehicles.
 - a. Parking facilities shall be established as set forth in the Design Guidelines. Parking of the following vehicles is restricted: construction vehicles or equipment, mobile homes, recreational vehicles, golf carts, boats and other water craft, trailers, stored vehicles or inoperable vehicles. The foregoing vehicles may be parked only in enclosed garages or docks approved in accordance with Article IX of the Declaration or other areas as may be designated by the Board. Construction vehicles and equipment shall be exempt from this provision during daylight hours for such period of time as is reasonably necessary for construction within a Unit or the Common Area. In the sole discretion of the Board, limitations may be placed on the parking areas, times for parking and points of entry for construction and commercial vehicles.
 - b. Operation of motorized vehicles on pedestrian ways, bike ways, sidewalks and plazas maintained by the Association is prohibited unless specifically permitted in the discretion of the Board. Any use of pedestrian ways, bike ways, sidewalks and plazas maintained by the Association for motorized vehicles shall be subject to local laws and ordinances, and any restrictions established by the Board in permitting such use.

Nothing herein contained shall interfere with any provision under the Americans with Disabilities Act or any similar state or local law, ordinance or regulation.

6. Environmental Protection. Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Properties or adjoining buffer zones or which use

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excessive amounts of water or which result in unreasonable levels of sound or light pollution are prohibited. Restricted and prohibited activities include without limitation the following:

- a. Dumping of grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any buffer zone, drainage or irrigation ditch, swale, stream, pond, wetlands, creek or lake, or elsewhere within the Properties or adjoining areas is prohibited, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff.
- b. Obstruction, rechanneling or any other interference with drainage flows after location and installation of drainage swales, storm sewers, or storm drains is prohibited, except that the Declarant and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Unit without the Owner's consent.
- c. Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Properties are prohibited, except that Declarant and the Association shall have the right to draw water from such sources.
- d. Living trees shall be removed from the Properties only in conformance with the Design Guidelines.

7. Construction Activities. No construction, erection, or placement of any structure, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved is permitted, except in strict compliance with the provisions of Article IX of the Declaration. The following restrictions shall also apply:

- a. After commencement of construction of any improvements in the Properties, the Owner shall diligently prosecute the work thereon, to the end that the improvements shall not remain in a partly finished condition any longer than reasonably and normally necessary for completion thereof.
- b. The Owner of the Unit on which improvements are being constructed shall at all times keep streets and parking contiguous to the Unit free from excess dirt, mud, garbage, trash or other debris as may be occasioned by construction of the improvements.
- c. Rocks and trees removed during construction of improvements shall be disposed of on the Units under construction in strict conformance with the Design Guidelines.
- d. Storage of construction materials and equipment shall strictly conform to the Design Guidelines. The foregoing materials and equipment shall not be permitted within the natural barriers established under the Design Guidelines prior to construction.

8. Signs. No signs, advertisements, billboards, solicitation or advertising structures or any kind shall be erected, modified or maintained on a Unit or within the Properties unless in conformance within the Design Guidelines and unless prior written approval of the ARB is obtained. The restrictions of this section shall not apply to the Declarant.

9. Fences. No fences shall be erected except in conformance with the Design Guidelines, and with prior written ARB approval.

10. Lighting. Exterior lighting must be approved by the ARB and installed pursuant to the Design Guidelines. Seasonal decorative lights may be used only pursuant to rules and regulations established by the Board from time to time.

11. Air-Conditioning Equipment. No air conditioning equipment which is visible on the exterior of any improvement shall be permitted in the Properties unless constructed in accordance with the Design Guidelines and approved by the ARB. Approval shall be based on adequacy of screening and/or landscaping of the equipment. The ARB may prohibit window air conditioning units altogether or impose strict standards.

12. Temporary Structures. Except as specifically approved in writing in advance by the ARB, no temporary buildings (including construction trailers) shall be erected or placed on the Properties:

13. Antennas. Antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind shall be constructed only after written approval of the ARB. Notwithstanding the foregoing, the ARB shall regulate antennas, satellite dishes, or any other apparatus for the transmission or reception of television, radio, satellite or other signals of any kind only in strict compliance with all federal laws and regulations.

14. Subdivision. Subdivision of a Unit into two (2) or more Units, or changing the boundary lines of any Unit after a plat including such Unit has been approved and filed in the Public Records is prohibited, except with the consent of the Declarant, so long as the Declarant owns any property described in Exhibits "A" or "B" for development as part of the Properties, or has the right to annex property pursuant to Section 7.1.

15. Real Estate Sales Offices. So long as the Declarant owns any property described in Exhibits "A" or "B" for development as part of the Properties, or has the right to annex property pursuant to Section 7.1, Daniel Island Real Estate Company, Inc., its successors and assigns (collectively, "DIREC") shall have the exclusive right to maintain an office for the sale or rental of real estate within the Properties. No part of the Properties may be used as an office for the sale or rental of real estate without the prior written consent of DIREC, which shall be granted in the sole discretion of DIREC.

EXHIBIT "D"

Formula for Assessments and Voting Rights

1. General. Each Unit shall have the right to cast votes and the obligation to pay assessments based on the number of points ("Assessment and Voting Points") assigned to that Unit in accordance with the following provisions.

- a. Land Points. Each Unit shall be assigned one point for each 10,000 square feet of land, or fractional portion thereof, comprising the Unit ("Land Points").
- b. Building Points. Each Unit shall be assigned one point for each 3,000 square feet of gross floor area within the Improvements (as defined below) comprising the Unit, or fractional portion thereof, ("Building Points"). As used herein, "Improvements" shall mean enclosed structures intended for use and occupancy as permitted by these restrictions and for which an initial certificate of occupancy has been issued or which is substantially complete as determined by the general contractor, whichever is earlier.
- c. Benefit Factor and Land Classification.
 - i. The total Land Points and Building Points for each Unit shall then be multiplied by a Benefit Factor, as shown below, based on the Land Classification to calculate the total Assessment and Voting Points. If the total for Assessment and Voting Points results in a fraction, the number shall be rounded to the nearest whole number.

<u>Land Classification</u>	<u>Benefit Factor</u>
Commercial Retail	2.0
Village Center Retail	1.5
Office/Campus/Civic	1.0
Multifamily	1.5

- ii. The Declarant, for so long as the Declarant owns any property described in Exhibit "A" or "B" to the Declaration for development or sale as part of the Properties, and thereafter the Board of Directors, shall determine in its sole discretion the Land Classification for each Unit. By way of example only, Land Classifications may include the following: (a) Commercial Retail - chain restaurants, fast food restaurants, grocery stores, gas stations, and banks; (b) Village Center Retail - restaurants, specialty retail shops, bed and breakfast inns; (c) Office/Campus/Civic - office buildings, ambulatory care, academic campuses, town hall, police department, fire department, wellness center, church, sales office, library; and (d) Multifamily - apartments. If, based on the use of a building, the Unit may be classified

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into more than one Land Classification, the Land Classification with the highest Benefit Factor shall apply to the entire building.

- iii. Units are subject to re-evaluation and re-classification at the sole option of the Declarant or Board, as applicable, upon the occurrence of the following events: (a) improvement of previously unimproved property, (b) change in ownership of the Unit, (c) change in use of the Unit approved pursuant to Article X, or (d) on an annual basis in conjunction with the preparation of the budget as set forth in Section 8.2 of the Declaration.

d. Examples.

- i. A 25,000 square foot unimproved Unit is assigned three Land Points (which would also equal the Assessment and Voting Points for that unimproved Unit). The same Unit improved with a 10,000 square foot commercial retail building is assigned four Building Points for a total of seven Land Points and Building Points. This Unit would then have 14 Assessment and Voting Points, as follows:

$(3 \text{ Land Points} + 4 \text{ Building Points}) \times 2 \text{ [Benefit Factor for Commercial Retail Space]} = 14 \text{ Assessment and Voting Points.}$

- ii. A 30,000 square foot unimproved Unit is assigned three Land Points. The same Unit improved with a three-story building having a total of 30,000 square feet, used for a specialty shop, office space and apartments, is assigned ten Building Points for a total of 13 Land Points and Building Points. Based on a Land Classification of Village Center Retail and a Benefit Factor of 1.5, this Unit would then have 20 Assessment and Voting Points, as follows:

$(3 \text{ Land Points} + 10 \text{ Building Points}) \times 1.5 \text{ [Benefit Factor for Village Center Retail]} = 20 \text{ Assessment and Voting Points (rounded from 19.5)}$

2. Assessments. The decimal share of the total assessment to be levied on a particular Unit shall be computed by dividing the Assessment and Voting Points assigned to that Unit by the total Assessment and Voting Points for all Units subject to the particular assessment. The Board of Directors shall establish an annual cut-off date for computing point totals for all Units. The decimal share of the total assessment for the Unit and the votes attributable to the Unit (including a summary of the computations) shall be sent to each Owner with the annual notice of assessment.

3. Voting. Each Member of the Association shall be entitled to one weighted vote for each Assessment and Voting Point assigned to the Unit under the above-referenced formula.

EXHIBIT "E"

Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("Arbitration Notice").

2. There shall be one (1) arbitrator. Subject to the qualification requirements set forth below, the Arbitrator shall be selected pursuant to the Commercial Arbitration Rules published by the American Arbitration Association (the "AAA"), as amended and in effect on the date of service of the Arbitration Notice, from a panel provided by the AAA, Charleston, South Carolina, office. The Arbitrator shall have a minimum of seven (7) years experience in a real estate development related field such as commercial real estate development, licensed commercial real estate sales or brokerage, commercial property management (office, retail or institutional), commercial real estate appraisal or executive management of a real estate service or related company. If there shall be no such person available from the panel provided by the AAA, Charleston, South Carolina, office, the Arbitrator shall be selected from such panel based on qualifications as reasonably approximating those set forth above as are available. Notwithstanding the foregoing, if either or all Parties elect and agree to pay any additional costs, the Arbitrator may be selected pursuant to the Commercial Arbitration Rules of AAA and subject to the stated qualifications from a panel provided by the AAA, Columbia, Greenville, or Myrtle Beach, South Carolina, offices. The Arbitrator shall agree in writing to abide by and be bound by these rules of arbitration and shall apply the laws of the State of South Carolina. The Arbitrator shall conduct all such hearings as are required and shall make an award no later than ninety (90) days following the service of the Arbitration Notice. The Arbitrator shall only, upon showing of cause, be permitted to extend the hearing date one (1) time, for a maximum of fifteen (15) days.

3. The Arbitrator shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately, subject to the limitations set forth above.

4. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

5. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

6. There shall be no stenographic record of the proceedings, unless all Parties otherwise mutually agree in writing.

7. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the

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Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

8. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such independent expert's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent expert must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a written statement to the Parties detailing such bias or interest ("Bias Disclosure"). If any Party objects to the service of any independent expert after receipt of a Bias Disclosure, such independent expert shall be replaced by another independent expert selected by the Arbitrator.

9. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

10. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

11. There will be no posthearing briefs.

12. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form. In any event, if such Award shall include damages, the Arbitrator may only award actual damages and costs, and shall in no event be entitled to award punitive, consequential or special damages.

13. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.

Return to:
 Susan M. Smythe
 Buist, Moore, Smythe & McGee, PA
 P.O. Box 999
 Charleston, SC 29402

FILED, RECORDED, INDEXED
 05/25/1999 11:53:12AM
 Rec Fee: 10.00 St Fee: 0.00
 Co Fee: 0.00 Pages: 3
 Issued to: WARREN & SINKLER
 Register of Deeds Berkeley Co. SC
 Cynthia B. Forte

STATE OF SOUTH CAROLINA

Reference: Book 1587, Page 220

COUNTY OF BERKELEY

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,
 AND RESTRICTIONS FOR DANIEL ISLAND TOWN CENTER ZONE**

(Parcel R, Block A, Lot 1 (3.76 acres)
 (Parcel R, Block D, Lot 1 (1.39 acres)
 (Parcel R, Block D, Lot 2 (1.25 acres)

THIS SUPPLEMENTAL DECLARATION is made this ___ day of May, 1999, by the Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant prepared and filed of record that certain Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone in Book 1587, Page 220 et seq., as modified and supplemented from time to time in the Public Records of Berkeley County, South Carolina (herein referred to as the "Declaration"); and

WHEREAS, pursuant to the terms of Section 7.1 of the Declaration, the Declarant may submit certain additional property described on Exhibit "B" of the Declaration to the terms of the Declaration; and

WHEREAS, Declarant is the owner of the real property described on Exhibit "A" attached hereto ("Additional Property"); and

WHEREAS, the Additional Property is a portion of that property described on Exhibit "B" to the Declaration; and

WHEREAS, the Declarant desires to submit the Additional Property to the terms of the Declaration;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby subjects the real property described on Exhibit "A" hereof to the provisions of the

00301814.

Declaration and this Supplemental Declaration, which shall apply to such property in addition to the provisions of the Declaration. Such property shall be sold, transferred, used, conveyed, occupied, and mortgaged or otherwise encumbered pursuant to the provisions of this Supplemental Declaration and the Declaration, both of which shall run with the title to such property and shall be binding upon all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. Except as specifically amended or supplemented hereby, the Declaration and all terms thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Supplemental Declaration the day and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

DECLARANT:
THE DANIEL ISLAND COMPANY, INC.

By: _____
Its: _____

ACKNOWLEDGMENT

This instrument was acknowledged before me by The Daniel Island Company, Inc., by FRANK W. BRUMLEY its PRESIDENT, this 24TH day of May, 1999.

Notary Public for South Carolina

My Commission Expires: Aug 11, 2001

EXHIBIT A

Description of Additional Property
Parcel R, Block A, Lot 1 (3.76 acres)
Parcel R, Block D, Lot 1 (1.39 acres)
Parcel R, Block D, Lot 2 (1.25 acres)

ALL of those certain three (3) tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, one lot measuring and containing approximately 3.76 acres, known and designated as Parcel R, Block A, Lot 1, one lot measuring and containing approximately 1.39 acres known and designated as Parcel R, Block D, Lot 1 and on lot measuring and containing approximately 1.25 acres known and designated as Parcel R, Block D, Lot 2 on that certain plat entitled "SUBDIVISION PLAT OF PARCEL R, PHASE 9 BLOCKS A/B & C/D TO CREATE: BLOCK D, LOTS 1 72 & BLOCK A, LOT 1, DANIEL ISLAND, OWNED BY THE DANIEL ISLAND COMPANY, INC., CITY OF CHARLESTON, BERKELEY COUNTY, S.C." prepared by Thomas & Hutton Engineering Co. dated January 21, 1999 and recorded in Plat Cabinet O, Page 39A in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16.

**THIS AGREEMENT CONTAINS AN ARBITRATION AGREEMENT SUBJECT
TO THE SOUTH CAROLINA ARBITRATION ACT, §15-48-10 et seq.
CODE OF LAWS OF SOUTH CAROLINA, 1976**

**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR**

**DANIEL ISLAND TOWN CENTER
SHARED PARKING FACILITIES**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (this "Declaration") is made this 19th day of August, 1999, by The Daniel Island Company, Inc., a South Carolina corporation ("Declarant").

WHEREAS, Declarant is the owner and developer of certain real property on Daniel Island, City of Charleston, Berkeley County, South Carolina. This Declaration imposes upon the Properties, as defined in Article 1 mutually beneficial restrictions under a general plan of shared parking facilities for the benefit of the owners of the Properties, the Daniel Island Town Center Owners Association, Inc. and the customers, visitors, invitees, licensees, residents, employees, and contractors of the Properties and the Daniel Island Town Center. To this end, Declarant desires to subject the Properties to the covenants, conditions, restrictions, easements, and liens hereinafter set forth. In furtherance of such plan, this Declaration provides that the Daniel Island Town Center Owners Association, Inc. will administer and enforce the provisions of this Declaration, and any Rules promulgated pursuant to this Declaration.

WHEREAS, Declarant hereby declares that all of the Properties shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

**ARTICLE I
DEFINITIONS**

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set in the Town Center Restrictions unless otherwise defined below:

FILED, RECORDED, INDEXED
08/20/1999 04:39:
Rec Fee: 24.00 St Fee: 0.00
Co Fee: 0.00 Pages: 18
Issued to: SIMKLER & BOYD
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

00104480 4

1.1 "Association": Daniel Island Town Center Owners Association, Inc., a South Carolina nonprofit corporation, its successors or assigns.

1.2 "Board of Directors" or "Board": The body responsible for administration of the Association.

1.3 "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout Town Center Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Board.

1.4 "Declarant": The Daniel Island Company, Inc., a South Carolina corporation, or any successor, successor-in-title, or assign who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.5 "Deed": Any deed, lease, assignment or other instrument other than a Mortgage conveying any interest in any Unit.

1.6 "Design Guidelines": The design, use and construction guidelines and application and review procedures applicable to Town Center Properties promulgated and administered pursuant to the Town Center Restrictions which may also be referred to as the "Town Center Architectural Standards".

1.7 "Owner": One or more Persons who hold the record title to a Property or Unit subject to this Declaration.

1.8 "Parking Facility": Any parking lot, garage or other parking facilities constructed on a Property and shall include (i) any alleyway, road, curb cut and other access to such parking facility, (ii) any sidewalk within or adjacent to such parking facility and (iii) any landscaping within or adjacent to such parking facility, but shall not include attached garages used by residential tenants on a property.

1.9 "Person": A natural person, a corporation, a partnership, a trustee, a limited liability company, or any other legal entity.

1.10 "Properties": The Units located on the real property which is described on Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article 4 by Deed reference or by Supplemental Declaration.

1.11 "Rules": Rules and regulations promulgated by the Board in connection with this Declaration.

1.12 "Supplemental Declaration": An instrument filed in the Public Records which subjects additional property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument.

1.13 "Town Center Properties": Real property which has been made subject to the Town Center Restrictions.

1.14 "Town Center Restrictions": Declaration of Covenants, Conditions, and Restrictions For Daniel Island Town Center Zone dated March 24, 1999 and recorded in Book 1587, Page 225 in the Register of Deeds, Berkeley County, South Carolina, as amended and supplemented from time to time.

1.15 "Unit": A portion of the Town Center Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy within the Daniel Island Town Center Zone as more fully defined in the Town Center Restrictions.

ARTICLE 2 SHARED PARKING FACILITIES

2.1 Shared Parking Facilities. Each Parking Facility shall be available for use by the general public, subject to such Rules as may be promulgated from time to time by the Association. Each Parking Facility shall be subject to easements for ingress, egress and parking for the benefit of the general public, including other Owners of Properties, their guests, contractors, visitors, tenants, occupants, invitees, customers, licensees, and employees.

2.2 Construction of Parking Facilities. Each Parking Facility shall be constructed by the Owner of the Property in accordance with the Design Guidelines and pursuant to plans approved by the Architectural Review Board. Each Parking Facility shall have sufficient parking spaces to accommodate all of the parking needs of the Property on which the Parking Facility is constructed.

2.3 Maintenance of Parking Facilities. Each Owner of a Property shall keep its Parking Facility in attractive condition and good repair, consistent with the Community-Wide Standard.

2.4 Reserved Parking. No more than fifteen percent (15%) of the parking spaces within a Parking Facility shall be delineated as "Reserved" or otherwise marked for use by specific Persons or specific classes of Persons. The remainder of the parking spaces shall be undesignated and therefore available to the general public on an "as available" basis. The instrument by which a Property is subjected to this Declaration and the Association may impose a higher or a lower percentage for reserved parking for a specific Property.

ARTICLE 3 ADMINISTRATION BY THE ASSOCIATION

3.1 Authority of Association. The Board of the Association shall have the authority to implement, enforce, and interpret this Declaration. In addition, the Board shall have the authority to promulgate Rules in connection with this Declaration.

3.2 Variances. The Board shall have the authority to grant variances and waivers from the strict enforcement of this Declaration or of any Rule.

3.3 Enforcement. The Board or any committee established by the Board, with the Board's approval, may impose sanctions for violations of this Declaration or of any Rules, after compliance with the notice and hearing procedures set forth in Section 3.25 of the By-Laws. Such sanctions may include, without limitation:

(a) imposing monetary fines which shall constitute a lien upon the Unit of the violator (in the event that any employee, lessee, occupant, invitee, client, customer or guest of a Unit violates this Declaration or the rules and regulations promulgated in connection with these Declarations, and a fine is imposed, the fine shall first be assessed against the Occupant; provided however, if the fine is not paid by the Occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) filing notices of violations in the Public Records providing record notice of any violation of this Declaration or of any Rule;

(c) suspending any services provided by the Association to an Owner or the Owner's Unit if the Owner is more than 30 Days delinquent in paying any assessment or other charge owed to the Association; and

(d) levying Specific Assessments to cover costs incurred in bringing a Unit into compliance in accordance with the Town Center Restrictions.

In addition, the Board, or the covenants committee if established, may elect to enforce any provision of this Declaration or any Rule by exercising self-help (specifically including, but not limited to the filing liens in the Public Records for nonpayment of any assessments or fees, the towing of vehicles that are in violation of any Rule or the correction of any maintenance, construction or other violation of this Declaration or any Rule) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of this Declaration or of any Rule, if the Association prevails, it shall be entitled to

recover, to the maximum extent permissible, all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or Rule which the Board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case, in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or stop the Association from enforcing any other covenant, restriction or Rule.

The Association may, but is not required to, by contract or other agreement, enforce county, city, state and federal ordinances, rules, regulations and laws, if applicable, and permit local and other governments to enforce ordinances on the Properties for the benefit of the Association, its Members and the Owners.

3.4. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration, the Town Center Restrictions or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

ARTICLE 4 ANNEXATION AND WITHDRAWAL OF PROPERTY

4.1 Annexation The Declarant may from time to time unilaterally subject to the provisions of this Declaration any portion of the real property which is subject to the Town Center Restrictions. The Declarant may transfer or assign this right to annex property to any successor declarant under the Town Center Restrictions and that such transfer is memorialized in a written recorded instrument executed by Declarant. In addition, the Declarant and any other owner of Town Center Property may subject Town property to the provisions of this Declaration by specific reference in a Deed conveying such property.

Such annexation shall be accomplished by letter filing a Supplemental Declaration in the Public Records describing the property being annexed or by filing a Deed in the Public Records transferring the property being annexed and specifically making such property subject to this Declaration. Such Supplemental Declaration or Deed shall not require the consent of any Members or Owners, but shall require the consent of the owner of such property, if other than Declarant. The filing of a Deed shall denote the consent of the grantee under such Deed. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration or Deed unless otherwise provided therein. Any Supplemental Declaration or Deed from the Declarant may contain additional covenants, conditions and restrictions relating to the Parking Facilities.

Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any property in any manner whatsoever.

4.2 Annexation By Association

The Association may annex any Town Center Property to the provisions of this Declaration with the consent of the owner of such property.

Such annexation shall be accomplished by filing a Supplemental Declaration describing the property being annexed in the Public Records. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon filing unless otherwise provided therein.

4.3 Withdrawal of Property. The Declarant reserves the right to amend this Declaration for the purpose of removing any portion of the Properties from the coverage of this Declaration. Such amendment shall not require the consent of any Person other than the Owner of the property to be withdrawn, if not the Declarant. Removal or withdrawal of all or any portion of the Properties shall be accomplished by recording a Supplemental Declaration in the Public Records. Any such removal or withdrawal shall be effective upon the recording of the Supplemental Declaration unless otherwise provided therein.

4.4 Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any property described in Exhibit "A" or "B" of the Town Center Restrictions or has the right to annex property pursuant to Section 7.1 of the Town Center Restrictions.

ARTICLE 5 PARKING ASSESSMENTS

5.1 Parking Assessments. The Board of the Association shall have the authority to determine that it would be beneficial to the Properties if all or part of the maintenance and repair obligations for all or part of the Parking Facilities were coordinated and undertaken by the Association. In the event that the Association elects to undertake certain of the Owners' obligations with respect to the Owners' Parking Facilities, the Association shall assess the Owners of such benefitted Properties for these Association parking expenses (the "Parking Assessments"). The Parking Assessment against each Unit shall be calculated and allocated among the benefitted Owners on a pro rata basis based on the size of the Parking Facilities which are maintained or repaired by the Association. Each Owner, by accepting a deed or entering into a contract of sale for any portion of the Properties, is deemed to covenant and agree to pay these Parking Assessments. The Parking Assessments shall be subject to the same lien rights, enforcement procedures, terms, conditions, rules and regulations set forth in the Town Center Restrictions or other Assessments.

5.2 Lien for Assessments. The Association shall have a lien against each Unit to secure payment of delinquent assessments, including Parking Assessments, as well as interest, late charges (subject to the limitations of South Carolina law), and costs of collection (including attorneys fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment, and judicial or nonjudicial foreclosure.

ARTICLE 6 MORTGAGEE PROVISIONS

6.1 No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of a tract with a Parking Facility.

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

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

ARTICLE 7 DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred in whole or in part to the Association or to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Public Records.

ARTICLE 8 DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

8.1 Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and

financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Sections 8.2 ("Claims") shall be resolved using the procedures set forth in Section 8.3 in lieu of filing suit in any court.

8.2 Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, or the rights, obligations and duties of any Bound Party under this Declaration or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 8.3.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 8.3:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article 5 (Assessments);
- (b) any suit by the Association to obtain a temporary restraining order, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of Section 9.7 (Architectural Standards);
- (c) any suit between Owners (other than Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under the laws of the State of South Carolina in the absence of a claim based on this Declaration;
- (d) any suit by the Association in which similar or identical claims are asserted against more than one Bound Party;
- (e) any suit by a Bound Party for declaratory or injunctive relief which seeks a determination as to applicability, clarification or interpretation of any provision of this Declaration;
- (f) any suit in which any indispensable party is not a Bound Party; and
- (g) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 8.3.

8.3 Mandatory Procedures.

- (a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

- (i) the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
- (ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
- (iii) Claimant's proposed remedy; and
- (iv) that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

(ii) If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of any Berkeley County, South Carolina dispute resolution center or such other independent agency providing similar services upon which the Parties mutually agree.

(iii) If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

(v) Within five days after the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

(i) If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in the Town Center Restrictions or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

(ii) This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of South Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

8.4 Allocation of Costs of Resolving Claims.

(a) Subject to Section 8.4(b), each Party shall bear its own costs, including any attorneys fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

8.5 Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 8.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

ARTICLE 9 GENERAL PROVISIONS

9.1 Duration.

(a) Unless terminated as provided in Section 9.1 (b), this Declaration shall have perpetual duration. If South Carolina law hereafter limits the period during which covenants may

run with the land, then to the extent consistent with such law, this Declaration shall automatically be extended at the expiration of such period for successive periods of 10 years each, unless terminated as provided herein. Notwithstanding the above, if any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

(b) Unless otherwise provided by South Carolina law, in which case such law shall control, this Declaration may not be terminated within 30 years of the date of recording without the consent of all Owners. Thereafter, it may be terminated only by an instrument signed by Owners of at least 75 % of the total Units within the Properties and by the Declarant, if the Declarant owns any portion of the Properties, which instrument is recorded in the Public Records. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

9.2 Amendment.

(a) By Declarant. So long as Declarant owns property described on Exhibit "A" or "B" of the Town Center Restrictions, or has the right to annex property pursuant to Section 7.1 of the Town Center Restrictions and for a period of twenty (20) years thereafter, Declarant hereby reserves and shall have the sole right to:

(i) amend this Declaration or any Supplemental Declaration for the purpose of curing any ambiguity or any inconsistency among the provisions contained herein;

(ii) include in any contract or Deed or other instrument hereafter made any additional covenants and restrictions applicable to any Unit which do not lower the standards of the covenants and restrictions herein contained;

(iii) release any Unit from any part of the covenants and restrictions contained herein which have been violated if the Declarant, in its sole judgment, determines such violation to be a minor or insubstantial violation;

(iv) amend this Declaration or any Supplemental Declaration in any manner if such amendment is necessary (a) to bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination, (b) to enable any reputable title insurance company to issue title insurance coverage on the Units, (c) to enable any institutional or governmental lender, purchaser, insurer or guarantor of mortgage loans, to make, purchase, insure or guarantee mortgage loans on the Units; (d) to enable any reputable private insurance company to insure mortgage loans on the Units; or (e) to satisfy the requirements of any local, state or federal governmental agency; and

(v) amend this Declaration or any Supplemental Declaration without vote or consent of the Owners for any other purpose.

The foregoing amendments may be made without the joinder or approval of any Owner, mortgagee, or the Association.

(b) By Owners. Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners representing at least 67% of the Owners of Units subject to this Declaration and the consent of the Declarant, so long as the Declarant has an option to subject additional property to this Declaration.

Unless a higher percentage is required by Supplemental Declaration, any Supplemental Declaration may be amended by the vote of Owners representing 67 % of the Owners of Units subject to such Supplemental Declaration with the consent of the Board, and so long as the Declarant has an option to subject additional property to this Declaration, the consent of the Declarant.

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

(c) Validity and Effective Date. No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant (or the assignee of such right or privilege).

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

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

9.3 Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

9.4 Cumulative Effect; Conflict. The provisions of this Declaration shall be cumulative with any additional covenants, restrictions, and declarations applicable to the Properties. Nothing in this Section shall preclude any Supplemental Declaration or other recorded declaration, covenants

and restrictions applicable to any portion of the Properties from containing additional restrictions or provisions which are more restrictive than the provisions of this Declaration, and the Association shall have the standing and authority to enforce the same.

9.5 Conflict or Ambiguity. In the event of any conflict or ambiguity in the terms and provisions of this Declaration, the general rules of construction relating to construction against the Declarant or the Architectural Review Board or any committee thereof are hereby waived by each Owner.

9.6 Further Assurances. Each Owner covenants and agrees to sign, execute and deliver, or cause to be signed, executed and delivered and to do or make, or cause to be done or made, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably requested by the Declarant, the Association or the Architectural Review Board for the purpose of or in connection with clarifying, amending or otherwise consummating the transactions and matters set forth herein.

9.7 Standards for Review. Whenever in this Declaration the Declarant, the Association or the Architectural Review Board has the right to approve, consent or require any action to be taken pursuant to the terms hereof, such approval, consent or required action shall, except as otherwise specifically provided herein, be in the sole and absolute discretion of the Declarant, the Association or the Architectural Review Board, respectively, and such approval, consent or required action shall be final and conclusive.

SIGNATURE PAGE ATTACHED

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration for Daniel Island Town Center Shared Parking Facilities the date and year first written above.

IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC., a
South Carolina corporation

Depe L. Bradford
Jan Johnson

By: Frank Brumley

Its: President

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

The undersigned notary public does hereby certify that The Daniel Island Company, Inc. by Frank Brumley, its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument this 19th day of August, 1999.

Depe L. Bradford
NOTARY PUBLIC FOR SOUTH CAROLINA
My commission expires: 3/16/2000

EXHIBIT "A"
Property Subject to Declaration

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 160.02 acres located above the DHEC-OCRM Critical Line, more or less, known as Parcel R, Phase 9, and more particularly described on a plat entitled "PLAT OF PARCEL R, PHASE 9, AND PARCEL V, PHASE 1, OWNED BY DANIEL ISLAND INVESTMENTS, LLC, CITY OF CHARLESTON, BERKELEY COUNTY, S. C." prepared by F. Elliott Quinn, Professional Land Surveyor No. 10292, Thomas & Hutton Engineering Co., dated June 24, 1998 and recorded in Plat Cabinet N, Page 285-286 in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

ALSO

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 14.802 acres more or less, and designated as Parcel R, Phase 8 on that certain plat by Mark S. Busey of Southeastern Surveying, Inc. entitled "A Subdivision Plat creating Parcel P, Phase 1 (2.039 Acres) and Parcel Q, Phase 11 (1.135 acres), Being a Portion of Fairchild Street, Parcel P, Phase 2 (22.351 Acres), Parcel Q, Phase 12 (51.090 Acres), Parcel Q, Phase 5 (37.602 acres), Parcel R, Phase 8 (14.802 acres) and Parcel N, Phase 4 (5.126 acres) Owned by Daniel Island Development Company, Located in the City of Charleston, Berkeley County, South Carolina" and recorded in Plat Cabinet M, Page 326 in the Berkeley County R.M.C. Office (the "Plat") said parcel having such size, shape, dimensions, boundings and buttings as will by reference to the Plat more fully appear and which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

ALSO

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 1.344 acres more or less, and designated as Parcel R, Phase 2 on that certain plat by Mark S. Busey of Southeastern Surveying, Inc. entitled "A Subdivision Plat of A 269.527 Acre Tract Creating A 1.344 Acre Tract Being A Portion of Parcel R Phase 2 Owned by Daniel Island Development Company, Located in the City of Charleston, Berkeley County, South Carolina" and recorded in Plat Cabinet L, Page 328A in the

Berkeley County R.M.C. Office (the "Plat") said parcel having such size, shape, dimensions, boundings and buttings as will by reference to the Plat more fully appear and which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

SAVING AND EXCEPTING

All lots, pieces and parcels of land of the above described properties which are used for single family residential use, whether as detached residential units or as attached residential units; however, lots used for multi-family residential use shall be subject to this Declaration.

CONSENT OF THIRD PARTY OWNERS

WHEREAS, the undersigned took title to property within within Parcel R, Daniel Island (the "Town Center") prior to the recordation of this Declaration of Covenants, Conditions and Restrictions For Daniel Island Town Center Shared Parking Facilities (the "Parking Restrictions").

NOW, THEREFORE, in consideration of the premises and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned does hereby consent and agree that their properties are subject to the Parking Restrictions as fully as if the Parking Restrictions had been recorded prior to the deeds into the undersigned.

IN WITNESS whereof, the undersigned have executed this consent as of the 19th day of August, 1999.

IN THE PRESENCE OF:

James L. Bradford
Jan Johnson

DIBS-Sales Center, L.L.C.

By: John R. R. R.

Its: Partner

DIBS-Office Center, L.L.C.

By: John R. R. R.

Its: Partner

DIBS-TRI, L.L.C.

By: John R. R. R.

Its: Partner

James L. Bradford
Jan Johnson

James L. Bradford
Jan Johnson

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) ACKNOWLEDGMENT

The undersigned Notary Public does hereby certify that DIBS-Sales Center, L.L.C., by Frank W. Brumley, its Partner, personally appeared before me this day and acknowledged the due execution of the foregoing instrument this 19th day of August, 1999.

Joyce L. Bradford
 NOTARY PUBLIC FOR SOUTH CAROLINA
 My commission expires: 3/16/2000

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) ACKNOWLEDGMENT

The undersigned Notary Public does hereby certify that DIBS-Office Center, L.L.C., by Frank W. Brumley, its Partner, personally appeared before me this day and acknowledged the due execution of the foregoing instrument this 19th day of August, 1999.

Joyce L. Bradford
 NOTARY PUBLIC FOR SOUTH CAROLINA
 My commission expires: 3/16/2000

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) ACKNOWLEDGMENT

The undersigned Notary Public does hereby certify that DIBS-Sales Center, L.L.C., by Frank W. Brumley, its Partner, personally appeared before me this day and acknowledged the due execution of the foregoing instrument this 19th day of August, 1999.

Joyce L. Bradford
 NOTARY PUBLIC FOR SOUTH CAROLINA
 My commission expires: 3/16/2000

**SECOND SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Second Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made this 19 day of August, 1999 by The Daniel Island Company, Inc. (the "Developer").

WHEREAS, Section 7.1 of the Restrictions permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B of the Restrictions; and

WHEREAS, the Developer desires to add the property more fully described on the attached Exhibit A which is a portion of the property described on Exhibit B of the Restrictions.

NOW, THEREFORE, the Developer hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Developer has executed this First Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Margie K. Sheeton
Sara M. Smythe

THE DANIEL ISLAND COMPANY, INC.

By: [Signature]

FILED, RECORDED, INDEXED
08/20/1999 04:41:
Rec Fee: 10.00 St Fee: 0.00
Co Fee: 0.00 Pages: 3
Issued to: SINKLER & BOYD
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

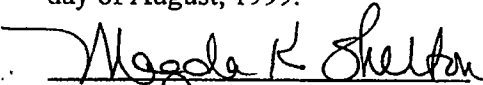
STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

This instrument was acknowledged before me by The Daniel Island Company, Inc., by Frank W. Brumley, Its President, this 19 day of August, 1999.

SWORN to before me this 19
day of August, 1999.



Notary Public for South Carolina

My Commission Expires: 10/20/03

EXHIBIT A
Property Description
Parcel R, Block I
(19.03 acres)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 19.03 acres known and designated as Parcel R, Block I on that certain plat entitled "Final Plat of Parcel R, Block I, Daniel Island, Owned by: the Daniel Island Company, Inc., City of Charleston, Berkeley County, S.C." prepared by Thomas & Hutton Engineering Co. dated August 12, 1999 and recorded in Plat Cabinet O, Page 100A in the Berkeley County Register of Deeds Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the Register of Deeds Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

**THIRD SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Second Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made this 30 day of August, 1999 by The Daniel Island Company, Inc. (the "Developer").

WHEREAS, Section 7.1 of the Restrictions permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B of the Restrictions; and

WHEREAS, the Developer desires to add the property more fully described on the attached Exhibit A which is a portion of the property described on Exhibit B of the Restrictions.

NOW, THEREFORE, the Developer hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Developer has executed this First Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

By: _____

James Cole
Robert L. Groulx

FILED, RECORDED, INDEXED
09/01/1999 04:42:53PM
Rec Fee: 10.00 St Fee: 0.00
Co Fee: 0.00 Pages: 3
Issued to: CLAYPOOLE, J. STANLEY
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

00313228.

J. STANLEY CLAYPOOLE, P.A.
A. CLAYPOOLE, P.A.
2017 AUG 12 PM 3:40
N. CHARLESTON, S.C. 29406
99-261 0168

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

This instrument was acknowledged before me by The Daniel Island Company, Inc., by Matthew R. Sloan, Its Exec. VP this 30th day of August, 1999.

SWORN to before me this 30th
day of August, 1999.

Jamie Cole

Notary Public for South Carolina

My Commission Expires: 9/29/2007

EXHIBIT A
Property Description

Parcel R, Block E, Lot 2
(1.63 acres)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 1.63 acres known and designated as Parcel R, Block E, Lot 2 on that certain plat entitled "PLAT OF THE SUBDIVISION OF PARCEL R, BLOCK E TO CREATE LOT 1 & LOT 2 OWNED BY THE DANIEL ISLAND COMPANY, INC., CITY OF CHARLESTON, BERKELEY COUNTY, S.C." prepared by Thomas & Hutton Engineering Co. dated May 17, 1999 and recorded in Plat Cabinet O, Page 101B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

ALSO

Parcel R, Block E, Lot 1
(1.55 acres)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 1.55 acres known and designated as Parcel R, Block E, Lot 1 on that certain plat entitled "PLAT OF THE SUBDIVISION OF PARCEL R, BLOCK E TO CREATE LOT 1 & LOT 2 OWNED BY THE DANIEL ISLAND COMPANY, INC., CITY OF CHARLESTON, BERKELEY COUNTY, S.C." prepared by Thomas & Hutton Engineering Co. dated May 17, 1999 and recorded in Plat Cabinet O, Page 101B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

**FOURTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Second Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made this 19th day of November, 1999 by The Daniel Island Company, Inc. (the "Developer").

WHEREAS, Section 7.1 of the Restrictions permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B of the Restrictions; and

WHEREAS, the Developer desires to add the property more fully described on the attached Exhibit A which is a portion of the property described on Exhibit B of the Restrictions.

NOW, THEREFORE, the Developer hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Developer has executed this Fourth Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

By: _____

Jay L. Bradford
Jan Johnson

FILED, RECORDED, INDEXED
11/29/1999 12:40:33PM
Rec Fee: 10.00 St Fee: 0.00
Co Fee: 0.00 Pages: 3
Issued to: BUIST LAW FIRM
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

00326018.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)
)
)

ACKNOWLEDGMENT

This instrument was acknowledged before me by The Daniel Island Company, Inc., by Matthew R. Sloan, Its EXEC. VP. this 22nd day of November, 1999.

SWORN to before me this 22nd
day of November, 1999.

Jamie Cole Johnson

Notary Public for South Carolina

My Commission Expires: 9/29/2007

EXHIBIT A

Property Description

The Daniel Island Company, Inc. to Evergreen America Corporation
Parcel R, Block D, Lots 8 and 10
(1.25 acre)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 1.25 acres known and designated as Parcel R, Block D, Lot 8 (1.0 acre) and Parcel R, Block D, Lot 10 (0.25 acre) on that certain plat entitled "A SUBDIVISION PLAT OF PARCEL R, PHASE 9, BLOCK D, TO CREATE LOTS 3, 4, 8, 10 & GREENWAY, OWNED BY THE DANIEL ISLAND COMPANY, INC." prepared by F. Elliotte Quinn, RLS No. 10292 of Thomas & Hutton Engineering Co. dated August 30, 1999 and recorded in Plat Cabinet O, Page 128-B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

**SIXTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Sixth Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made this 19th day of November, 1999 by The Daniel Island Company, Inc. (the "Developer").

WHEREAS, Section 7.1 of the Restrictions permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B of the Restrictions; and

WHEREAS, the Developer desires to add the property more fully described on the attached Exhibit A which is a portion of the property described on Exhibit B of the Restrictions.

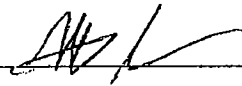
NOW, THEREFORE, the Developer hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Developer has executed this Sixth Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

Jan Johnson

By: 

Joseph L. Bradford

FILED, RECORDED, INDEXED
03/14/2000 03:08:42PM
Rec Fee: 12.00 St Fee: 0.00
Co Fee: 0.00 Pages: 6
Issued to: BUIST LAW FIRM
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

This instrument was acknowledged before me by The Daniel Island Company, Inc., by Math Sloan, Its Exec. VP this 10th day of March, 2000.

SWORN to before me this 10th
day of March, 2000.

Tamara Johnson

Notary Public for South Carolina

My Commission Expires: 9/29/2007

EXHIBIT A Page 1
Property Description
The Daniel Island Company, Inc. to Laura M. Leppert
Parcel R, Block D, Lot 7
(.56 acre)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately .56 acres known and designated as Parcel R, Block D, Lot 7 on that certain plat entitled "A FINAL SUBDIVISION PLAT OF PARCEL R, PHASE 9, BLOCK D, LOTS 3 & 4, TO CREATE LOTS 5, 6, 7 & 9, OWNED BY THE DANIEL ISLAND COMPANY, INC." prepared by F. Elliott Quinn, RLS No. 10292 of Thomas & Hutton Engineering Co. dated November 18, 1999 and recorded in Plat Cabinet O, Page 154-B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

EXHIBIT A Page 2
Property Description

DIC to Atlantic First Group, LLC
Parcel R, Block D, Lot 3 (.53 acres) and
Parcel R, Block D, Lot 5 (.40 acres)

ALL those certain pieces, parcels or tracts of land situate, lying and being on Daniel Island, in the City of Charleston, Berkeley County, South Carolina, known as Parcel R, Block D, Lot 3, measuring and containing .53 acres, more or less, and Parcel R, Block D, Lot 5, measuring and containing .40 acres, more or less, for a total of .93 acres as shown on that certain plat entitled "A FINAL SUBDIVISION PLAT OF PARCEL R, PHASE 9, BLOCK D, LOTS 3 & 4 TO CREATE LOTS 5, 6, 7, & 9, OWNED BY THE DANIEL ISLAND COMPANY, INC., CITY OF CHARLESTON, BERKELEY COUNTY, S.C." prepared by Thomas & Hutton Engineering Co. dated November 18, 1999 and recorded January 25, 2000 Plat Cabinet O, Page 154-B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

EXHIBIT A Page3
Property Description

DIC to Tony A. Berenyi
Parcel R, Block D, Lot 4
(.71 acres)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately .71 acres known and designated as Parcel R, Block D, Lot 4 on that certain plat entitled "PLAT OF THE SUBDIVISION OF PARCEL R, PHASE 9, BLOCK D, LOTS 3 & 4 TO CREATE LOTS 5, 6, 7 & 9, OWNED BY THE DANIEL ISLAND COMPANY, INC., CITY OF CHARLESTON, BERKELEY COUNTY, S.C." prepared by Thomas & Hutton Engineering Co. dated November 18, 1999 and recorded in Plat Cabinet O, Page 154-B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

EXHIBIT A Page 4
Property Description

DIC to JDC Calhoun, Inc.
Parcel R, Block D, Lot 6
(.82 acres)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately .79 acres known and designated as Parcel R, Block D, Lot 6 on that certain plat entitled "PLAT OF THE SUBDIVISION OF PARCEL R, PHASE 9, BLOCK D LOTS 3 & 4 TO CREATE LOTS 5, 6, 7 & 9 OWNED BY THE DANIEL ISLAND COMPANY, INC., CITY OF CHARLESTON, BERKELEY COUNTY, S.C." prepared by Thomas & Hutton Engineering Co. dated November 18, 1999 and recorded in Plat Cabinet O, Page 154-B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

0006672 Bkx 1895 Pg: 0150
LEPPERT RE 9402

**SIXTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Sixth Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made this 19th day of November, 1999 by The Daniel Island Company, Inc. (the "Developer").

WHEREAS, Section 7.1 of the Restrictions permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B of the Restrictions; and

WHEREAS, the Developer desires to add the property more fully described on the attached Exhibit A which is a portion of the property described on Exhibit B of the Restrictions,

NOW, THEREFORE, the Developer hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Developer has executed this Sixth Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Jim Johnson
James L. Bradford

THE DANIEL ISLAND COMPANY, INC.

By: [Signature]

FILED, RECORDED, INDEXED
04/06/2000 08:36:55PM
Doc Fees 10.00 St Fees 0.00
Co Fees 0.00 Pages: 3
Issued for: MDD&S & HENNESSY
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

00379226

3

9

0006672 Bk: 1895 Pg: 0151

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

This instrument was acknowledged before me by The Daniel Island Company, Inc., by Matt Sloan, Its Exec VP this 28th day of March, 2000.

SWORN to before me this 28th
day of March, 2000.

Thomas Johnson
Notary Public for South Carolina
My Commission Expires: 9/28/2007

0003922x

EXHIBIT A Page 1

Property Description

The Daniel Island Company, Inc. to Laura M. Leppert
Parcel R, Block D, Lot 7
(.56 acre)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately .56 acres known and designated as Parcel R, Block D, Lot 7 on that certain plat entitled "A FINAL SUBDIVISION PLAT OF PARCEL R, PHASE 9, BLOCK D, LOTS 3 & 4, TO CREATE LOTS 5, 6, 7 & 9; OWNED BY THE DANIEL ISLAND COMPANY, INC." prepared by F. Elliott Quinn, RLS No. 10292 of Thomas & Hutton Engineering Co. dated November 18, 1999 and recorded in Plat Cabinet O, Page 154-B in the Berkeley County RMC Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Investments L.L.C. dated November 9, 1998 and recorded in the RMC Office for Berkeley County in Book 1478, Page 16 on November 9, 1998.

00139228

Upon recording, please return to:

M. Maxine Hicks, Esq.
Cofer, Beauchamp, Stradley & Hicks, LLP
99 West Paces Ferry Road, N.W.
Suite 200
Atlanta, Georgia 30305

FILED, RECORDED, INDEXED
10/05/2000 12:53:45PM
Rec Fee: 10.00 St Fee: 0.00
Co Fee: 0.00 Pages: 2
Issued to: BUIST LAW FIRM
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA

Reference: Book 1587
Page 220

COUNTY OF BERKELEY

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR DANIEL ISLAND TOWN CENTER ZONE**

THIS AMENDMENT is made this 28 day of September, 2000, by The Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant");

W I T N E S S E T H:

WHEREAS, the Declarant recorded that certain Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone on March 24, 1999, in Book 1587, Page 270, et seq., Register of Deeds Office for Berkeley County, South Carolina (such instrument as amended and supplemented is hereinafter referred to as the "Declaration"); and

WHEREAS, Article XVI, Section 16.2(a) of the Declaration provides that the Declarant may unilaterally amend the Declaration by instrument in writing filed and recorded in the Register of Deeds Office for Berkeley County, South Carolina, without the approval of any Owner or Mortgagee; and

WHEREAS, the Declarant deems it appropriate to amend the Declaration for the purpose of prohibiting certain automated teller machines within the Properties;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby amends Exhibit "C" of the Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone by adding the following Section 16 thereto:

16. Automated Teller Machines. Unless specifically approved in writing by the ARB pursuant to Article IX of the Declaration, automated teller machines that are free standing or that are located on the exterior of the primary structure on the Unit shall be prohibited within the Properties; provided however, that this provision shall not apply to any teller machine installed and operated on a Unit that contains a full-service bank, savings and loan, credit union or similar institution.

M:\REDON\MDT\Town Center\amend.doc mpe

The definitions provided in Article I of the Declaration are incorporated herein by reference. Except as modified, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, The Daniel Island Company, Inc., as the Declarant, hereby executes this Amendment by and through its authorized representative on the date and year first above written.

IN THE PRESENCE OF:

Janine Johnson

John M. Owens

DECLARANT:

THE DANIEL ISLAND COMPANY, INC.,
a South Carolina corporation

By: [Signature]

Its: V.P.

[CORPORATE SEAL]

STATE OF SOUTH CAROLINA)

) ACKNOWLEDGMENT

COUNTY OF CHARLESTON)

I, Janine Johnson (Notary Public for South Carolina) do hereby certify that
The Daniel Island Company, Inc., by Matthew R. Sloan, its V.P.,
personally appeared before me this day and acknowledged the due execution of the foregoing
instrument.

Witness my hand and official seal this the 28th day of September, 2000.

Janine Johnson
Notary Public for South Carolina

My commission expires: 9/29/2007

**SEVENTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Seventh Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made as of the 23rd day of May, 2000 by The Daniel Island Company, Inc., a South Carolina corporation (the "Developer").

WHEREAS, Section 7.1 of the Restrictions permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B to the Restrictions; and

WHEREAS, the Developer desires to add the property more fully described on the attached Exhibit A which is a portion of the property described on Exhibit B to the Restrictions.

NOW, THEREFORE, the Developer hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Developer has executed this Seventh Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Jan Johnson
Shirley Owens

THE DANIEL ISLAND COMPANY, INC.

By: Matthew R. Sloan

Matthew R. Sloan
Its: Vice President

FILED, RECORDED, INDEXED
11/28/2000 02:25:03PM
Rec Fee: 10.00 St Fee: 0.00
Co Fee: 0.00 Pages: 4
Issued to: BUIST MOORE SMYTHE & MCGEE P A
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

ACKNOWLEDGMENT

I, Tina M. Owens (Notary Public for the State of South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 27 day of November, 2000.

Tina M. Owens
Notary Public for South Carolina

My Commission Expires: 9-11-2010

IN WITNESS WHEREOF, HHHunt Assisted Living, Inc., a Virginia corporation, as the owner of Parcel N, Phase 7 (3.81 acres) by deed of The Daniel Island Company, Inc. to HHHunt Assisted Living, Inc. dated June 27, 2000 hereby consent to this Seventh Supplement.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Lisa H. Bunter
Reusley S. Tugger

HHHUNT ASSISTED LIVING, INC.

By: David E. Tuggle
Print Name: David E. Tuggle
Title: Secretary

STATE OF VIRGINIA)

COUNTY OF MONTGOMERY)

ACKNOWLEDGMENT

I, MARTHA S. LUDDEN (Notary Public for the State of Virginia) do hereby certify that HHHunt Assisted Living, Inc., a Virginia corporation, by David E. Tuggle, Its Secretary, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 10th day of November, 2000.

Martha S. Ludden
Notary Public for Virginia
My Commission Expires: June 30, 2004

EXHIBIT A
Property Description

Parcel N, Phase 7 (3.81 acres) and
Parcel N, Phase 8 (2.10 acres)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, known and designated as "Parcel N, Phase 7, 165,883 sq. ft., 3.81 acres" and "Parcel N, Phase 8, 91,500 sq. ft., 2.10 acres" on that certain plat entitled "Subdivision Plat of Parcel N, Phase 7 & 8, Daniel Island, Owned by: The Daniel Island Company, Inc., Daniel Island, City of Charleston, Berkeley County, S.C." prepared by F. Elliott Quinn, III, R.S. No. 10292 for Thomas & Hutton Engineering Co., dated November 22, 1999 and recorded in Plat Cabinet O Page 251-A in the Berkeley County Register of Deeds Office on June 28, 2000 (the "Plat"), having such measurements, metes, butts and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Development Company, Inc., a South Carolina corporation, dated June 18, 1997 and recorded in the Register of Deeds Office for Berkeley County in Book 1093, Page 276 on June 25, 1997.

Portion of TMS No. 275-00-00-061

**FIRST SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
SHARED PARKING FACILITIES**

WHEREAS on August 19, 1999, The Daniel Island Company, Inc., a South Carolina corporation, as the Declarant enacted the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone Shared Parking Facilities which was recorded in the Berkeley County Register of Deeds Office on August 20, 1999, at Book 1723, Page 278 (the "Parking Restrictions");

WHEREAS the Declarant now wishes to make additional properties owned by the Declarant subject to the Parking Restrictions;

WHEREAS Section 4.1 of the Parking Restrictions permits the Declarant to make property that is subject to the Declarations of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Town Center Restrictions") subject to the Parking Restrictions; and

WHEREAS the Declarant desires to make the property, which is more fully described on the attached **Exhibit A** (the "Annexed Property") subject to the Parking Restrictions. The Annexed Property has been made subject to the Town Center Restrictions by the Fourth Supplement to the Town Center Restrictions which is being recorded simultaneously herewith.

NOW, THEREFORE, the Declarant hereby supplements the Parking Restrictions to provide that the Annexed Property will be subject to the Parking Restrictions pursuant to this First Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone Shared Parking Facilities made as of this 23rd day of May, 2000.

IN WITNESS WHEREOF, the Declarant has executed this First Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

Jan Johnson
Lisa M. Owens

By:

Matthew R. Sloan
Its: Vice President

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Issued to: BUIST MOORE SMYTHE & MCSEE P A
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, Tina M. Owens (Notary Public for the State of South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 27 day of November, 2000.

Tina M. Owens

Notary Public for South Carolina

My Commission Expires: 9-11-2010

IN WITNESS WHEREOF, HHHunt Assisted Living, Inc., a Virginia corporation, as the owner of Parcel N, Phase 7 (3.81 acres) by deed of The Daniel Island Company, Inc. to HHHunt Assisted Living, Inc. dated June 27, 2000 hereby consents to this First Supplement.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

HHHUNT ASSISTED LIVING, INC.

Lige H. Bunter
Renee L. Myer

By: David E. Tuggle

Print Name: David E. Tuggle

Title: Secretary

STATE OF VIRGINIA)

COUNTY OF MONTGOMERY)

ACKNOWLEDGMENT

I, MARTHA S. LUDDEN (Notary Public for the State of Virginia) do hereby certify that HHHunt Assisted Living, Inc., a Virginia corporation, by David E. Tuggle, Its Secretary, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 10th day of November, 2000.

Martha S. Ludden

Notary Public for Virginia

My Commission Expires: June 30, 2004

EXHIBIT A
Property Description

Parcel N, Phase 7 (3.81 acres) and
Parcel N, Phase 8 (2.10 acres)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, known and designated as "Parcel N, Phase 7, 165,883 sq. ft., 3.81 acres" and "Parcel N, Phase 8, 91,500 sq. ft., 2.10 acres" on that certain plat entitled "Subdivision Plat of Parcel N, Phase 7 & 8, Daniel Island, Owned by: The Daniel Island Company, Inc., Daniel Island, City of Charleston, Berkeley County, S.C." prepared by F. Elliott Quinn, III, RLS No. 10292 for Thomas & Hutton Engineering Co., dated November 22, 1999 and recorded in Plat Cabinet O, Page 251-A in the Berkeley County Register of Deeds Office on June 28, 2000 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

BEING a portion of the property conveyed to The Daniel Island Company, Inc. by deed of Daniel Island Development Company, Inc., a South Carolina corporation, dated June 18, 1997 and recorded in the Register of Deeds Office for Berkeley County in Book 1093, Page 276 on June 25, 1997.

Portion of TMS No. 275-00-00-061

**EIGHTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Eighth Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made as of the 14th day of November, 2000 by The Daniel Island Company, Inc., a South Carolina corporation (the "Declarant").

WHEREAS, Section 7.1 of the Restrictions permits the Declarant to add additional property to the Restrictions which is a portion of the property described on Exhibit B to the Restrictions; and

WHEREAS, the Declarant desires to add the property more fully described on the attached Exhibit A which is a portion of the property described on Exhibit B to the Restrictions.

NOW, THEREFORE, the Declarant hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Declarant has executed this Eighth Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Tamara Johnson
Lisa M. Owens

THE DANIEL ISLAND COMPANY, INC.

By: _____

Matthew R. Sloan
Its: Vice President

FILED, RECORDED, INDEXED
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Issued to: BUIST LAW FIRM
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

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ACKNOWLEDGMENT

I, Janine Johnson (Notary Public for the State of South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 14 day of November, 2000.

Janine Johnson
Notary Public for South Carolina
My Commission Expires: 9/29/2007

EXHIBIT "A"

PROPERTY DESCRIPTION

ALL those lots, pieces or parcels of land of highlands, lakes, wetlands and wetland buffers situated, lying and being on Daniel Island, in the City of Charleston, County of Berkeley, State of South Carolina, located in Parcel R having the following buttings, boundings, metes and bounds:

SIMMONS PARK 0.40 ACRES, 17,495 sq.ft.. ALL that lot, piece, or parcel of land situate, lying and being on Daniel Island, Berkeley County, South Carolina, and being shown as "SIMMONS PARK 17,495 sq. ft., 0.40 acres" as shown on Sheet 2 of that certain plat entitled "FINAL PLAT OF RIVER LANDING DRIVE & PORTIONS OF PARCEL R, BLOCKS G, I, K, L & O, DANIEL ISLAND, CITY OF CHARLESTON, BERKELEY COUNTY, S.C.", prepared by F. Elliotte Quinn, III, S.C. Reg. No. 10292 of Thomas & Hutton Engineering Co. and recorded on August 4, 2000 in the Register of Deeds Office for Berkeley County in Plat Cabinet O, Pages 271-B, 272-A & B, 273A & B and having such size, shape, dimensions, buttings and boundings as will appear by reference to said plat.

TMS No. Portion of 275-00-00-114

ALSO, TOGETHER WITH:

OPEN SPACE 2.46 ACRES, 107,079 sq. ft.. ALL that lot, piece, or parcel of land situate, lying and being on Daniel Island, Berkeley County, South Carolina, and being shown as "OPEN SPACE 107,079 sq. ft., 2.46 acres" as shown on Sheets 2 and 3 of that certain plat entitled "FINAL PLAT OF RIVER LANDING DRIVE & PORTIONS OF PARCEL R, BLOCKS G, I, K, L & O, DANIEL ISLAND, CITY OF CHARLESTON, BERKELEY COUNTY, S.C.", prepared by F. Elliotte Quinn, III, S.C. Reg. No. 10292 of Thomas & Hutton Engineering Co. and recorded on August 4, 2000 in the Register of Deeds Office for Berkeley County in Plat Cabinet O, Pages 271-B, 272-A & B, 273A & B and having such size, shape, dimensions, buttings and boundings as will appear by reference to said plat.

TMS No. Portion of 275-00-00-114

ALSO, TOGETHER WITH:

OPEN SPACE 1.09 ACRES, 47,476 sq. ft.. ALL that lot, piece, or parcel of land situate, lying and being on Daniel Island, Berkeley County, South Carolina, and being shown as "OPEN SPACE 47,476 sq. ft., 1.09 acres" as shown on Sheet 3 of that certain plat entitled "FINAL PLAT OF RIVER LANDING DRIVE & PORTIONS OF PARCEL R, BLOCKS G, I, K, L & O, DANIEL ISLAND, CITY OF CHARLESTON, BERKELEY COUNTY, S.C.", prepared by F. Elliotte Quinn, III, S.C. Reg. No. 10292 of Thomas & Hutton Engineering Co. and recorded on August 4, 2000 in the Register of Deeds Office for Berkeley County in Plat Cabinet O, Pages 271-B, 272-A & B, 273A & B and having such size, shape, dimensions, buttings and boundings as will appear by reference to said plat.

TMS No. Portion of 275-00-00-114

ALSO, TOGETHER WITH:

OPEN SPACE 0.46 ACRES, 19,953 sq. ft. ALL that lot, piece, or parcel of land situate, lying and being on Daniel Island, Berkeley County, South Carolina, and being shown as "OPEN SPACE 19,953 sq. ft., 0.46 acres" as shown on Sheets 3 and 4 of that certain plat entitled "FINAL PLAT OF RIVER LANDING DRIVE & PORTIONS OF PARCEL R, BLOCKS G, I, K, L & O, DANIEL ISLAND, CITY OF CHARLESTON, BERKELEY COUNTY, S.C.", prepared by F. Elliotte Quinn, III, S.C. Reg. No. 10292 of Thomas & Hutton Engineering Co. and recorded on August 4, 2000 in the Register of Deeds Office for Berkeley County in Plat Cabinet O, Pages 271-B, 272-A & B, 273A & B and having such size, shape, dimensions, buttings and boundings as will appear by reference to said plat.

TMS No. Portion of 275-00-00-114

ALSO, TOGETHER WITH:

OPEN SPACE 0.77 ACRES, 33,533 sq. ft. ALL that lot, piece, or parcel of land situate, lying and being on Daniel Island, Berkeley County, South Carolina, and being shown as "OPEN SPACE 33,533 sq. ft., 0.77 acres" as shown on Sheet 4 of that certain plat entitled "FINAL PLAT OF RIVER LANDING DRIVE & PORTIONS OF PARCEL R, BLOCKS G, I, K, L & O, DANIEL ISLAND, CITY OF CHARLESTON, BERKELEY COUNTY, S.C.", prepared by F. Elliotte Quinn, III, S.C. Reg. No. 10292 of Thomas & Hutton Engineering Co. and recorded on August 4, 2000 in the Register of Deeds Office for Berkeley County in Plat Cabinet O, Pages 271-B, 272-A & B, 273A & B and having such size, shape, dimensions, buttings and boundings as will appear by reference to said plat.

TMS No. Portion of 275-00-00-114

Cross Index to: Book 509, Page 228
Book 734, Page 147
Book 1122, Page 7
Book 1838, Page 21
and Book 1587, Page 221

AMENDED AND RESTATED

DECLARATION OF EASEMENTS AND COVENANT TO SHARE COSTS

FOR

DANIEL ISLAND

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LIST OF EXHIBITS:

Exhibit "A" - Maintenance Property

Exhibit "B" - Assessment Formula

**AMENDED AND RESTATED
DECLARATION OF EASEMENTS AND
COVENANT TO SHARE COSTS
FOR DANIEL ISLAND**

THIS AMENDED AND RESTATED DECLARATION (this "Declaration") is made as of the date set forth on the signature page hereof by Daniel Island Associates L.L.C., a Delaware limited liability company, successor to the interests of Daniel Island Development Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant"); Daniel Island Community Association, Inc., a South Carolina nonprofit mutual benefit corporation (hereinafter referred to as "Residential Association"); Daniel Island Office Park Owners Association, Inc., a South Carolina nonprofit mutual benefit corporation (hereinafter referred to as "Office Park Association"); Daniel Island Park Association, Inc., a South Carolina nonprofit mutual benefit corporation (hereinafter referred to as "Park Association"); and Daniel Island Town Center Owners Association, Inc., a South Carolina nonprofit mutual benefit corporation (hereinafter referred to as "Town Center Association"). The Declarant, the Residential Association, the Office Park Association, the Park Association, and the Town Center Association are sometimes individually referred to herein as a "Party" and collectively referred to as the "Parties".

BACKGROUND STATEMENT

The Declarant, the Residential Association and the Office Park Association have heretofore entered into a Declaration of Easements and Covenant to Share Costs for Daniel Island (the "Original Declaration") dated June 13, 1997, recorded in the Register of Deeds of Berkeley County, South Carolina on August 1, 1997 at Book 1122, Page 7, et seq. In accordance with the provisions of Article V, Section 5.3 of the Original Declaration which govern the right and authority to amend the Original Declaration, the consents of the boards of directors of the Residential Association and of the Office Park Association, as evidenced by their written approvals and the signatures of their respective presidents affixed hereto, and with the approval of the Declarant evidenced by the signature of its duly authorized representative affixed hereto, the Original Declaration is hereby amended, stricken and restated, in its entirety, by this Declaration.

The Declarant is the declarant of the Residential Declaration, the Office Park Declaration, the Park Declaration and the Town Center Declaration, as defined and described below, and is the developer of the master planned community located in the City of Charleston, Berkeley County, South Carolina, comprised of the Properties hereinafter defined, together with additional properties, and known as Daniel Island (hereinafter referred to as the "Development").

The Residential Association is a mandatory membership owners association established pursuant to the Declaration of Covenants, Conditions, and Restrictions for Daniel Island Residential Zone recorded in the Register of Deeds of Berkeley County, South Carolina on September 21, 1995 at Book 734, Page 147, et seq., (the Declaration, as amended from time to time, is referred to herein as the "Residential Declaration" and the property subject thereto, as supplemented in accordance with the terms thereof, is referred to herein as the "Residential Property").

The Office Park Association is a mandatory membership owners association established pursuant to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Office Park recorded in the Register of Deeds of Berkeley County, South Carolina on May 23, 1994 at Book 509, Page 228, et seq., (such Declaration, as amended from time to time, is referred to herein as the "Office Park Declaration" and the property subject thereto, as supplemented in accordance with the terms thereof, is referred to herein as the "Office Park Property").

The Park Association is a mandatory membership owners association established pursuant to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Park recorded in the Register of Deeds of Berkeley County, South Carolina on January 26, 2000, at Book 1838, Page 21, et seq., (such Declaration, as amended from time to time, is referred to herein as the "Park Declaration" and the property subject thereto, as supplemented in accordance with the terms thereof, is referred to herein as the "Park Property").

The Town Center Association is a mandatory membership owners association established pursuant to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center recorded in the Register of Deeds of Berkeley County, South Carolina on March 24, 1999, at Book 1587, Page 221, et seq., (such Declaration, as amended from time to time, is referred to herein as the "Town Center Declaration" and the property subject thereto, as supplemented in accordance with the terms thereof, is referred to herein as the "Town Center Property").

By virtue of the Original Declaration, the Residential Association is responsible for maintaining certain portions of the Development identified as the "Maintenance Property" (as defined in the Original Declaration) and for providing certain services in accordance with the "Community-Wide Standard" (as defined in the Residential Declaration). The Parties recognize and acknowledge that additional portions of the Development have been developed since the recording of the Original Declaration and that this additional development has resulted in the need, and the Parties' desire, to supplement and expand the property to be identified as "Maintenance Property", the type of services to be provided, and the areas for which these services will be provided. The Parties further acknowledge and agree that the maintenance of the supplemented and expanded Maintenance Property and the supplemented and expanded services to be provided will mutually benefit the Parties and their respective properties (the Maintenance Property, the Residential Property, the Office Park Property, the Park Property, and the Town Center Property are hereinafter collectively referred to as the "Properties"). Therefore, the Parties agree to share and to allocate the cost of such maintenance and the providing of such services among themselves in accordance with the terms hereof.

The Parties hereto desire to provide for (a) the continued maintenance of the Maintenance Property (as defined below) and the continued provision of the services which benefit the Properties; (b) the sharing of the costs for providing the Joint Budget Items; and (c) an allocation of such costs among the members of the Residential Association, the Office Park Association, the Park Association, and the Town Center Association. Declarant also desires to provide reciprocal easements over, across and through the Properties to the extent necessary for the performance of the maintenance responsibilities hereunder.

For the common and mutual benefit of the Parties and their respective Properties, the Town Center Association has agreed to and does hereby assume and undertake the duties and responsibilities of directing and managing the maintenance of the Maintenance Property and performing the services heretofore provided by the Residential Association under the terms and conditions set forth herein.

NOW, THEREFORE, the Parties hereby amend, strike and restate the Original Declaration and declare that the Properties, including but not limited to the Maintenance Property, shall be subject to the terms of this Declaration and shall be held, sold and conveyed subject to the covenants, conditions and easements contained herein, which shall run with the title to the Properties and shall bind all parties having any right, title or interest in the Properties, their heirs, successors and assigns, and shall inure to the benefit of the Parties, their heirs, successors and assigns, and each owner of any portion of any of the Properties.

ARTICLE I: EASEMENTS

The Declarant, the Residential Association, the Office Park Association, and the Park Association hereby grant and convey to the Town Center Association, reciprocal easements of access, use and enjoyment over, across and through their respective Properties for the purpose of maintaining, repairing and replacing the Maintenance Property and providing the Joint Budget Items (as defined below) in accordance with this Declaration.

THE CONTINUED EXISTENCE OF THESE EASEMENTS IS EXPRESSLY MADE SUBJECT TO THE CONDITIONS AND RESTRICTIONS CONTAINED HEREIN WHICH SHALL CONSTITUTE COVENANTS RUNNING WITH THE TITLE TO, AND BOTH BENEFITTING AND BURDENING, THE PROPERTIES.

ARTICLE II: JOINT MAINTENANCE AND BUDGET

2.1 Maintenance Property. The term "Maintenance Property" as used in this Declaration means that property described in Exhibit "A" attached hereto and incorporated herein by this reference.

2.2 Joint Budget. The term "Joint Budget Items" means the expenses associated with the maintenance of the Maintenance Property, the expenses incurred by the Town Center Association to provide services benefitting the Properties, and all other expenses of the Town Center Association benefitting the Properties as reasonably determined by the Town Center Association's board of directors, and, after the Establishment Date, the Maintenance Committee (as defined in Article III below). Services provided by the Town Center Association may include patrolling, sweeping of the roads, irrigation and grounds maintenance of rights-of-way, pond management, street lighting, the conducting of festivals and other special events, contributions of funds or services to Daniel Island Community Fund, Inc. or any other non-profit, tax-exempt organization providing benefits to the Development, and administrative services associated therewith.

2.3 Town Center Association Responsibility.

- a. Joint Budget Items. The Town Center Association shall contract for and obtain the services contemplated by the Joint Budget Items and shall have responsibility for the payment of the costs of such items.
- b. Maintenance. The Town Center Association shall maintain, repair, replace, and keep the Maintenance Property in a neat and attractive condition consistent with the Community-Wide Standard established pursuant to the Town Center Declaration. The Town Center Association may provide additional or a higher level of maintenance to any portion of the Maintenance Property if the Town Center Association's board of directors determines that such additional maintenance is desirable to maintain the Community-Wide Standard under the Town Center Declaration.
- c. Responsibility of Others. Portions of the Maintenance Property may be included or identified as "Common Area" and/or "Area of Common Responsibility" under the Residential Declaration, the Office Park Declaration, the Park Declaration and/or the Town Center Declaration. To the extent that the Town Center Association has assumed and accepted certain responsibilities hereunder, including the maintenance and insurance

of the Maintenance Property, the other Parties hereto are relieved and released from the performance of such responsibilities. In the event that all or any part of the Town Center Association's responsibilities under this Declaration are assumed by, or all or any portion of the Maintenance Property is dedicated to, any local, state or federal government entity, the Town Center Association shall be relieved of such responsibility to the extent so assumed or dedicated; provided, however, that in connection with such assumption or dedication, the Town Center Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities if the Town Center Association's board of directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

- d. Insurance. The Town Center Association shall keep in force property and public liability insurance on the Maintenance Property in accordance with the standards for insurance established in the Town Center Declaration.
- e. Right to Request Higher Level of Maintenance. The Parties hereto may request at any time that the Town Center Association provide a higher level of maintenance as to some or all of the Maintenance Property and/or provide additional related services than required hereunder and the Town Center Association shall provide such additional maintenance or services. The Party requesting such higher level of maintenance or additional services shall be solely responsible to pay all costs of the same, including any additional administrative fees which may result from such increase in the level of maintenance or services.

ARTICLE III: MAINTENANCE COMMITTEE

3.1 Responsibilities. Prior to January 1, 2026 (the "Establishment Date") or earlier in its sole discretion, the Town Center Association shall have the full and complete authority to carry out its responsibilities hereunder as its board of directors, in its sole discretion, deems appropriate and in the best interests of the Parties and the Development. From and after the Establishment Date, the Town Center Association shall continue to perform its duties hereunder, but the responsibility to supervise and direct the performance of such duties shall be assumed by and vested exclusively in a committee formed as described below (the "Maintenance Committee") which shall perform all ministerial functions relating to the maintenance of the Maintenance Property and the providing of services, such as the keeping of books, records and accounts and preparing budgets for the Joint Budget Items.

3.2 Organization. Effective as of the Establishment Date, the Town Center shall establish a Maintenance Committee for Daniel Island which shall be comprised of five (5) members. Each of the following, acting in its sole discretion, shall be entitled to appoint one (1) member of the Maintenance Committee upon its formation: (i) the Declarant; (ii) the Residential Association; (iii) the Office Park Association; (iv) the Park Association; and (v) the Town Center Association. Each member shall serve at the pleasure of the Party appointing such member and may be removed at any time, with or without cause, by such Party. Upon resignation, removal, death or disability of any member, the Party appointing such member shall be entitled to appoint a successor. Appointments, resignations, and removals shall be effective upon written notice to the Town Center Association's board of directors and the remaining members of the Maintenance Committee. The right to appoint members of the Maintenance Committee may be assigned from time to time. An executed copy of any such assignment shall be given to the other Parties having a right of appointment under this Section.

3.3 Governance. The number of members serving on the Maintenance Committee may be increased or decreased upon the unanimous written consent of all members serving at the time that such action is taken. Such consent shall name the Party or person entitled to appoint such additional member (in the event that the number is increased) or the Party no longer entitled to appoint a member (in the event that the number is decreased). The Maintenance Committee shall select a chairperson and adopt rules of order subject to the procedures set forth herein. The chairperson or any two members may call a meeting of the Maintenance Committee upon written notice to all members. Written notice of all meetings shall be provided to all members not less than four (4) calendar days prior to such meeting. No notice need be given to any member who has signed a waiver of notice for that meeting. A quorum of the Maintenance Committee shall consist of a majority of the members serving at the time of the meeting. Once a quorum is established at a meeting, a majority of members present may act at such meeting. Members of the Maintenance Committee may participate in a meeting by means of conference telephone or similar communications equipment, by means of which all persons participating in the meeting can converse with each other, and a member's participation in a meeting by such means shall constitute that member's presence in person at such meeting. Any action of the Maintenance Committee may also be taken without a formal meeting, without prior notice and without a vote, upon the written consent specifically authorizing the proposed action signed by all members then serving.

ARTICLE IV: OBLIGATION TO SHARE COSTS

4.1 Responsibility for Assessments. The Residential Association, the Office Park Association, and the Park Association shall each pay to the Town Center Association, an annual assessment to cover its respective portion of the costs, including insurance and reserves, incurred by the Town Center Association in performing its obligations under this Declaration. The obligation to pay this assessment shall be mandatory, whether or not the Party obligated to pay the same agrees with or is satisfied with the manner and extent of performance by the Town Center Association. No diminution or abatement of assessments shall be claimed or allowed for any alleged failure of the Town Center Association or the Maintenance Committee to take any action or perform any function required of it hereunder.

4.2 Computation of Assessments. At least sixty (60) days prior to the beginning of the fiscal year to which the budget relates, the Town Center Association, and after the Establishment Date, the Maintenance Committee, shall prepare a budget for performing the Town Center Association's obligations under this Declaration during the upcoming year, which may include an appropriate amount to be placed in a reserve fund for capital repairs and replacements if the Town Center Association, or the Maintenance Committee, as the case may be, deems a reserve fund necessary. The budget shall be adjusted to reflect any other sources of income available to the Town Center Association for providing the Joint Budget Items and any excess or deficiency in the budget assessed for the immediately preceding year, as compared to actual expenses for that period. The annual assessment of the Residential Association, the Office Park Association, the Town Center Association, and the Park Association, respectively, shall be a pro rata amount of the annual budget as determined based on the formula set forth in Exhibit "B" attached hereto and incorporated herein by this reference.

4.3 Payment of Assessments. On an annual basis, the Town Center Association shall provide all other Parties with a copy of the budget and a notice with respect to such Party's annual assessment amount. Prior to the last of the following events to occur: (a) February 15th of the fiscal year to which the budget relates, or (b) within sixty (60) days of receipt of such notice, each Party obligated to pay an annual assessment hereunder shall pay to the Town Center Association, the entire amount of its annual assessment, unless the Town Center Association's board of directors provides for the payment to be made in

installments. Any assessment delinquent for a period of more than thirty (30) days may incur a reasonable late charge in an amount determined by the Town Center Association's board of directors, plus interest (at a rate equal to the lesser of 18% per annum or the maximum lawful rate) on the principal amount of such delinquency plus all costs of collection, including, but not limited to, reasonable attorneys' fees actually incurred and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after ninety (90) days, the Town Center Association may institute suit to collect such amounts. All payments shall be applied first to costs and attorneys' fees, then to late charges, then to interest and then to the principal amount of such delinquent assessments.

4.4 Recordkeeping. The Town Center Association shall maintain or cause to be maintained full and accurate books of account with respect to the performance of its responsibilities hereunder. The books and records and related financial statements (the "Records") shall be made available for inspection and copying upon request by any member of the Maintenance Committee or any Party to this Declaration during normal business hours. Copying charges shall be paid by the person or Party requesting such copies. If any Party hereto desires to have the Records audited, it may do so at its own expense and the Town Center Association shall cooperate by making the Records available to the auditors, including all supporting materials (e.g. check copies, invoices, etc.), for the year(s) in question.

If the amount of actual expenses for the year remains in dispute after such audit, the Town Center Association shall cause a second audit to be performed by an auditor mutually acceptable to the Town Center Association and the Party or Parties who requested the initial audit. The decision of the second auditor shall be final and binding. If the amount as determined by the second auditor varies from the amount asserted by the Town Center Association by five percent (5%) or more, the Town Center Association shall pay the entire cost of the second audit. If the amount as determined by the second auditor varies from the amount asserted by the Town Center Association by two percent (2%) or less, then the Party or Parties who requested the initial audit shall pay the entire cost of the second audit. Otherwise, the cost of the second audit shall be shared equally by the Town Center Association and the Party or Parties who requested the initial audit. Variances shall be taken into account in the following year's budget as provided above.

4.5 Allocation of Expenses. Notwithstanding any other terms of this Declaration, the Town Center Association, and after the Establishment Date, the Maintenance Committee, shall have the power, in its discretion, to allocate expenses benefitting less than all of the Properties to only those Parties benefitted thereby. For example, if patrolling services are not provided to the Residential Association, expenses for such services shall be deemed not to benefit the Residential Association. In addition, contributions to Daniel Island Community Fund, Inc. shall be deemed not to benefit the Residential Association or the Park Association, since those Parties and their members contribute to Daniel Island Community Fund, Inc. through mandatory transfer fees.

In the event that certain expenses benefit less than all of the Properties, such expenses shall be levied against only the benefitted Parties and allocated based upon the formula set forth in Exhibit "B"; provided however, the Land and Building Points allocated to the remaining portions of the Properties shall be disregarded in determining the allocation of such expenses.

Failure of the Town Center Association or the Maintenance Committee to exercise its authority under this Section shall not be grounds for any action against the Town Center Association or the Maintenance Committee and shall not constitute a waiver of the right to exercise its authority under this Section in the future with respect to any expenses.

ARTICLE V: ANNEXATION

Declarant may from time to time unilaterally subject all or any portion of the real property within the Development to the provisions of this Declaration. Such annexation shall be accomplished by filing an amendment to this Declaration in the Register of Deeds of Berkeley County, South Carolina describing the property being so annexed. Such amendment shall not require the consent of any owner or of any other Party to this Declaration, but shall require the consent of the owner of such property being so annexed, if other than Declarant. Any such annexation shall be effective upon the filing for record of such amendment unless otherwise provided therein. Any such amendment may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the property being annexed in order to reflect the different character and intended use of such property.

ARTICLE VI: GENERAL

6.1 Use. The Parties hereby agree that every resident of Daniel Island and their family members, guests and social invitees shall have the right to use and enjoy all passive open space park areas within the Development. This right of use and enjoyment shall be subject to the rights of the respective Parties to adopt reasonable rules and regulations regarding the use of such park areas, including the right to limit the number of permitted guests; provided however, no Party may exclude any resident of Daniel Island from any passive park areas, except on a temporary basis or for the violation of rules regarding the use of such parks. The rights set forth herein specifically do not apply or extend to any of the facilities or properties owned or operated by The Daniel Island Club, LLC d/b/a the Daniel Island Club nor to any other improved parks or recreational areas, including but not limited to, the swim facility located in Scott Park and the swim and tennis facilities located in Daniel Island Park.

6.2 Notices. Any notice required to be given or delivered hereunder shall be served personally (including delivery by commercial courier service) or shall be mailed by registered or certified mail, return receipt requested, postage prepaid, to the Party to whom notice is being given. All such notices shall, for all purposes, be deemed delivered (a) upon personal delivery (including commercial courier service); or (b) on the third (3rd) day after mailing when mailed by registered or certified mail, postage prepaid, and properly addressed.

6.3 Enforcement. The obligations created hereunder may be enforced by the Parties hereto and their successors and assigns by any means available at law or in equity.

6.4 Amendment.

- a. By Declarant. The Declarant may amend this Declaration unilaterally at any time for the purpose of designating additional property as Maintenance Property, designating certain expenses as Joint Budget Items or deleting any property or Joint Budget Items previously included, by filing an amendment to this Declaration in the Register of Deeds of Berkeley County, South Carolina. The Declarant may also unilaterally amend this Declaration at any time and from time to time if such amendment is necessary to: (i) bring any provision hereof into compliance with any applicable governmental statute or regulation or judicial determination; (ii) enable any reputable title insurance company to issue title insurance coverage with respect to any portion of the Property; or (iii) enable any institution or government lender to make, purchase, insure or guarantee mortgage loans on any portion of the Properties; provided, however, any such amendment shall not adversely affect the

title to any property unless the owner consents in writing. Further, so long as the Declarant owns any portion of the Development, Declarant may unilaterally amend this Declaration for any other purpose, so long as such amendment does not materially adversely affect the substantive rights of any owner of any portion of the Properties, nor adversely affect title to any portion of the Properties without the consent of the affected owner.

- b. By the Parties Hereto. In addition to the above, this Declaration may be amended by a written instrument signed by all of the Parties hereto; however, so long as the Declarant owns any portion of the Development, the prior written consent of the Declarant shall also be required. No amendment may remove, revoke, or modify any right or privilege of Declarant without the prior written consent of Declarant.
- c. Validity of Amendments. Amendments to this Declaration shall become effective when recorded in the Register of Deeds of Berkeley County, South Carolina, unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six (6) months of its recordation or such amendment shall be deemed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

6.5 Dedication of Property. The Declarant or the Town Center Association, and after the Establishment Date, the Maintenance Committee (with the written consent of the Declarant, so long as Declarant owns any property within the Development) shall have the right to dedicate any roadways, parks, and other property within the Maintenance Property to the City of Charleston, Berkeley County, South Carolina, or any other governmental entity. The Party holding title to such property shall consent to the dedication and take any necessary actions to effectuate the dedication or shall assume sole and complete responsibility for the maintenance of such area and the costs thereof.

6.6 Duration. The provisions of this Declaration shall run with and bind the Properties and shall be and remain in effect perpetually to the extent allowed by law.

6.7 Binding Effect. This Declaration shall be binding upon and shall inure to the benefit of every owner of any portion of the Properties.

6.8 Interpretation. This Declaration shall be governed by and construed under the laws of the State of South Carolina.

6.9 Waiver. No failure of any Party hereto to exercise any power granted to such Party under this Declaration or insist upon strict compliance with this Declaration and no custom or practice at variance with the terms of this Declaration shall constitute a waiver of the right of such Party to demand exact compliance with the terms of this Declaration.

6.10 Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

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

6.12 Severability. Invalidation of any provision or application of a provision of this Declaration by any court shall not affect any other provisions or applications.

6.13 Captions. The captions of each Article and Section are inserted only for convenience and do not define, limit, extend, modify or add to the particular Article or Section to which they refer.

IN WITNESS WHEREOF, the undersigned have executed this Declaration as of this 27th day of November, 2000.

DECLARANT:

DANIEL ISLAND ASSOCIATES L.L.C.,
a Delaware limited liability company

IN THE PRESENCE OF:

Jan Johnson
Witness

By: [Signature] [SEAL]
Matthew R. Sloan, Vice President

Lisa M. Owens
Witness

Date Signed: November 27, 2000

RESIDENTIAL ASSOCIATION:

DANIEL ISLAND COMMUNITY ASSOCIATION,
INC., a South Carolina nonprofit mutual benefit
corporation

IN THE PRESENCE OF:

Lisa M. Owens
Witness

By: [Signature] [SEAL]
Its: v.p.

Jan Johnson
Witness

Date Signed: November 27, 2000

(Additional signature pages follow)

OFFICE PARK ASSOCIATION:

DANIEL ISLAND OFFICE PARK OWNERS
ASSOCIATION, INC., a South Carolina nonprofit
mutual benefit corporation

IN THE PRESENCE OF:

Jan Johnson
Witness

Lisa M. Owens
Witness

By: [Signature] [SEAL]Its: V.P.Date Signed: November 27, 2000

PARK ASSOCIATION:

DANIEL ISLAND PARK ASSOCIATION, INC., a
South Carolina nonprofit mutual benefit corporation

IN THE PRESENCE OF:

Jan Johnson
Witness

Lisa M. Owens
Witness

By: [Signature] [SEAL]Its: V.P.Date Signed: November 27, 2000

TOWN CENTER ASSOCIATION:

DANIEL ISLAND TOWN CENTER OWNERS
ASSOCIATION, INC., a South Carolina
nonprofit mutual benefit corporation

IN THE PRESENCE OF:

Jan Johnson
Witness

Lisa M. Owens
Witness

By: [Signature] [SEAL]Its: V.P.Date Signed: November 27, 2000

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I, Tina M. Owens (Notary Public for South Carolina) do hereby certify that **Daniel Island Associates L.L.C.** by Matthew R. Sloan, its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 27 day of November, 2000.

Lisa M. Owens
Notary Public for South Carolina
My commission expires: 9-11-2010

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON) ACKNOWLEDGMENT

I, Tina M. Owens (Notary Public for South Carolina) do hereby certify that Daniel Island Community Association, Inc., by Matt Sloan, its V.P., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 27 day of November, 2000.

Lisa M. Owens
Notary Public for South Carolina
My commission expires: 9-11-2010

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I, Tina M. Owens (Notary Public for South Carolina) do hereby certify that Daniel Island Office Park Owners Association, Inc., by Matt Sloan, its V.P., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 27 day of November, 2000.

Lina M. Owens
Notary Public for South Carolina
My commission expires: 9-11-2010

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I, Tina M. Owens (Notary Public for South Carolina) do hereby certify that Daniel Island Park Association, Inc., by Matt Sloan, its V.P., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 27 day of November, 2000.

Lisa M. Owens
Notary Public for South Carolina
My commission expires: 9-11-2010

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF CHARLESTON)

I, Tina M. Owens (Notary Public for South Carolina) do hereby certify that **Daniel Island Town Center Owners Association, Inc.**, by Matt Sloan, its V.P., personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 27 day of November, 2000.

Lisa M. Owens
Notary Public for South Carolina
My commission expires: 9-11-2010

Exhibit "A"

MAINTENANCE PROPERTY

The Maintenance Property shall mean that property described below:

- a. Landscaping, street trees, irrigation, signage and lighting within the rights-of-way abutting and in the medians of the Mark Clark Interchange, River Landing Drive, portions of Seven Farms Road and Island Park Drive, and other arterial roads within the Development;
- b. Any arterial roads within the Development;
- c. Any retention ponds visible from the Mark Clark Interchange, River Landing Drive, portions of Seven Farms Road and Island Park Drive, and other arterial roads within the development;
- d. Viewing areas, bicycle and walkway paths, greenways and related facilities within the Development; and
- e. Entrance features and signage within the Development.

This Exhibit "A" may unilaterally be amended by the Declarant at any time for the purpose of designating additional property as Maintenance Property or deleting any property previously included by filing an amendment to this Declaration in the Register of Deeds of Berkeley County, South Carolina striking this Exhibit "A" and substituting a new Exhibit "A" which incorporates a revised description of the Maintenance Property.

Exhibit "B"

ASSESSMENT FORMULA

I. Assessments. All expenses for the Joint Budget Items shall be allocated among the Parties hereto based on the following formula:

Each separately subdivided parcel of property within the Residential Property, the Office Park Property, the Park Property, and the Town Center Property, shall be referred to herein as a "Parcel."¹ Each Parcel is assigned one (1) point for each acre of land (rounded to the nearest positive number) comprising the Parcel ("Land Points") and four (4) points for each 1,000 square feet of gross floor area within any structures, as defined below, on the Parcel (rounded to the nearest 1,000 square feet) ("Building Points"). "Structures" are stadiums, arenas, and coliseums as well as enclosed structures for which an initial certificate of occupancy has been issued or which are substantially complete, as determined by a licensed engineer or architect, but shall not include parking garages, roadways, or driveways.

The percentage of expenses to be assessed to the various Parties shall be computed by dividing the total Land Points and Building Points for all Parcels within a Party's property by the total Land Points and Building Points for all Parcels within the Properties as a whole. The resulting percentage shall be multiplied by the total budget amount calculated pursuant to Article IV of the Declaration to determine the annual assessment to be levied against each of the Parties as shown in the following example:

Total Land Points and Building Points for all Parcels within the Party's Property		Budget for	Assessment
Total Land Points and Building Points for all Parcels within the entire Properties	X	Joint Budget Items	to be levied against the Party
		=	

No provision herein shall prohibit the Town Center Association from entering into separate agreements with third parties to collect additional contributions to defray the costs of providing the Joint Budget Items. Any such additional contributions shall be reflected in the annual budget prepared by the Town Center Association.

II. Cutoff Date for Computation. The point totals for all Parcels and the percentage of expenses to be levied on each Parcel subject to assessment shall be computed annually by the Town Center Association, and after the Establishment Date, the Maintenance Committee, as of the date which is not less than sixty (60) days prior to the beginning of each fiscal year. Notice of the percentages for each Parcel (including a summary of the computations) shall be sent to each Party hereto together with the annual notice of assessment.

III. Variation of Level of Assessments. Notwithstanding anything to the contrary contained in this Declaration, in setting the levels or amounts of the various assessments provided for herein, and the formulas for determining same as provided above, the Town Center Association's board or the Maintenance

¹With respect to the Residential Property, the Office Park Property, the Park Property, and the Town Center Property, a "Parcel" shall mean a unit, lot or parcel as such terms are defined in the applicable declarations. Parcel shall not be deemed to include any common areas or other portions of the Properties owned by a community or owners association for the common use and enjoyment of the members of the association.

Committee may, but shall not be obligated to, consider the size of the Parcels, the level of maintenance provided by the Association and the particular usage of any Unit within a Parcel, such as commercial, retail, service, institutional, governmental, residential, recreational or open space (such designations being used as examples only). Such factors shall be considered a reasonable basis upon which to vary the assessments levied on the Parcels from the above stated formula. For example, the Board may determine that, due to the activities and usage of a stadium, the Building Points for the Parcel containing the stadium should be increased.

**NINTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Ninth Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made as of the 17th day of April, 2001 by The Daniel Island Company, Inc., a South Carolina corporation (the "Declarant").

WHEREAS, Section 7.1 of the Restrictions permits the Declarant to add additional property to the Restrictions which is a portion of the property described on Exhibit B to the Restrictions; and

WHEREAS, the Declarant desires to add the property more fully described on the attached **Exhibit A** which is a portion of the property described on Exhibit B to the Restrictions.

NOW, THEREFORE, the Declarant hereby supplements the Restrictions to provide that the property more fully described on the attached Exhibit A shall be subject to the Restrictions.

IN WITNESS WHEREOF, the Declarant has executed this Ninth Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

Janine Johnson
Wanda L. Amies

By: 
Matthew R. Sloan
Its: Vice President

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05/08/2001 11:02:46AM
Rec Fees 10.00 St Fees 0.00
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Register of Deeds Berkeley Co. SC
Cynthia B. Forte

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STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 18th day of April, 2001.

Tarane Johnson
Notary Public for South Carolina
My Commission Expires: 9/24/2007

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After recording return to:
Calloway Title & Escrow, LLC
Attn: Wanda D. Mitchell
4800 Ashford Dunwoody Rd. Ste. 240
Atlanta, Georgia 30338 3-0824

EXHIBIT "A"**PROPERTY DESCRIPTION**

Parcel R, Block C
(10.25 acres)

ALL that certain piece, parcel or tract of land situate, lying and being on Daniel Island, in the City of Charleston, Berkeley County, South Carolina, known as Parcel R, Block C, measuring and containing 10.25 acres, more or less, as shown on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK C, OWNED BY THE DANIEL ISLAND COMPANY, INC.," prepared by F. Elliott Quinn, III, RLS No. 10292, Thomas & Hutton Engineering Co. dated February 13, 2001, last revised April 12, 2001 and recorded on April 16, 2001 in Plat Cabinet O, Page 397-A in the Berkeley County Register of Deeds Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

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EXHIBIT "A"
PROPERTY DESCRIPTION

DIC to Ruby Apple I, LLC
Parcel R, Block C
(10.25 acres)

ALL that certain piece, parcel or tract of land situate, lying and being on Daniel Island, in the City of Charleston, Berkeley County, South Carolina, known as Parcel R, Block C, measuring and containing 10.25 acres, more or less, as shown on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK C, OWNED BY THE DANIEL ISLAND COMPANY, INC.," prepared by F. Eilliotte Quinn, III, RLS No. 10292, Thomas & Hutton Engineering Co. dated February 13, 2001, last revised April 12, 2001 and recorded on April 16, 2001 in Plat Cabinet O, Page 397-A in the Berkeley County Register of Deeds Office (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

TOGETHER with the right of access and use of the public drainage easement located along the southern boundary of the Property in the area described as "Greenway" on the Plat and shown as a public drainage easement on the plat entitled "Property Line Adjustment of Seven Farms Drive Extension; Parcel R - Future R/W, Blocks A/B, C/D & E, Parcels J, Block A & Open Spaces/Drainage Easements" by Thomas & Hutton Engineering Co. dated August 25, 1999 and recorded in Plat Cabinet O, Page 155-A&B on January 25, 2000.

Upon recording, please return to:

M. Maxine Hicks, Esq.
Epstein Becker & Green, P.C.
99 West Paces Ferry Road, N.W.
Suite 200
Atlanta, Georgia 30305

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Register of Deeds Berkeley Co. SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA

Reference: Book 1587
Page 220

COUNTY OF BERKELEY

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR DANIEL ISLAND TOWN CENTER ZONE**

THIS AMENDMENT is made this 22 day of May, 2001, by The Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, the Declarant recorded that certain Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone on March 24, 1999, in Book 1587, Page 220, et seq., Register of Deeds Office for Berkeley County, South Carolina (such instrument as amended and supplemented is hereinafter referred to as the "Declaration"); and

WHEREAS, Article XVI, Section 16.2(a) of the Declaration provides that the Declarant may unilaterally amend the Declaration by instrument in writing filed and recorded in the Register of Deeds Office for Berkeley County, South Carolina, without the approval of any Owner or Mortgagee; and

WHEREAS, the Declarant deems it appropriate to amend the Declaration for the purpose of clarifying the architectural review procedures contained in Article IX of the Declaration;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby amends Article IX, Section 9.3 of the Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone by adding the following subsection (e) thereto:

9.3(e) Certificate of Compliance. Upon completion of the construction or alteration of any Improvement in accordance with plans and specifications approved by the Architectural Review Board ("ARB"), the ARB shall, upon written request of the Owner or any Mortgagee thereof, issue a recordable certificate of compliance (a) identifying such Improvement and the Unit on which such Improvement is placed, and (b) stating that the plans and specifications for such Improvement and the

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Co Fee: 0.00 Pages: 2
Issued to: BUIST LAW FIRM
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

use or uses to be conducted thereon have been approved, subject to a disclaimer of obligation as set forth in Section 9.6. Preparation of such certificate shall be at the expense of such Owner or Mortgagee. Any certificate of compliance issued in accordance with provisions of this subsection shall be prima facie evidence of the facts therein stated and may be relied upon by any bona fide purchaser of such Unit, Mortgagee or any title insurer.

The definitions provided in Article I of the Declaration are incorporated herein by reference. Except as modified, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, The Daniel Island Company, Inc., as the Declarant, hereby executes this Amendment by and through its authorized representative on the date and year first above written.

DECLARANT:

THE DANIEL ISLAND COMPANY, INC.,
a South Carolina corporation

Janine Johnson
Dora H. Amico

By: [Signature]

Its: V.P.

[CORPORATE SEAL]

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ACKNOWLEDGMENT

I, Janine Johnson (Notary Public for South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, its VP, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 22nd day of May, 2001.

Janine Johnson
Notary Public for South Carolina

My commission expires: 9/29/2007

Upon recording, please return to:

M. Maxine Hicks, Esq.
Epstein Becker & Green, P.C.
99 West Paces Ferry Road, N.W.
Suite 200
Atlanta, Georgia 30305

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Register of Deeds Berkeley Co. SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA

Reference: Book 1587
Page 220

COUNTY OF BERKELEY

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR DANIEL ISLAND TOWN CENTER ZONE**

THIS AMENDMENT is made this 22 day of May, 2001, by The Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, the Declarant recorded that certain Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone on March 24, 1999, in Book 1587, Page 220, et seq., Register of Deeds Office for Berkeley County, South Carolina (such instrument as amended and supplemented is hereinafter referred to as the "Declaration"); and

WHEREAS, Article XVI, Section 16.2(a) of the Declaration provides that the Declarant may unilaterally amend the Declaration by instrument in writing filed and recorded in the Register of Deeds Office for Berkeley County, South Carolina, without the approval of any Owner or Mortgagee; and

WHEREAS, the Declarant deems it appropriate to amend the Declaration for the purpose of clarifying the architectural review procedures contained in Article IX of the Declaration;

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby amends Article IX, Section 9.3 of the Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone by adding the following subsection (e) thereto:

9.3(e) Certificate of Compliance. Upon completion of the construction or alteration of any Improvement in accordance with plans and specifications approved by the Architectural Review Board ("ARB"), the ARB shall, upon written request of the Owner or any Mortgagee thereof, issue a recordable certificate of compliance (a) identifying such Improvement and the Unit on which such Improvement is placed, and (b) stating that the plans and specifications for such Improvement and the

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Co Fee: 0.00 Pages: 2
Issued to: BUIST LAW FIRM
Register of Deeds Berkeley Co. SC
Cynthia B. Forte

use or uses to be conducted thereon have been approved, subject to a disclaimer of obligation as set forth in Section 9.6. Preparation of such certificate shall be at the expense of such Owner or Mortgagee. Any certificate of compliance issued in accordance with provisions of this subsection shall be prima facie evidence of the facts therein stated and may be relied upon by any bona fide purchaser of such Unit, Mortgagee or any title insurer.

The definitions provided in Article I of the Declaration are incorporated herein by reference. Except as modified, the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, The Daniel Island Company, Inc., as the Declarant, hereby executes this Amendment by and through its authorized representative on the date and year first above written.

DECLARANT:

THE DANIEL ISLAND COMPANY, INC.,
a South Carolina corporation

Janine Johnson
Dona G. Amico

By: [Signature]

Its: V.P.

[CORPORATE SEAL]

STATE OF SOUTH CAROLINA)

ACKNOWLEDGMENT

COUNTY OF CHARLESTON)

I, Janine Johnson (Notary Public for South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, its VP, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 22nd day of May, 2001.

Janine Johnson
Notary Public for South Carolina

My commission expires: 9/29/2007

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)

Reference: Book 1587
 Page 220

**SECOND AMENDMENT TO THE DECLARATION OF COVENANTS,
 CONDITIONS AND RESTRICTIONS FOR DANIEL ISLAND TOWN CENTER ZONE**

THIS Second Amendment is made as of this 20th day of August, 2001 by the Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as "Declarant")

WITNESSETH:

WHEREAS, the Declarant recorded that certain Declaration of Covenants, Conditions and Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone on March 24, 1999, in Book 1587, Page 220, in the Register of Deeds Office for Berkeley County, South Carolina (such instrument as amended and supplemented as discussed herein is hereinafter referred to as the "Declaration"); and

WHEREAS, the Declaration was amended by the Declarant on September 28, 2000 recorded at Book 2046, Page 57 in the Register of Deeds Office for Berkeley County, South Carolina on October 5, 2000; and

WHEREAS, the Properties were made subject to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Shared Parking Facilities on August 19, 1999, recorded at Book 1723, Page 278; and

WHEREAS, the Declaration has also been supplemented as follows to add additional property to the Properties: Supplemental Declaration of Covenants, Conditions and Restriction for Daniel Island Town Center Zone, recorded on May 25, 1999 at Book 1644, Page 257; Second Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone, recorded on August 20, 1999 at Book 1723, Page 296; Third Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone, recorded on September 1, 1999 at Book 1734, Page 128; Fourth Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone, recorded on November 29, 1999 at Book 1798, Page 280; Sixth Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded on March 14, 2000 at Book 1873, Page 257 (Laura M. Leppert; Atlantic First Group, LLC; Tony A. Berenyi; and JDC Calhoun, Inc. properties) and April 6, 2000 at Book 1895, Page 150 (Laura M. Leppert property only); Seventh Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone, recorded on November 28, 2000 at Book 2090, Page 202; Eighth Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded on December 4, 2000 at Book 2095, Page 253; and Ninth Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded on May 8, 2001 at Book 2249, Page 285; and

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 Register of Deeds Berkeley Co. SC
 Cynthia B. Forte

WHEREAS, Article X, Section 10.2 of the Declaration provides that the Declarant may modify in whole or in part, repeal or expand the "Initial Use Restrictions and Rules" stated in Exhibit "C" to the Declaration; and

WHEREAS, Article XVI, Section 16.2(a) of the Declaration provides that the Declarant may unilaterally amend the Declaration by instrument in writing filed and recorded in the Register of Deeds Office for Berkeley County, South Carolina, without the approval of any Owner or Mortgagee; and

WHEREAS, the Declarant deems it appropriate to amend the Declaration for the purpose of regulating the supermarkets, drugstores and convenience stores within the Properties.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby:

1. Amends Exhibit "C" entitled "Initial Use Restrictions and Rules" to the Declaration by adding the following Sections 17, 18 and 19 thereto:

17. Supermarket. Unless specifically approved in writing by the ARB pursuant to Article IX, Section 9.1, and the Declarant, a "Supermarket", as defined below, is prohibited within the Properties. A "Supermarket" means a supermarket grocery store whose primary business is the sale of the full range of food products, including meats, fresh produce, dairy products, frozen foods, canned and boxed goods, prepared foods and sundry household products (for example, the range of merchandise sold by Publix, Piggly Wiggly and Kroger stores) and which occupies not less than 12,000 square feet of improved space. The term "Supermarket" shall not include convenience stores as that term is commonly used in the Charleston, South Carolina metropolitan area or speciality food stores, such as cheese shops or wine shops.
18. Drugstore. Unless specifically approved in writing by the ARB pursuant to Article IX, Section 9.1 and by the Declarant, a "Drugstore", as defined below, is prohibited within the Properties. A "Drugstore" means a drugstore which has a pharmacy for prescribed drugs and whose primary business is the sale of medications, health products and related sundries such as cosmetics and personal hygiene products. The term "Drugstore" shall not include a speciality health store which does not sell prescription drugs.
19. Convenience Store. Unless specifically approved in writing by the ARB pursuant to Article IX, Section 9.1 and by the Declarant, a "Convenience Store", as defined below, is prohibited within the Properties. A "Convenience Store" means as a convenience store as that term is commonly used in the Charleston, South Carolina metropolitan area.

2. The ARB and the Declarant hereby grant permission for a Supermarket and a Drugstore, as defined above in the addition to Exhibit C, Sections 17 and 18, respectively, to be located on the 10.25 acre parcel known as Parcel R, Block C, Daniel Island, as more fully described on that certain plat recorded on April 16, 2001 in Plat Cabinet O, Page 397-A in the Berkeley County Register of Deeds Office. The Declarant granted to Ruby Apple I, LLC the exclusive right to operate a Supermarket and a Drugstore on certain properties by a deed dated April 16, 2001 recorded at Book 2249, Page 289 on May 8, 2001 in the Berkeley County Register of Deeds Office.
3. The ARB and the Declarant hereby grant permission for a Convenience Store, as defined above in the addition to Exhibit C, Section 19, to be located on the 1.39 acre parcel known as Parcel R, Block D, Lot 1, Daniel Island, as more fully described on that certain plat recorded on April 5, 1999 in Plat Cabinet O, Page 39A in the Berkeley County Register of Deeds Office.
4. The definitions provided in Article I of the Declaration are incorporated herein by reference. Except as modified, the Declaration shall remain in full force and effect.

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IN WITNESS WHEREOF, The Daniel Island Company, Inc., as the Declarant, hereby executes this Second Amendment by and through its authorized representative on the date and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

C. Angus Dunlap
Signature of 1st Witness

By: Matthew R. Sloan
Its: Vice President

Janine Johnson
Signature of 2nd Witness

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, Janine Johnson (Notary Public for the State of South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 20 day of August, 2001.

Janine Johnson
Notary Public for South Carolina
My Commission Expires: 9/29/2007

IN WITNESS WHEREOF, the Architectural Review Board of the Daniel Island Town Center Zone hereby consents to Paragraphs 2 and 3 of this Second Amendment by and through its authorized representative on the date and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Architectural Review Board of the Daniel
Island Town Center Zone

Christy M. Lay
Signature of 1st Witness

By: *Matthew R. Sloan*
Matthew R. Sloan
Its: Board Member

Jamie Johnson
Signature of 2nd Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, the undersigned Notary Public for South Carolina, do hereby certify that the Architectural Review Board of the Daniel Island Town Center Zone, by Matthew R. Sloan, its Board Member, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 20th day of August, 2001.

Jamie Johnson
Notary Public for South Carolina
My commission expires: 9/29/2007

**TENTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Tenth Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Declaration") is made as of the ___ day of November, 2001 by The Daniel Island Company, Inc., a South Carolina corporation (the "Developer").

WHEREAS, Section 7.1 of the Declaration permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B to the Declaration; and

WHEREAS, the various properties described on the attached Exhibit A were previously conveyed by the Developer to various individuals and entities subject to the Declaration and the Developer hereby wishes to supplement the Declaration to include those various properties to reflect the permit encumbrance placed on the properties in their respective deeds of conveyance;

WHEREAS, the various properties described on Exhibit A attached hereto are portions of the property described on Exhibit B to the Declaration; and

NOW, THEREFORE, the Developer hereby supplements the Declaration to provide that the various properties more fully described on the attached Exhibit A are subject to the Declaration.

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IN WITNESS WHEREOF, the Developer has executed this Tenth Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

Jamne Johnson
W. M. R. Sloan

By: [Signature]
Matthew R. Sloan
Its: Executive Vice President

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Executive Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 28 day of November, 2001.

Jamne Johnson
Notary Public for South Carolina
My Commission Expires: 9/29/07

EXHIBIT A
Description of Properties

1. New Tradition Custom Homes, Inc., Parcel R, Block L, Lot 2 (0.28 acre)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.28 acres, 12,052 sq. ft. known and designated as Parcel R, Block L, Lot 2 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

2. New Tradition Custom Homes, Inc., Parcel R, Block L, Lot 4 (0.54 acre)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.54 acres, 23,441 sq. ft., known and designated as Parcel R, Block L, Lot 4 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

3. River Landing Properties, LLC, Parcel R, Block L, Lot 3 (0.35 acre)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.35 acres, 15,066 sq. ft. known and designated as Parcel R, Block L, Lot 3 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

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4. CCB Riverlanding, LLC, Parcel R, Block L, Lot 5 (0.28 acre)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.28 acres, 12,231 sq. ft. known and designated as Parcel R, Block L, Lot 5 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliott Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

5. National Golf Course Owners Association, Inc., Parcel R, Block F, Lot 3 (1.06 acre)

ALL of those certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 1.06 acres known and designated as Parcel R, Block F, Lot 3 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, PHASE 9 & PARCEL V, PHASE I TO CREATE PARCEL R, BLOCK F, LOTS 1, 2 & 3 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliott Quinn, I I I, RLS No.10292 of Thomas & Hutton Engineering Co. dated June 20, 2001 and recorded in Plat Cabinet P, Page 89-A in the Berkeley County Register of Deeds Office on October 2,2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

**SUPPLEMENT TO THE
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Town Center Declaration") is made as of the 22 day of April, 2002 by The Daniel Island Company, Inc., a South Carolina corporation (the "Developer").

WHEREAS, Section 7.3 of the Town Center Declaration permits the Developer to remove property from coverage of the Town Center Declaration;

WHEREAS, the property more fully described on the attached **Exhibit A** (the "Property") was made subject to the Town Center Declaration pursuant to the Eleventh Supplement to the Town Center Declaration dated December 5, 2001 and recorded in the Register of Deeds Office for Berkeley County at Book 2520, Page 281 on December 10, 2001;

WHEREAS, the Property is being conveyed to the Daniel Island Community Association, Inc. by Seven Farms Drive, LLC by a deed recorded simultaneously with this Supplement;

WHEREAS, the Property is being made subject to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Residential Zone ("Residential Restrictions") by the above referenced deed;

WHEREAS, the Developer desires to remove from coverage of the Town Center Declaration the Property so that it will solely be subject to the Residential Restrictions.

NOW, THEREFORE, the Developer hereby supplements the Town Center Declaration to provide that the Property more fully described on the attached Exhibit A shall be removed from coverage under the terms of the Town Center Declaration.

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Register of Deeds Berkeley Co. SC
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IN WITNESS WHEREOF, the Developer has executed this Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Walter B. Boring
Robert Hoffman

THE DANIEL ISLAND COMPANY, INC.

By: Matthew R. Sloan

Matthew R. Sloan

Its: Executive Vice President

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, Janine Johnson (Notary Public for the State of South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Executive Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 22 day of April, 2002.

Janine Johnson
Notary Public for South Carolina
My Commission Expires: 9/29/07

EXHIBIT A
Description of Property

ALL of those certain piece, parcel or tract of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.82 acres known and designated as Open Space RF1, formerly a portion of Parcel R, Block F, Lot 2 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK F, LOTS 1 & 2 TO CREATE OPEN SPACE RF1 OWNED BY THE DANIEL ISLAND COMPANY, INC." prepared by F. Elliott Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated November 1, 2001 and recorded in Plat Cabinet P, Page 136-A in the Berkeley County Register of Deeds Office on January 11, 2002 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-115

BEING a portion of the property conveyed to Seven Farms Drive, LLC by deed of The Daniel Island Company, Inc., dated December 10, 2001 and recorded in the Register of Deeds Office for Berkeley County in book 2520, Page 266.

**TENTH SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Tenth Supplement to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Declaration") is made as of the ____ day of November, 2001 by The Daniel Island Company, Inc., a South Carolina corporation (the "Developer").

WHEREAS, Section 7.1 of the Declaration permits the Developer to add additional property to the Restrictions which is a portion of the property described on Exhibit B to the Declaration; and

WHEREAS, the various properties described on the attached Exhibit A were previously conveyed by the Developer to various individuals and entities subject to the Declaration and the Developer hereby wishes to supplement the Declaration to include those various properties to reflect the permit encumbrance placed on the properties in their respective deeds of conveyance;

WHEREAS, the various properties described on Exhibit A attached hereto are portions of the property described on Exhibit B to the Declaration; and

NOW, THEREFORE, the Developer hereby supplements the Declaration to provide that the various properties more fully described on the attached Exhibit A are subject to the Declaration.

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Register of Deeds Berkeley Co. SC
Cynthia B. Forte

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IN WITNESS WHEREOF, the Developer has executed this Tenth Supplement as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

Janine Johnson

W. M. B.

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

By: Matthew R. Sloan

Matthew R. Sloan

Its: Executive Vice President

ACKNOWLEDGMENT

I, the undersigned Notary Public for the State of South Carolina, do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Executive Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 28 day of November, 2001.

Janine Johnson
Notary Public for South Carolina
My Commission Expires: 9/29/07

EXHIBIT A
Description of Properties

1. New Tradition Custom Homes, Inc., Parcel R, Block L, Lot 2 (0.28 acre)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.28 acres, 12,052 sq. ft. known and designated as Parcel R, Block L, Lot 2 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

2. New Tradition Custom Homes, Inc., Parcel R, Block L, Lot 4 (0.54 acre)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.54 acres, 23,441 sq. ft., known and designated as Parcel R, Block L, Lot 4 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

3. River Landing Properties, LLC, Parcel R, Block L, Lot 3 (0.35 acre)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.35 acres, 15,066 sq. ft. known and designated as Parcel R, Block L, Lot 3 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

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4. CCB Riverlanding, LLC, Parcel R, Block L, Lot 5 (0.28 acre)

ALL of those certain tracts, parcels and pieces of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 0.28 acres, 12,231 sq. ft. known and designated as Parcel R, Block L, Lot 5 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, BLOCK L, LOTS 2 Through 5 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, III, RLS No.10292 of Thomas & Hutton Engineering Co. dated August 8, 2001 and recorded in Plat Cabinet P, Page 95-A in the Berkeley County Register of Deeds Office on October 10, 2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

5. National Golf Course Owners Association, Inc., Parcel R, Block F, Lot 3 (1.06 acre)

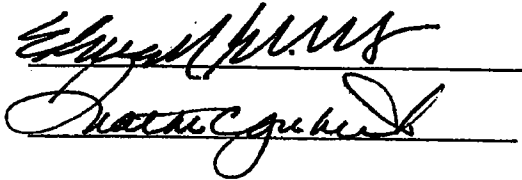
ALL of those certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, measuring and containing approximately 1.06 acres known and designated as Parcel R, Block F, Lot 3 on that certain plat entitled "FINAL SUBDIVISION PLAT OF PARCEL R, PHASE 9 & PARCEL V, PHASE1 TO CREATE PARCEL R, BLOCK F, LOTS 1, 2 & 3 OWNED BY THE DANIEL ISLAND COMPANY, INC. " prepared by F. Elliotte Quinn, I I I, RLS No.10292 of Thomas & Hutton Engineering Co. dated June 20, 2001 and recorded in Plat Cabinet P, Page 89-A in the Berkeley County Register of Deeds Office on October 2,2001 (the "Plat"), having such measurements, metes, buttings and boundings as set forth on the Plat which is incorporated herein by reference.

Portion of TMS No. 275-00-00-114

New Tradition Custom Homes, Inc. hereby confirms its consent to Parcel R, Block L, Lot 2 (0.28 acres) and Parcel R, Block L, Lot 4 (0.54 acres), more fully described above, being made subject to the Declaration, as was provided in the deed by The Daniel Island Company, Inc. dated October 26, 2001, recorded in Book 2467, Page 64 in the Register of Deeds Office for Berkeley County on October 30, 2001 for Lot 2 and the deed dated November 30, 2001, recorded in Book 2521, Page 124 in the Register of Deeds Office for Berkeley County on December 10, 2001 for Lot 4.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

NEW TRADITION CUSTOM HOMES,
INC.


Heather C. Gilbert

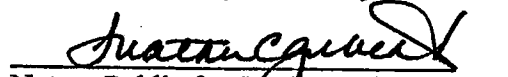
By: W. Steve Baker
Its: President

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, Heather C. Gilbert, the undersigned Notary Public for the State of South Carolina, do hereby certify that New Tradition Custom Homes, Inc., by W Steve Baker Its President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 31st day of May, 2002.

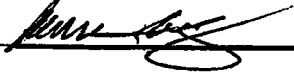

Notary Public for South Carolina
My Commission Expires: 7.29.03

River Landing Properties, LLC hereby confirms its consent to Parcel R, Block L, Lot 3 (0.35 acres), more fully described above, being made subject to the Declaration, as was provided in the deed by The Daniel Island Company, Inc. dated October 26, 2001, recorded in Book 2466, Page 306 in the Register of Deeds Office for Berkeley County on October 30, 2001.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

RIVER LANDING PROPERTIES, LLC



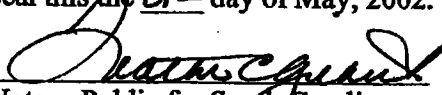

By: 
Its: Member

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, Heather C. Gubert, the undersigned Notary Public for the State of South Carolina, do hereby certify that River Landing Properties, LLC, by W. Kirk King, Its President/Member, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

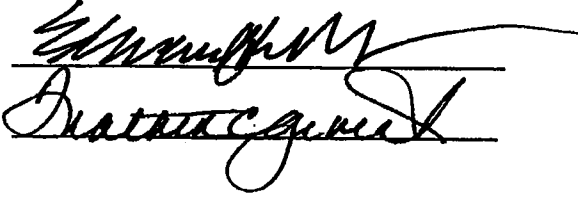
Witness my hand and official seal this the 31st day of May, 2002.


Notary Public for South Carolina
My Commission Expires: 7-29-03

CCB Riverlanding, LLC hereby confirms its consent to Parcel R, Block L, Lot 5 (0.28 acres), more fully described above, being made subject to the Declaration, as was provided in the deed by The Daniel Island Company, Inc. dated October 26, 2001, recorded in Book 2473, Page 134 in the Register of Deeds Office for Berkeley County on November 2, 2001.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

CCB RIVERLANDING, LLC



By: 
Its: Member

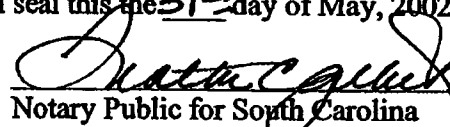
STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, Heather C. Gubert, the undersigned Notary Public for the State of South Carolina, do hereby certify that CCB Riverlanding, LLC, by W.E. Cook II, Its Member, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 31st day of May, 2002.



Notary Public for South Carolina

My Commission Expires: 7-29-03

National Golf Course Owners Association, Inc. hereby confirms its consent to Parcel R, Block F, Lot 3 (1.06 acres), more fully described above, being made subject to the Declaration, as was stated in the deed by The Daniel Island Company, Inc. dated November 5, 2001 recorded in Book 2479, Page 111 in the Register of Deeds Office for Berkeley County on November 7, 2001.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

NATIONAL GOLF COURSE OWNERS
ASSOCIATION, INC.

Barbara Deane
Christy Higgins

By: *Michael K. Hughes*
Its: Executive Director

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, *Michael Fickling*, the undersigned Notary Public for the State of South Carolina, do hereby certify that National Golf Course Owners Association, Inc., by *Michael K. Hughes*, Its *Executive Director*, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the *31st* day of May, 2002

Michael Fickling
Notary Public for South Carolina
My Commission Expires: *2/26/08*

000069751 Bk:02749 Pg:00268

**AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR DANIEL ISLAND TOWN CENTER ZONE
(Book 1587, Page 220)**

THIS Amendment to the Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone (the "Amendment") recorded in the Berkeley County Register of Deeds Office in Book 1587, Page 220 (the "Restrictions") is made as of the 23rd day of May, 2002 by The Daniel Island Company, Inc., a South Carolina corporation (the "Declarant").

WHEREAS, the Declarant conveyed a 3.81 acre tract of property located in Parcel N, Phase 7, Daniel Island, Berkeley County, City of Charleston, South Carolina as more fully described on the attached Exhibit A (the "Property") to HHHunt Assisted Living, Inc., a Virginia corporation ("Hunt") by a deed dated June 27, 2000, recorded in Book 1966, Page 129 on June 30, 2000 in the Register of Deeds Office for Berkeley County with the Restrictions listed as a Permitted Exception; and

WHEREAS, the Declarant and Hunt also added the Property to the Restrictions by the Seventh Supplement to Declaration of Covenants, Conditions and Restrictions for Daniel Island Town Center Zone recorded in the Berkeley County Register of Deed Office in Book 2090, Page 202 on November 28, 2000; and

WHEREAS, upon the request of Hunt, the Declarant has agreed to amend the terms by which the Property was made subject to the Restrictions as stated below.

NOW, THEREFORE, the Declarant and Hunt hereby amend the Restrictions to provide the following:

1. The Property will not be subject to the Right of First Refusal, contained in Section 15.1 of the Restrictions, after the recordation of this Amendment.
2. The Property will not be subject to the Option to Repurchase, contained in Section 15.2 of the Restrictions, after the recordation of this Amendment.
3. All other terms, conditions and requirements of the Restrictions will remain in full force and effect with respect to the Property.
4. Terms not defined herein will have the same meaning given to them in the Restrictions.

(00463351.2)00463351.

1

FILED, RECORDED, INDEXED
05/23/2002 04:43:04PM
Rec Fees 10.00 St Fees 0.00
Co Fees 0.00 Pages 4
Issued for TURNER PARGETT
Register of Deeds Berkeley Co. SC
Cynthia R. Forte

(4)

000069751 Bk:02749 Pg:00289

IN WITNESS WHEREOF, the Declarant and Hunt have executed this Amendment to the Restrictions as of the date set forth above.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DANIEL ISLAND COMPANY, INC.

Lottie Hoffmann
Monica A. Amico

By: [Signature]
Matthew R. Sloan
Its: Executive Vice President

STATE OF SOUTH CAROLINA)

COUNTY OF BERKELEY)

ACKNOWLEDGMENT

I, Janine Johnson (Notary Public for the State of South Carolina) do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, Its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 24 day of May, 2002.

Janine Johnson
Notary Public for South Carolina
My Commission Expires: 9/29/07

Signature of Hunt on Following Page

{00463351.2}00463351.

000069751 Bk:02749 Pg:00290

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

HHHUNT ASSISTED LIVING, INC.

William R. Cook, Jr.
William R. Cook, Jr.

By: *William R. Cook, Jr.*
Print Name: William R. Cook, Jr.
Title: Vice President

STATE OF SOUTH CAROLINA)

ACKNOWLEDGMENT

COUNTY OF RICHLAND)

I, WILLIAM O. HIGGINS (Notary Public for the State of ^{South Carolina} ~~Virginia~~) do hereby
certify that HHHunt Assisted Living, Inc., a Virginia corporation, by William R. Cook, Jr., its
Vice President, personally appeared before me this day and acknowledged the due execution of
the foregoing instrument.

Witness my hand and official seal this the 23rd day of May, 2002.

William O. Higgins
Notary Public for South Carolina
My Commission Expires: Dec 7, 2003

{00463351.2}00463351.

EXHIBIT A
Property Description 000069751 Bk:02749 Pg:00291
Parcel N, Phase 7 (3.81 acres)

ALL of that certain tract, parcel and piece of land, situate lying and being on Daniel Island, City of Charleston, Berkeley County, known and designated as "Parcel N, Phase 7, 165,883 sq. ft., 3.81 acres" on that certain plat entitled "Subdivision Plat of Parcel N, Phase 7 & 8, Daniel Island, Owned by: The Daniel Island Company, Inc., Daniel Island, City of Charleston, Berkeley County, S.C." prepared by F. Elliott Quinn, III, R.S. No. 10292 for Thomas & Hutton Engineering Co., dated November 22, 1999 and recorded in Plat Cabinet O, Page 251-A in the Berkeley County Register of Deeds Office on June 28, 2000 (the "Plat"), having such measurements, metes, butts and boundings as set forth on the Plat which is incorporated herein by reference.

BEING the same property conveyed to HHHunt Assisted Living, Inc., a Virginia corporation by The Daniel Island Company, Inc., a South Carolina corporation, dated June 27, 2000 and recorded in the Register of Deeds Office for Berkeley County in Book 1966, Page 129 on June 30, 2000,

TMS No. 275-00-00-140

{00463351.2}00463351.

Prepared by and upon recording return to:

Constance P. Haywood, Esq.
Epstein Becker & Green P.C.
Resurgens Plaza, Suite 2700
945 East Paces Ferry Road
Atlanta, Georgia 30326

FILED, RECORDED, INDEXED
05/19/2003 03:50:06PM
Rec Fee: 10.00 St Fee: 0.00
Co Fee: 0.00 Pages: 4
Issued to: BUIST LAW FIRM
Register of Deeds Berkeley Co., SC
Cynthia B. Forte

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Cross Reference to:

Book 1587, Page 220,
Register of Deeds for Berkeley
County, South Carolina

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR DANIEL ISLAND TOWN CENTER ZONE**

THIS AMENDMENT is made this 12 day of May, 2003, by The Daniel Island Company, Inc., a South Carolina corporation (hereinafter referred to as the "Declarant").

WITNESSETH

WHEREAS, Declarant recorded that certain Declaration of Covenants, Conditions, and Restrictions for Daniel Island Town Center Zone on March 24, 1999, in Book 1587, Page 220, *et seq.*, in the Office of the Register of Deeds of Berkeley County, South Carolina (such instrument as amended and supplemented is hereinafter referred to as the "Declaration");

WHEREAS, Article XVI, Section 16.2(a) of the Declaration provides that the Declarant may unilaterally amend the Declaration by instrument in writing filed and recorded in the Office of Register of Deeds of Berkeley County, South Carolina, without the approval of any Owner or Mortgagee; and

WHEREAS, the Declarant deems it appropriate to amend the Declaration for the purposes of amending provisions as more specifically set forth herein.

NOW, THEREFORE, pursuant to the powers retained by Declarant under the Declaration, Declarant hereby amends the Declaration as follows:

1. Section 8.14 of the Declaration shall be deleted in its entirety and shall be replaced by the following paragraph:

8.14 Transfer Fee. Except for the "Excluded Transactions" (as defined below), upon the sale or transfer of title to any Unit, or any portion thereof, a transfer fee shall be due and payable at the time of closing for such sale or transfer equal to one-fourth of one percent (0.25%) of the total purchase price of such Unit, or portion thereof, (the "Transfer Fee"). The Transfer Fee shall be paid to Daniel Island Community Fund, Inc., a South Carolina tax-exempt community service organization ("DICF"), and such funds may be used by DICF in its sole discretion in accordance with its articles of incorporation and by-laws. By way of example only, if a Unit, or any portion thereof, is sold for a purchase price of \$100,000.00, the Transfer Fee due and payable would be \$250.00 (\$100,000.00 x .0025 = \$250.00). DICF may require the purchasing and/or selling Owner to provide reasonable proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds or other such evidence.

The purchaser or transferee of a Unit, or any portion thereof, shall be responsible for the payment of the Transfer Fee at closing and the closing attorney for the purchaser or transferee shall be responsible for delivery of the Transfer Fee to DICF. In the event that the Transfer Fee is not paid at closing, the amount due shall be collectible as an assessment as set forth in this Article VIII, shall bear interest, and shall constitute a lien against the Unit. Declarant and the Association hereby grant DICF a power-of-attorney, coupled with an interest, so as to provide DICF with the right, at no expense to the Declarant or the Association, to collect the Transfer Fee and enforce the provisions of this Section 8.14 against the Owner of the Unit, including, but not limited to, the right to seek collection of the Transfer Fee and other sums payable pursuant to this Section 8.14 as well as the right to assess a Specific Assessment (as provided in Article VIII) against the Owner's Unit or portion thereof. In addition, DICF may collect its reasonable attorneys' fees and court costs in enforcing the provisions of this Section 8.14.

Notwithstanding the foregoing, the Transfer Fee shall not be due and payable for the following transactions (collectively, the "Excluded Transactions"):

- (a) The sale of any Unit, or portion thereof, by Declarant;
- (b) The lease of a Unit, or portion thereof, to a Leasehold Owner;
- (c) The transfer of a Unit, or portion thereof, to the spouse of an Owner or to a direct linear descendant of the Owner;
- (d) The transfer of a Unit, or portion thereof, to a trust whose beneficiaries are solely the spouse and direct linear descendants of the Owner;
- (e) The transfer of a Unit, or portion thereof, to an entity in which the Owner owns, directly or indirectly, not less than 51% of the ownership interests in such entity;
- (f) The transfer of a Unit, or portion thereof, to an entity that owns, directly or indirectly, not less than 51% of the ownership interests in Owner;
- (g) a Mortgagee acquiring title to a Unit, or portion thereof, pursuant to a foreclosure action;
- (h) a Mortgagee acquiring title to a Unit or portion thereof, pursuant to a conveyance in lieu of foreclosure;
- (i) Any transfer which the Declarant, in its sole discretion, waives in writing the Transfer Fee; or
- (j) Any transfer which DICF, in its sole discretion, waives in writing the Transfer Fee.

Except for the Excluded Transactions permitted under subparagraph (a) above (for which no notice shall be required), the transferring Owner shall give DICF at least thirty (30) days' prior written notice of any transfer which is an Excluded Transaction with sufficient documentation to establish that the transfer is an Excluded Transaction.

It is hereby acknowledged that, in the event a transfer of a Unit, or portion thereof, is deemed in that particular instance to be an "Excluded Transaction", the

subsequent transfer of that Unit, or portion thereof, shall again be subject to the Transfer Fee unless such subsequent transfer independently qualifies as a separate Excluded Transaction in accordance with this Section 8.14.

This Section 8.14 shall inure to the benefit of DICF and its successors and assigns and shall not be amended by the Association without the prior written consent of DICF, which may be given or withheld in DICF's sole discretion.

2. Section 1.42 of the Declaration shall be deleted in its entirety and shall be replaced by the following paragraph:

1.42 "Unit": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy within the Daniel Island Town Center Zone as set forth in the Master Plan, subject to compliance with the Governing Documents. For example, each individual condominium unit created by a horizontal property regime shall constitute a separate Unit. The term shall refer to the land, if any, which is part of the Unit as well as any Improvements thereon. Each separately platted lot shall be deemed to be a separate Unit, regardless of the number of uses or businesses operated on such lot, unless otherwise specified by Supplemental Declaration.

In the case of a portion of the Properties intended and suitable for subdivision but as to which no final lot subdivision map has been filed, such property shall be deemed to be a single Unit until such time as a final lot subdivision map is filed of record with respect to all or a portion of the property. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any portion not encompassed by such plat shall continue to be treated in accordance with this paragraph.

In the Association's sole discretion, any portion of the Properties subject to the jurisdiction of a District Association, such as a horizontal property regime, may be treated as a single Unit solely for purposes of voting and assessments under this Declaration. In such event, the District Association shall be responsible for casting all votes and for collecting all assessments and other sums from the members of the District Association. All votes shall be cast and all amounts shall be remitted to the Association pursuant to such procedures as may be adopted by the Association.

The term "Unit" shall not include Common Area, common property of any District Association, or property dedicated to the public.

3. Section 1.20 of the Declaration shall be deleted in its entirety and shall be replaced by the following paragraph:

1.20 "District": one or more Units which share common interests, other than those common to all Units in the Properties, as more particularly described in Section 3.3. For example, and by way of illustration and not limitation, an office complex comprised of several Units surrounding a common plaza, a medical park comprised of several Units sharing an entry feature or other common public areas, or a retail/commercial center comprised of various Units sharing common public areas, or the Units within a horizontal property regime, each might be designated as separate Districts. Notwithstanding Section 3.3 of the Declaration, unless the Declarant or the Board shall indicate otherwise in a Supplemental Declaration, each horizontal property regime shall constitute a separate District. Where the context so permits or requires, the term "District" also refers to a District Association or a District Committee established to act for the Units within the

District. District boundaries may be established and modified as provided in Section 3.3.

4. Exhibit "D", Section 1(c)(i) shall be amended by deleting the word "Multifamily" under the heading **Benefit Factor** and inserting in lieu thereof the word "Residential."

5. Exhibit "D", Section 1(c)(ii) shall be amended by deleting the following phrase:

"(d) Multifamily – apartments"

and inserting in lieu thereof the following phrase:

"(d) Residential – apartments, residential condominiums, and other residential uses"

The definitions set forth in Article 1 of the Declaration are incorporated herein by reference. Except as specifically amended hereby, the Declaration and all terms thereof shall remain in full force and effect.

IN WITNESS WHEREOF, The Daniel Island Company, Inc., as Declarant, hereby executes this Amendment by and through its authorized representative on the date and year first above written.

Signed, sealed and delivered in the presence of:

Cheryl L. Johnson
Witness
[Signature]
Witness

DECLARANT:

THE DANIEL ISLAND COMPANY, INC., a
South Carolina corporation

By: [Signature] (SEAL)
Matthew R. Sloan
Vice President

STATE OF SOUTH CAROLINA)
COUNTY OF Berkeley)

ACKNOWLEDGMENT

I, Janine Johnson, the undersigned Notary Public for the State of South Carolina, do hereby certify that The Daniel Island Company, Inc., by Matthew R. Sloan, its Vice President, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 12 day of May, 2003.

Janine Johnson (SEAL)
Notary Public

My Commission Expires: 9/29/07