

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND BYLAWS ARE SUBJECT TO BINDING ARBITRATION PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT, SECTION 15-48-10 ET. SEQ., AS AMENDED.**

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
AFFIRMATION OAKS

THIS DECLARATION is made on the date hereinafter set forth by Affirmation Oaks, LLC., (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property located on James Island in the City of Charleston, County of Charleston, State of South Carolina, which is more particularly described as:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY THIS REFERENCE.

NOW THEREFORE, Declarant hereby declares that the Lots described above shall be held, sold and conveyed subject to the following easements, covenants, conditions and restrictions which are for the purpose of protecting the value and desirability thereof and which shall run with the Lots and be binding on all parties having any right, title or interest in the Lots, or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner thereof.

ARTICLE I  
DEFINITIONS

Section 1. "Association" shall mean and refer to the Affirmation Oaks Homeowners Association, Inc., its successors and assigns.

Section 2. "Property" shall mean and refer to that certain real property hereinbefore described and such additions thereto as may hereafter be brought within the jurisdiction of the Association by Declarant.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Common Areas" shall mean all real property (including improvements thereon) owned by the Association for the common use and enjoyment

of the Owners. The Common Areas to be owned by the Association shall be as follows:

SEE EXHIBIT "B" ATTACHED HERETO AND  
MADE A PART HEREOF BY THIS REFERENCE

Section 5. "Lot" shall mean and refer to any plot of land reflected on any recorded subdivision map of the Property with the exception of Common Areas and any street dedicated to a public body.

Section 6. "Declarant" shall mean and refer to Affirmation Oaks, LLC its successors and assigns.

Section 7. "AFFIRMATION OAKS" as used herein shall mean that residential community known as AFFIRMATION OAKS as reflected on the Plat.

Section 8. "Declaration" shall mean and refer to this instrument.

Section 9. "Member" shall mean and refer to those persons entitled to membership as provided in this Declaration.

Section 10. "By-Laws" shall mean the By-Laws of the Association attached hereto as Exhibit "C".

## ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot subject to the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by at least two-thirds (2/3) of each class of Members and properly recorded.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Areas and facilities to the immediate members of his family (which live in the same household as the Owner), any tenants who reside in a residence constructed on the Owner's Lot or to any contract purchasers who reside in a residence constructed on the Owner's Lot.

Section 3. Suspension. The Association has the right to suspend the voting rights and rights to use of the recreational facilities by an Owner for any period during which any assessment against the Lot remain unpaid; and for a period not to

exceed sixty (60) days for any infraction of its published rules and regulations.

### ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine but in no event shall more than one vote be cast with respect to any one Lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership upon the occurrence of either of the following events, whichever occurs first:

- (a) the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; or
- (b) January 1, 2008.

### ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants and each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Except as to first mortgagees as hereinafter provided, a sale or transfer of the Lot shall not affect the assessment lien and shall pass to successors in title.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the

residents in AFFIRMATION OAKS, and for the improvement and maintenance of the Common Areas (and any improvements constructed thereon) and any streets, ingress/egress easements, ponds, creeks, marsh or drainage facilities not maintained by a public body. In addition, the assessments shall be used to maintain the Association and any expenses related thereto.

**Section 3. Annual Assessment.** The annual assessment shall be set by the Board of Directors prior to the sale of the first Lot not to exceed Three Hundred (\$300.00) Dollars per lot. From and after said date, the maximum annual assessment shall be established by the Declarant and/or Board of Directors so that the total assessments paid by all Owners of Lots is sufficient to adequately maintain the Common Areas and improvements thereon and to pay any expenses related to the operation of the Association. From and after January 1, 2004, the maximum annual assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year without a vote of the membership.

**Section 4. Working Capital Assessment and Transfer Fee.**

**A. Working Capital Assessment.** At the time of the first sale of each Lot from the Declarant to an Owner, there shall be assessed by the Association and collected from each Owner/purchaser a working capital assessment equal to Two Hundred Dollars (\$200.00) to establish and maintain a working capital fund for the use and benefit of the Association. The purpose of such working capital fund is to insure that the Association will have cash available to meet unforeseen expenditures or to acquire equipment or service deemed necessary by the Association. Such working capital assessments shall not be considered as advance payment of regular assessments.

**B. Transfer Fee.** Excluding the first sale of each Lot from the Declarant to an Owner and also excluding the first sale by Declarant to a builder or contractor who purchases such Lot for the sole purpose of constructing a single-family residential dwelling thereon for resale to an ultimate user, but including all subsequent sales of all Lots, there shall be assessed by the Association and collected from the Purchaser of each Lot a transfer fee equal to the annual assessment then being charged, which transfer fee shall be paid to the Association and used by the Association for its regular operation and reserves. In the event of nonpayment of such transfer fee, the amount due shall bear interest and shall be collectible as an assessment as set forth herein.

**Section 5.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any improvement (such as recreational equipment, etc.) construction, reconstruction, repair or replacement of any capital improvement upon the Common Areas, provided that, any such assessment shall have the approval of at least two-thirds

(2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors may assess a special assessment in any one year not to exceed Two Hundred (\$200.00) Dollars per Lot without the vote of the membership.

Section 6. Notice and Quorum for Any Action Authorized Under Section 5. Written notice of any meeting called for the purpose of taking any action authorized under Section 5 and the quorum required shall be as set forth in the By-Laws.

Section 7. Uniform Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots and shall be collected on an annual basis unless the Board elects to use another basis.

Section 8. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the transfer of a Lot from Declarant to a third-party buyer. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Declarant and/or the Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Declarant and/or the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect of Non-payment of Assessments, Fines, Transfer Fees, Violations of Covenants and Restrictions; Remedies of the Association. Any assessment not paid within fifteen (15) days after the due date shall be subject to a late charge of five percent (5%) of the assessment due and shall thereafter bear interest from the due date at a rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot. If the Association is required to bring any action to collect fees and assessments, fines, transfer fee, or to enforce the violation of Covenants and Restrictions, it shall be entitled to recover all costs and expenses of collection and enforcement including reasonable attorneys' fees. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became

due prior to such sale or transfer. No sale or transfer shall relieve such Lot from the liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE V ARCHITECTURAL CONTROL

No building, fence, wall, landscaping or other structure shall be commenced, erected or maintained upon a Lot nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in writing by the Board of Directors or by an architectural control committee (the "ACC") comprised of three (3) or more representatives appointed by the Board (however, until such time as the Class A membership votes exceed the Class B membership votes, the ACC shall be comprised of individuals appointed exclusively by Declarant). In the event said Board, or the ACC, fails to approve or disapprove said plans and specifications within forty-five (45) days after said plans and specifications have been submitted, approval will be deemed to have been received and this Article will be deemed to have been fully complied with.

Neither Declarant nor any member of the ACC shall be responsible or liable in any way for any defects in any plans or specifications approved by the ACC nor for any structural defects in any work done according to said plans and specifications approved by the ACC. Further, neither Declarant nor any member of the ACC shall be liable for any damages to anyone submitting plans or specifications for approval under this Section nor to any Owner affected by this Declaration by mistake of judgment, negligence or non-feasance arising out of, or in connection with, the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans and specifications to the ACC for approval, by submission of such plans and specifications, and every Owner, by acceptance of the deed to his Lot, agrees that no action or suit may be brought against Declarant or any member of the ACC to recover for any such damages.

**The ACC shall have the right to publish guidelines with regard to placement of dwellings, size of dwellings, and setbacks on lots in order to protect vistas and in order to establish roofing color, type of roofing material, type of siding and color of siding.**

#### ARTICLE VI NON-DEDICATION

The Common Areas, as described herein, and any further common areas are not hereby dedicated for the use of the general public but are dedicated to the common use and enjoyment of the Members of the Affirmation Oaks Homeowners Association, Inc.

ARTICLE VII  
RESTRICTIONS AND EASEMENTS

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The following covenants, conditions, restrictions and easements are herewith imposed on the Lots:

1. Residential Use of Lots. All Lots shall be used for residential purposes in accordance with the zoning regulations for the City of Charleston; provided, however, that nothing herein shall prevent Declarant or any builder of homes in AFFIRMATION OAKS from using any Lot for the purpose of carrying on business related to the development, improvement and sale of Lots and/or houses constructed thereon.

2. Building Construction.

(a) No building or structure shall exceed the height limitations as set forth in the City of Charleston Zoning Regulations and be no more than three (3) stories in height or be in excess of thirty-five feet two and one-half inches (35' 2 ½") in height.

(b) No accessory building or structure shall be permitted unless specifically approved in writing by the ACC.

3. Setbacks, Building Lines and Construction Requirements.

(a) Each building or structure erected on any Lot shall be situated on such Lot in accordance with the building and setback codes of the City of Charleston and in accordance with the restrictions contained herein, whichever restrictions or requirements are more stringent.

(b) Any building or structure erected on a Lot shall be set back at least eighteen feet (18') from any street right-of-way line on which the Lot fronts. Exceptions may be granted by the ACC as to corner lots and lots on cul de sacs.

(c) In each case, individual setbacks or sidelines must be approved in writing by the ACC. The ACC may require a greater or lesser setback so long as the required setback does not violate the setback requirements of the City of Charleston. In certain cases, the ACC may require an Owner to seek a variance from the City of Charleston, if necessary, to protect important trees, vistas or to otherwise preserve aesthetic value.

(d) No more than one (1) dwelling unit shall be built upon any one (1) Lot.

(e) The Owner shall provide parking for at least two (2) vehicles upon the Owner's Lot.

(f) Walls and Fences. Unless approved in writing by the ACC, no wall shall be erected, placed or altered on any Lot unless the same be retaining walls of masonry construction which do not in any event rise above the finished grade elevation of the earth embankment so retained, reinforced or stabilized. Fences shall be of such design, height, location, and material as approved in writing by the ACC. No chain link fences shall be allowed.

(g) Subdivision of a Lot. No Lot shall be subdivided. Two or more Lots may be combined to form a fewer number of Lots so long as any resulting Lot(s) meet(s) all subdivision and zoning requirements. Any easements along side Lot lines which are abandoned in the combination of Lots shall be deemed automatically abandoned unless there is, in fact, an easement or utility located along or adjacent to said Lot line. The Owner of any combined Lot shall be responsible for all costs and expenses of removing or relocating any utility located along or adjacent to any side Lot line being abandoned. The combination of Lots shall not reduce the assessments due and the Owners of combined Lots shall be required to apportion their respective share of the assessments attributable to the Lot being combined into their respective Lots.

(h) Terraces, Eaves, etc. For the purpose of determining compliance or non-compliance with the foregoing building line requirements, terraces, stoops, caves, wing-walls and steps extending beyond the outside wall of a structure shall not be considered as a part of the structure.

(i) Buffer Strips. All buffer strips shown on any recorded plat shall be maintained by the Owner thereof as a planted and landscaped area unless such responsibility is assumed by the Association. No building or structure shall be constructed and no parking areas or other use may be maintained within the buffer strips.

4. Building Requirements. The heated living area of any home constructed in AFFIRMATION OAKS shall not be less than seventeen hundred (1,700') square feet.

5. Delivery Receptacles and Property Identification Markers. The ACC shall have the right to approve the location, color, size, design, lettering and all other particulars of receptacles for the receipt of mail, newspapers or similar delivered materials as well as Lot identification markers.

6. Use of Outbuildings and Similar Structures. No structure of a temporary nature, unless approved in writing by the ACC, shall be erected or allowed to remain on any Lot and no trailer, camper, shack, tent, garage, barn or other structure of a similar nature shall be used as a residence, either temporarily or permanently; however, this paragraph shall not be construed to prevent Declarant and those engaged in construction from using sheds or other temporary structures



during the construction process.

7. Completion of Construction. The Association shall have the right to take appropriate Court action, whether at law or in equity, to compel the immediate completion of any building or structure not completed within one (1) year from the date of commencement of construction and six (6) months from the completion of the exterior.

8. Livestock. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other household pets shall be allowed provided they are not kept, bred or maintained for any commercial purposes. Such household pets must not constitute a nuisance or cause unsanitary conditions. It shall be considered a nuisance if any such pets are allowed to go upon another Owner's Lot or to be upon the street or Common Areas unless under leash, under direct control of owner, or carried by the Owner.

9. Offensive Activities. No noxious, offensive or illegal activities shall be carried on upon any Lot nor shall anything be done thereon which is or may become an annoyance or nuisance to the Owners of other Lots in AFFIRMATION OAKS.

10. Signs. No signs advertising "for sale" or "for rent" shall be erected on any Lot or displayed to the public on any Lot in excess of six (6) square feet. No business signage will be allowed even though a customary home occupation may be permitted under the zoning ordinances of the City of Charleston. This restriction shall not apply to any signs used to identify and advertise the subdivision as a whole (not to exceed fifty [50] square feet), any signs used by Declarant (or Declarant's agent) for the sale of any Lot or any signs used by a builder (or builder's agent) for the sale of any house constructed on a Lot. All signs used by any builder (or builder's agent) shall be subject to the written approval of the ACC. Also, the provisions of this section shall not apply to anyone who becomes the owner of any lot as purchaser at a judicial or foreclosure sale conducted with respect to a first mortgage or as transferee pursuant to any proceeding in lieu thereof.

11. Aesthetics, Nature Growth, Screening, Underground Utility Service. Trees which have a diameter in excess of six inches (6") measured two feet (2') above ground level and any distinctive flora shall not be intentionally destroyed or removed without the prior written approval of the ACC. The plans submitted by an Owner to the Board or ACC shall include all landscaping plans. Clotheslines, garbage containers and any swimming pool or other equipment shall be screened from view of neighboring Lots and the street. All utility service lines connecting to any residence shall be underground. All fuel tanks shall be buried.

12. Antennas and Satellite Dishes. No radio or television transmission or reception towers or satellite dishes or antennas shall be erected on any Lot unless approved in writing by the ACC. Small satellite dishes, which cannot be prohibited

under Federal Laws and Regulations shall be approved by the ACC so long as the dish is screened from view from the street. In no event shall free standing transmission or receiving towers be permitted.

13. Trailers, Trucks, School Buses, Boats, Boat Trailers. No house trailers or mobile homes, campers or other habitable motor vehicles of any kind, school buses, motorcycles, trucks or commercial vehicles over one (1) ton capacity, boats or boat trailers may be kept, stored or parked overnight either on the street or on any Lot except within enclosed garages or otherwise screened from view from the street as approved by the ACC. No vehicles shall be parked on the street, except for guests, not to exceed a twenty-four (24) hour period.

14. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish or unused vehicles. Trash, garbage, or other waste shall not be kept upon a Lot except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. If such litter or other materials is found on any Lot, the same shall be removed by the Owner of such Lot, at the Owner's expense, upon written request of the ACC. Garbage cans, trash containers, boxes, bags and other trash or debris shall not be placed on the street until the morning of pick-up and all empty containers shall be removed by 6:00 p.m. on the date of pick-up.

15. Changing Elevations. No Owner shall excavate or extract earth for any business or commercial purpose. No elevation changes shall be permitted which materially affect the surface grade of surrounding Lots unless approved in writing by the ACC.

16. Sewage System. The sewage system for each lot shall be from a municipal system. The Owner shall be responsible for any tap fees.

17. Water System. The water system for each lot shall be from a municipal system. The Owners shall be responsible for any tap fees.

18. Utility Facilities. Declarant reserves the right to approve the construction, installation, and maintenance of utility facilities including, but not limited to any shallow well to be used for irrigation purposes. No Owner may pump water from any pond, creek, marsh or lake.

19. Model Homes. Declarant, as well as any builder of homes in AFFIRMATION OAKS shall have the right to construct and maintain a model home on any of the Lots.

20. Easements.  
(a) Lots subject to this Declaration shall be subject to those easements, if any, as shown and set forth on any recorded plat thereof. Declarant

hereby reserves an easement for utilities and drainage facilities over the front and side ten feet (10') of each Lot, and fifteen (15') feet on the rear. Within these easements, no structure, planting or other items shall be constructed, placed or permitted to remain which may damage or interfere with the installation and maintenance of said utilities. The easement area of each Lot and all improvements thereon shall be maintained continuously by the Owner except for those improvements for which a public authority or utility company is responsible or those areas whose responsibility is assumed by the Association.

(b) Declarant reserves for itself, its successors and assigns, the right to maintain a sales office, to have a model home, to erect signs and to show models. Declarant also reserves unto itself, its successors and assigns, and successors in title, a perpetual easement over the Common Property for ingress to, egress from, travel over, construction, maintenance and operation of all types of improvements whatsoever, on, over, under and across the Common Property for the benefit of the Project and other projects designated by Declarant on adjacent parcels and all owners, occupants, guests and invitees therein.

21. Driveways, Parking Areas and Entrances to Garages. All driveways, parking areas and entrances to garages shall be of a substance approved in writing by the ACC and of a uniform quality. There shall be no overnight parking on the street or on the lawns. No unlicensed vehicle shall be parked or maintained upon any driveway, street, lawn, or parking area. There shall be no parking on the streets at any time which would prohibit passage by other vehicles.

22. ADDITIONAL REQUIREMENTS FOR LOTS FRONTING ON ANY BUFFER AREA, LAKE, CANAL, DRAINAGE EASEMENT OR WATERWAY. Lots fronting on any buffer area, lake, canal, drainage easement or waterway shall be subject to the following additional restrictions:

(a) The Owner shall maintain the buffer or easement area and mow the area between any lake and all areas not covered by water, even though the same may be reserved as a part of the lake, canal, drainage easement or buffer area.

(b) No power boats shall be permitted on any lake, canal or drainage easement.

(c) No filling of any lake, drainage easement or canal, or waterway shall be permitted, and no waste, garbage or wastewater are to be discharged, dumped or otherwise placed in any lake, canal or drainage easement, or waterway from any Lot.

(d) No docks will be allowed on the lake. No swimming will be allowed in any lake, canal or drainage easement.

(e) The Architectural Review Board shall have the right to control and restrict Owners of Lots adjoining the lake as to the use of chemical which cause abnormal aquatic growth or damage or kill fish.

(f) No Owner shall have the authority to pump water from the lake nor shall there be any discharge into the lake other than normal runoff.

## ARTICLE VIII GENERAL PROVISIONS

### Section 1.

(a) Enforcement. Each Owner shall comply with the covenants, conditions, restrictions and easements set forth herein. In the event of a violation or breach, or threatened violation or breach, of any of the same, Declarant, the Association, the ACC or any Owner, jointly or severally, shall have the right to enforce, by any proceeding at law or in equity, all covenants, conditions, restrictions, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration and to seek recovery of damages, or injunctive relief, or both. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In any suit brought to enforce the terms of this Declaration, the prevailing party shall be entitled to recover all costs and expenses including reasonable attorneys' fees.

(b) Mediation/Arbitration. If a dispute, controversy or claim (whether based upon contract, tort statute, common law or otherwise) (collectively a "Dispute") arises from or relates directly or indirectly to the subject matter hereof, and if the Dispute cannot be settled through direct discussions, the parties shall first endeavor to resolve the Dispute participating in a mediation administered by the American Arbitration Association (the "AAA") under the South Carolina Arbitration Act, Section 15-48-10, et seq., as amended, before resorting to arbitration. Thereafter, any unresolved Dispute shall be settled by binding arbitration administered by the AAA, pursuant to the South Carolina Arbitration Act, Section 15-48-10, et seq., as amended in accordance with the AAA Commercial Arbitration Rules and judgment on the award rendered by the arbitrator, after review rights set forth below have been exhausted, may be entered in any court having jurisdiction. The arbitration proceedings shall be conducted in Charleston, South Carolina on an expedited basis before a neutral arbitrator who is a member of the Bar of the State of South Carolina, and has been actively engaged in the practice of law for at least fifteen (15) years, specializing in real estate transactions with substantial experience in the subject matter of this Agreement. Any attorney who serves as an arbitrator shall be compensated at a rate equal to his or her current regular hourly billing rate unless the AAA is able to arrange with the parties and the arbitrator to agree otherwise. Upon the request of either party, the arbitrator's award shall include findings of fact and conclusions of law provided that such findings may be in summary form. Either party may seek review of the arbitrator's award before an arbitration review panel

comprised of three arbitrators qualified in the same manner as the initial arbitrator (as set forth above) by submitting a written request to the AAA. The right of review shall be deemed waived unless requested in writing within ten (10) days of the delivery of the initial arbitrator's award. The arbitration review panel shall be entitled to review all findings of fact and conclusions of law in whatever manner it deems appropriate and may modify the award of the initial arbitrator in its discretion. Unless otherwise deemed appropriate by the Arbitrator (s), the prevailing party shall be entitled to an award of all reasonable out-of-pocket costs and expenses (including attorney's fees and arbitrator's fees) related to the entire arbitration proceedings (including review if applicable). Notwithstanding the foregoing agreement to submit a Dispute to mediation and arbitration in accordance with the above described terms, an Owner of a Lot shall not be prevented from seeking temporary injunctive relief before a court of competent jurisdiction in any emergency situation, but responsibility for resolution of the Dispute shall be appropriately transferred to the arbitrator upon appointment in accordance with the provisions hereof. The agreement to arbitrate a Dispute shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

Section 2. Severability. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Duration. The covenants, conditions and restrictions of this Declaration shall run with and bind the Lots for a term of twenty (20) years from the date this Declaration is recorded after which time they shall be automatically extended for successive periods of ten (10) years.

Section 4. Amendment. This Declaration may be amended at any time by an instrument signed by not less than sixty (60%) percent of the Lot Owners; provided, however, Declarant reserves the right, at any time, to amend this Declaration so long as the Class B votes exceed the Class A votes.

Section 5. Annexations. Additional land may be annexed by the Declarant without the consent of the members within ten (10) years of the date of this instrument; provided that the FHA and VA determine that the annexation is in accord with the general plan heretofore proved by them. Otherwise, additional residential properties and/or Common Areas may be annexed to the Properties with the consent of two thirds (2/3) of each class of members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set his hand and seal this 27 day of March, 2003.

WITNESSES:

DECLARANT: AFFIRMATION OAKS, LLC

[Signature]  
First Witness Signs Here

[Signature]  
BY: Richard Huss  
Its: member

[Signature]  
Second Witness Signs Here

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

I, [Signature], Notary Public for the State of South Carolina, do hereby certify that Affirmation Oaks, LLC by Richard Huss its member, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Subscribed to and sworn before me this 27 day of March 2003.

[Signature]  
Name of Notary Public  
Notary Public, State of South Carolina  
My commission expires: Jan 17, 2013

## EXHIBIT "A"

All those certain pieces, parcels and tracts of land shown as "Lots 1 - 14" on a plat entitled, "FINAL PLAT OF AFFIRMATION OAKS PREPARED FOR AFFIRMATION OAKS, LLC CITY OF CHARLESTON CHARLESTON COUNTY, SOUTH CAROLINA" by Mark Woodrow Ellis, P.L.S. dated January 22, 2002, and last revised April 24, 2002, and recorded in Plat Book EF at Page 637 in the RMC Office for Charleston County.

## EXHIBIT "B"

All those certain, pieces, parcel and tracts of land located in the City of Charleston, Charleston County, South Carolina, shown and designated "H.O.A. #1 7,376 sq. ft. 0.17 acres"; "H.O.A. #2 13,074 sq. ft. 0.30 acres"; "H.O.A. #3 4,301 sq. ft. 0.10 acres"; "H.O.A. #4 2,107 sq. ft. 0.05 acres"; area shown as, "35' Ingress/Egress Easement for Lots 9, 10, 11 and 12 Will Be Owned and Maintained by the H.O.A., 4,756 sq. ft. 0.11 acres"; and area shown as, "35' Ingress/Egress Easement for Lots 3, 4, 5 and 6 Will Be Owned and Maintained by the H.O.A., 4,814 sq. ft. 0.11 acres" as shown on a plat entitled, "FINAL PLAT OF AFFIRMATION OAKS PREPARED FOR AFFIRMATION OAKS, LLC CITY OF CHARLESTON CHARLESTON COUNTY, SOUTH CAROLINA" by Mark Woodrow Ellis, P.L.S. dated January 22, 2002, and last revised April 24, 2002, and recorded in Plat Book EF at Page 637 in the RMC Office for Charleston County.



## EXHIBIT "C"

BY-LAWS  
OF  
AFFIRMATION OAKS HOMEOWNERS ASSOCIATION, INC.

## ARTICLE I

**NAME AND LOCATION.** The name of the corporation is AFFIRMATION OAKS HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 1413 Pointe Bluff Court, Mount Pleasant, South Carolina 29466 but meetings of the members and directors may be held at such other places as may be designated by Declarant or the Board of Directors.

ARTICLE II  
DEFINITIONS

Section 1. "Association" shall mean and refer to Affirmation Oaks Homeowners Association, Inc., its successors and assigns.

Section 2. "Property" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Areas" shall mean all areas or real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property with the exception of the Common Areas, or any street dedicated to a public body.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to Affirmation Oaks, LLC, its successors and assigns.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Property recorded in the RMC Office for Charleston County.

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

### ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within two (2) years from the date of incorporation of the Association and each subsequent regular annual meeting of the Members shall be held within twelve (12) months of the previous annual meeting.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by Declarant, the president of the Association or by the Board of Directors or upon written request of the Members who are entitled to at least five percent (5%) of all the votes of the Class A membership.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting by mailing a copy of such notice, postage prepaid, first class mail, at least ten (10) days before such meeting to each Member entitled to vote thereat addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members and/or proxies entitled to cast at least fifty percent (50%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented or to give notice of a special meeting at which the quorum shall be fifty (50%) percent of the votes entitled to be cast without regard to class of membership.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

### ARTICLE IV BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors who need not be Members of the Association.

Notwithstanding any other provisions of this Article IV, until such time as the Class A membership votes exceed the Class B membership votes, the three (3) directors shall be comprised of individuals appointed exclusively by Declarant.

Section 2. Term of Office. At the first annual meeting, the Members shall elect one (1) director for a term of one (1) year and two (2) directors for a term of two (2) years. At each annual meeting thereafter, the Members shall elect directors for a term of two (2) years to fill any vacancies.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive any compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting (which they could take at a meeting) by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

#### ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors, prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election, the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## ARTICLE VI

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two directors, after not less than three (3) days notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

## ARTICLE VII

## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Areas and facilities, the personal conduct of the Members and their guests thereon and the penalties for any infraction thereof;

(b) suspend the voting rights and rights to the use of the Common Areas, for any Member which shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for the infraction of any published rule or regulation;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, an independent contractor or such other employees as they deem necessary and to prescribe their duties; and

(f) exercise all powers of a Mutual Benefit Non-Profit Corporation under the South Carolina Non-Profit Corporation Act of 1994.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the

Members or at any special meeting when such statement is requested, in writing, by at least five percent (5%) of the Class A Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. The Board may make a reasonable charge for issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate; and

(g) cause the Common Areas to be maintained and repaired, as needed, in an appropriate manner.

## ARTICLE VIII OFFICERS AND THEIR DUTIES

**Section 1. Enumeration of Offices.** The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, a treasurer and such other officers as the Board of Directors may, from time to time, by resolution create.

**Section 2. Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

**Section 3. Term.** The officers of this Association shall be elected annually by

the Board and each shall hold office for one (1) year unless he shall sooner resign, be removed or otherwise become disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. The Board may remove any officer from office with or without cause. Any officer may resign at any time giving written notice to the Board, the president, or the secretary. Such resignation shall take effect on the date of 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.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of the secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except for the casual offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The president shall preside at all meetings of the Board of Directors; see that orders and resolutions of the Board are carried out; sign all leases, mortgages, deeds and other written instruments and co-sign all checks and promissory notes.

Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act and shall exercise and discharge such other duties as may be required by the Board.

Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses and perform such other duties as may be required by the Board.

Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such fund as directed by resolution of the Board of Directors; sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and deliver a copy of said information to each Member.

#### ARTICLE IX COMMITTEES

The Board of Directors shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee as provided in these By-laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

#### ARTICLE X BOOKS AND RECORDS

The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association where copies may be purchased at a reasonable cost.

#### ARTICLE XI ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the Lot against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If an assessment is not paid within fifteen (15) days after the due date, it shall be subject to a late charge of five percent (5%) of the amount due and shall thereafter bear interest from the due date at the rate of eighteen percent (18%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

ARTICLE XII  
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words Affirmation Oaks Homeowners Association, Inc.

ARTICLE XIII  
AMENDMENTS

Section 1. These By-Laws may be amended at a regular or special meeting of the Members by a vote of a majority of a quorum of Members present in person or by proxy; provided, however, Declarant reserves the right, at any time, to amend these By-Laws so long as the Class B votes exceed the Class A votes.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV  
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the last day of December of every year except that the first fiscal year shall begin on the date of incorporation.



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CHARLIE LYBRAND  
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CHARLESTON COUNTY SC

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