

COPY

**DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MILLER POND II**

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YORK COUNTY, SC
DAVID HAMILTON
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THIS DECLARATION is made this 6th day of September, 2007, by Miller Pond, LLC, referred to in this instrument as "Developer."

STATEMENT OF PURPOSE

Developer is the owner of that certain parcel of land which is a residential development known as Miller Pond II Subdivision located in York County, South Carolina, more particularly described on EXHIBIT A which is attached hereto and incorporated herein (the "Property" or sometimes also referred to as the "Subdivision"). It is in the best interest of Developer, as well as to the benefit, interest and advantage of each person or other entity later acquiring any property in Miller Pond II that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land. Developer desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property in Miller Pond II and for the continued maintenance and operation of such common areas as may be provided.

DECLARATION

In consideration of the premises and for the purposes stated, Developer hereby declares that all of the Property is and shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions (all of which are collectively referred to in this instrument as "restrictions"), which restrictions shall be construed as covenants running with the land and shall be binding on all parties having any right, title or interest in the described real property or any part thereof, and their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- 1.1_ "Association" shall mean Miller Pond II Home Owners Association, Inc., a non-profit corporation organized and existing under the laws of the State of South Carolina and its successors and assigns.
- 1.2 "Owner" shall mean the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of Miller Pond II but excluding those having such interest merely as security for the performance of an obligation.
- 1.3 "Properties" shall mean the Property described on the attached Exhibit A together with such additional properties which shall be made subject to this Declaration at later times.
- 1.4 "Common Area" shall mean all real property owned by the Association in Miller Pond II for the common use and enjoyment of members of the Association lying within the boundaries of the Property. Common Areas, with respect to the Properties subject to this Declaration, shall be described and/or shown on the plats of Miller Pond II recorded in the Office of the Clerk of Court of York County, South Carolina and designated thereon as "Common Area" or "Common Open Space" or "retention pond" or the like.
- 1.5 "Lot" shall mean any numbered plot of land to be used for residential purposes shown upon any recorded subdivision plat of the Properties subject to this Declaration.
- 1.6 "Declarant" shall mean and refer to Developer and its successors and assigns to whom rights of Declarant have been assigned as evidenced by an instrument duly recorded in the Office of the Clerk of Court for York County, South Carolina.
- 1.7 "Person" shall mean a natural person, as well as a corporation, partnership, firm, association, trust or other legal entity. The use of the masculine pronoun shall include the neuter and feminine, and the use of the singular shall include the plural where the context so requires.
- 1.8 "Miller Pond II" shall mean the Property described on the attached Exhibit A, together with such additional properties which shall later be made subject hereto.

ARTICLE II: PROPERTY SUBJECT TO THIS DECLARATION

2.1 Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in York County, South Carolina and is more particularly described on EXHIBIT A attached hereto. This property shall be herein referred to as "Property" or "the Property."

ARTICLE III: PROPERTY RIGHTS

3.1 Owner's Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot subject to the provisions of this Declaration, including but not limited to the following:

- (a) The right of the Association to limit the use of the Common Area and any recreational facilities thereon, if any, to Owners, their families and guests;
- (b) The right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid, or for any infraction of the Association's published rules and regulations, if any;
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association members. No such dedication or transfer shall be effective unless the members entitled to at least two-thirds (2/3) of the vote appurtenant to Class A Lots and Class B Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this paragraph shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of electrical, telephone, cable-vision, water and sewerage utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership if such easements are requisite for the convenient use and enjoyment of the Properties.

- (e) The right of the Association to suspend an Owner's right to use the Common Areas for any period during which any assessment against his Lot remains unpaid, provided further that the suspension of Owner's rights does not relieve the Owner of the obligation to pay the assessments for the period during which the Owner's rights were suspended.

3.2 Delegation and Use. The right and easement of enjoyment granted to every Owner in Section 3.1 of this Article may be exercised by members of an Owner's family and guests thereof. An Owner may delegate to his tenants his rights of enjoyment in and to the Common Areas and such facilities thereon as may be provided, in accordance with the Association's Bylaws and rules and regulations, if any.

ARTICLE IV: MEMBERSHIP AND VOTING RIGHTS

4.1 Membership. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

4.2 Voting, and Voting Rights. Control by Declarant. The Association shall have two classes of voting membership:

- (a) Class A. Class A members shall be all Owners with the exception of Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person owns a Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but no more than one vote shall be cast with respect to any Lot.
- (b) Class B. The Class B member shall be 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 on the happening of either of the following events, whichever first occurs:
 - (i) When the total votes outstanding in the Class B membership equals zero,
 - or
 - (ii) Seven years from the date of recording of this Declaration.

Notwithstanding any other language or provisions to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association, Declarant hereby retains the right to appoint and remove any person, whether or not an Owner, on the Board of Directors of the Association and any officer or officers of

the Association until thirty (30) days after the last Class B Lot has been sold and conveyed by Declarant. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners and a special meeting of the Association shall be called for and held within ninety (90) days after the date of the expiration of Declarant's rights hereunder. At such special meeting, the Owners shall elect a new Board of Directors which shall undertake the responsibilities of running the Association and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the Association as well as any agreements or contracts executed by or on behalf of the Association which may still be in effect or operation.

EACH OWNER BY ACCEPTANCE OF A DEED TO OR OTHER CONVEYANCE OF A LOT HEREBY VESTS IN DECLARANT SUCH AUTHORITY TO APPOINT AND REMOVE DIRECTORS AND OFFICERS OF THE ASSOCIATION AS PROVIDED IN THIS SECTION.

4.3 Suspension of Rights. During any period in which a member shall be in default in the payment of any annual, special or other periodic assessment levied by the Association, the voting rights of such member may be suspended by the Board of Directors until such assessment, is paid. In the event of violation by a member of any rules or regulations established by the Board of Directors, such member's voting rights may be suspended by the Board after a hearing. Such hearings shall only be held by the Board or a committee thereof after giving a member ten (10) days prior written notice specifying each alleged violation and setting the time, place and date of the hearing. Determination of the violation shall be made by a majority vote of the Board or the committee thereof.

ARTICLE V: COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Purpose of Assessment. The assessments levied by the Association shall be used: (a) to provide funds for maintenance, upkeep, landscaping and beautification of the Common Area in Miller Pond II; (b) to provide services for the Association members to promote the health, safety and welfare of the residents of Miller Pond II, and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Area, including but not limited to the cost of repair, replacement and additions thereto; (c) for the payment of taxes assessed against the Common Area and any Association personal property, for insurance related to the Common Area, for the employment of attorneys, accountants and other professionals to represent the Association when necessary or useful, the employment of security personnel; (d) the provision of any service which is not readily available from any governmental authority related to the use, occupancy and enjoyment of the Properties and which the Association shall decide to provide; (e) to provide funds for the maintenance and

repair of any street lights, either owned by the Association or rented, and the payment of all utility charges incident thereto, located within the boundaries of the Properties; (f) to provide funds for the maintenance, repair, upkeep and administration of the landscaped areas at the entrance to the Subdivision and the common areas; (g) to provide funds for the maintenance and repair of any Subdivision entrance monuments located on any portion of the Properties or on adjoining land over which the Association has easement rights; (h) to provide funds for the maintenance and repair of all sidewalks in the Subdivision; (i) to provide funds for the maintenance and repair of the pool, pool storage area, and the building housing the restrooms and changing area in the Subdivision.

5.2 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a Deed therefore, whether or not it shall be so expressed in said Deed, is deemed to covenant and agree to pay to the Association;

- (a) Annual assessments ("Annual Assessments") for the purposes specified in Section 5.1 in the amount hereinafter set forth; and
- (b) Special assessments ("Special Assessments") for the purposes specified in Section 5.1 as may be approved by the members, to be established, and collected as provided herein.

In order to secure payment of the Annual and Special Assessments, such charges as may be levied by the Association against any Lot, together with interest, costs of collection and reasonable attorney's fees, shall be a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment, together with interest, late charges, costs of collection and reasonable attorney's fees shall also be the personal obligation of the person who is the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by them. Such assumption shall not relieve an Owner of his obligation.

5.3 Exempt Property. The assessments, charges and liens created under this Article shall not apply to the Common Area, nor shall they apply to any Lot the title to which is vested either in any first mortgagee subsequent to foreclosure or in the Secretary of Housing and Urban Development or the Administrator of Veterans Affairs or any other state or federal governmental agency which acquires title by reason of such agency's guarantee or insurance of a foreclosed mortgage loan; provided, however, that upon the resale of such property by such first mortgagee or such governmental agency the assessments shall again accrue on such Lot. Any Lot which Declarant may hereafter designate for common use as part of the Common Areas shall also be exempt by a local public authority, and all land granted to or used by a utility company shall be exempt from the assessments created herein.

5.4 Maximum Annual Assessments. Until January 1, 2008 the maximum Annual Assessment shall be One Hundred (\$ 100.00) DOLLARS on each Lot.

- (a) From and after January 1, 2008, the maximum Annual Assessment may be increased each year, without a vote of the membership, above the maximum assessment for the previous year not more than the greater of (1) six percent (6 %) or (2) the increase in the Consumer Price Index from the previous year.
- (b) From and after January 1, 2008, the maximum Annual Assessment may be increased above the greater of six percent (6%) or the previous year increase in the Consumer Price Index by a vote of one-half (1/2) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the Annual Assessment at an amount not in excess of the maximum herein provided.

5.5 Special Assessments. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a Special Assessment applicable to that year only provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of the Association members who are voting in person or by proxy at a meeting duly called for this purpose.

5.6 Notice and Quorum for Any Action Authorized Under Sections 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5.4 and 5.5 of this Article shall be sent to all members not less than ten (10) days nor more than fifty (50) days in advance of the meeting. At the first such meeting called, the presence in person or by proxy of members entitled to cast thirty percent (30%) of all the votes of each class shall constitute a quorum. If a quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be the equal to the number of lots/votes represented at the meeting. No such subsequent meeting shall be held more than six (6) months following the preceding meeting.

5.7 Date of Commencement of Annual Assessments, Due Dates, Certificate of Payment. The Annual Assessments shall commence as to all Lots on the day that the owner closes on the purchase of his lot pro-rated through December 31 of the year of purchase. Declarant shall be exempt from paying assessments. At least thirty (30) days before February 1 of each year, the Board of Directors shall fix the amount of the Annual Assessment against each Lot and in the event the Board elects not to fix such assessment rate as herein provided, the amount of the prior year's Annual Assessment shall be the fixed amount. Written notice of any change in assessment rate shall be sent to every Owner. The Annual Assessments shall be

due and payable in advance on January 1 of each year unless the Board of Directors votes to collect such assessments on a monthly basis and the due dates for the payment of Special Assessments shall be established by 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 to date.

5.8 Effect of Non-Payment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be assessed a late charge as determined by the Board of Directors and bear interest from the due date at an annual rate of eighteen percent (18%) but in no event above the then maximum legal rate, and to the extent allowed by law. The Association, or its agent or representative, may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot to which the assessment relates, and interest, costs and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment to the extent allowed by law. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

5.9 Subordination of the Lien to First Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first priority mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any first mortgage pursuant to a foreclosure thereof or under a power of sale or any proceeding in lieu of foreclosure thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

5.10 Collection Upon Sale by Declarant. Upon the sale of a Lot by Declarant, the purchaser shall pay to the Association at the closing of the sale that amount of money that is equal to that portion of the Annual Assessment attributable to the balance of the year in which the closing takes place. Any amounts prepaid by the Declarant shall be refunded by the Association. Any Special Assessment made before, but falling due after, the date of closing of the sale of a Lot by Declarant shall be paid in full to the Association by the purchaser at the closing of the sale.

ARTICLE VI: ARCHITECTURAL, MAINTENANCE AND USE RESTRICTIONS

6.1 Architectural Review Committee. Before all Class B Lots shall cease to exist and be converted to Class A Lots pursuant to Article IV, F. William Hargrove shall serve as the sole member of the Architectural Review Committee (hereinafter the "ARC"), and shall continue to serve as the ARC until such time as the Association is empowered to elect the ARC as provided herein.

The ARC shall have the responsibility of enforcing the restrictions set forth in this Article. Upon the later of the following two dates, the ARC shall be appointed by the Board of Directors and shall consist of three (3) members: (1) Upon the termination of the Class B membership; or (2) five years following the date of this Declaration. The following architectural, maintenance and use restrictions in this Article VI shall apply to each and every Lot now or hereafter subject to this Declaration.

6.2 Approval of Plans and Architectural Committee. No construction, reconstruction, remodeling, alteration, roofing or addition to any structure, building, fence, wall, drive or walkway, or exterior color change, shall be commenced or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made after completion of construction of said dwelling, unless and until a complete set of the plans and specifications showing the nature, kind, shape, height, color, material and location of the same shall have been delivered to the ARC either by personal hand-delivery or by certified mail with return receipt requested and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the ARC. If the Committee fails to approve or disapprove such plans and specifications for each stage within thirty (30) days after said plans and specifications shall have been submitted to it, further approval will not be required and this Article will be deemed to have been fully complied with.

6.3 Residential Use. All Lots shall be used for residential purposes only.

6.4 Building Line Requirements. Minimum setback lines which may be shown on any recorded plat of the Properties are not necessarily intended to create uniformity of setbacks; they are meant primarily to avoid overcrowding and monotony. It is intended that setbacks may be staggered where appropriate so as to preserve the trees and other natural vegetation, and to insure each Owner the greatest benefit and enjoyment. Any deviation from the building line requirements not in excess of ten (10) percent thereof shall not be construed as a violation of the building line requirements. It is contemplated that the front building set back shall be fifty (50') feet from the front lot line. However, Declarant, through the ARC, reserves the right to grant relief of up to twenty-five (25') feet from the set back line as the topography and evolving nature of the development so require.

6.5 Building Requirements.

- (i) General Requirements. The only structures to be erected, altered, placed or permitted on any lot shall be one (1) single-family detached dwelling with a two car garage attached to the

house, and one (1) accessory building, which may include a detached garage or storage room, provided, however, that accessory buildings will be permitted only if the accessory building is of consistent architectural style with the main building and is not constructed prior to the main building. In no event shall a metal, aluminum or tin storage building of any kind be permitted on any lot at any time. All construction on lots in the subdivision shall first be approved by the ARC as herein set forth and shall meet all applicable building codes or other statutes or other regulations governing such construction. All construction in Miller Pond II must be built on site. Thus, no trailers, mobile homes, "double-wides," manufactured homes, modular homes, or the like are allowed in any manner whatsoever. There shall be a minimum roof pitch of 8;12.

- (ii) Square Footage. No single story dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces and attached garages) of less than 2,200 square feet together with a two car garage. No one and a half story dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces and attached garages) of less than 2,300square feet together with a three car garage. No two story dwelling shall be erected or placed on any Lot having a heated living area (exclusive of uncovered porches, stoops, terraces and attached garages) of less 2,400 square feet with two car garage. The term "heated living area" shall not be interpreted to include accessory buildings, terraces, decks, open or screened porches, basements and upper levels or attics which are not actually served by heating and air conditioning and is not accessible to the main living areas by permanent fixed stairway.
- (iii) Garage and Off Street Parking. Every lot owner shall provide space for automobile parking off public streets in accordance with standards established by the ARC, and such parking space shall be completed prior to occupancy. Each home shall have a two car garage.
- (iv) Exterior Materials. Ninety (90%) percent of the front exterior of every home constructed shall consist of either brick or stone unless a variance therefrom is specifically approved in writing by the Declarant. Remaining sides to be Vinyl Siding, Hardi Plank, Certainteed, or Smartside. The exterior of all houses, accessory buildings and other structures must be completed within one (1) year, except where completion is impossible or would result in

hardship to the lot owner or builder due to strikes, fires, severe material shortages, national emergency or natural calamity.

6.6 Walls, Fences and Hedges. No fence, hedge or wall of any type or kind shall be erected or maintained on a Lot except such fences, hedges or walls as may be installed, constructed or erected with the initial construction of the main dwelling located on said Lot, or as may later be approved by the ARC as described in Paragraph (6.2) above.

6.7 INTENTIONALLY DELETED

6.8 Use of Outbuildings and Similar Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot, and no trailer, shed, tent, garage, carport, or any other structure of a similar nature shall be used as a residence either temporarily or permanently. Provided, however, this paragraph shall not be construed to prevent the Declarant or a licensed contractor approved by Declarant from using sheds or other temporary structures during construction for such purposes as Declarant deems necessary or later approved by the Association. No radio, television or satellite transmission or reception towers, antennas, dishes or discs shall be allowed on a Lot, unless approved by the Board of Directors of the Association or the ARC. No solar panels, solar collectors or other solar power apparatus shall be allowed on any Lot. No metal storage buildings, metal sheds, metal trailers or metal garages shall be permitted on any Lot. All other types of storage buildings, sheds, trailers or garages shall not be allowed on a Lot unless approved by the ARC.

6.9 Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, pastured, or maintained on any Lot, except household pets which may be kept thereon in reasonable numbers as pets for the sole pleasure and use of the occupants, but not for any commercial use or purpose. All household pets shall be kept under Owner's control so as not to be a nuisance to other Owners. **ROTTWEILLERS AND PIT BULL TERRIERS ARE NOT ALLOWED IN MILLER POND II AT ANY TIME.**

6.10 Signs. No advertising signs of any type or kind shall be erected, placed or permitted to remain upon or above any Lot or Common Area with the exception of a single sign "For Rent" or "For Sale," which sign shall not exceed two feet by two feet in dimension and shall refer only to the premises on which displayed, there being only one sign to a Lot. "For Sale" signs approved by the ARC, may be used by builders during the new home construction phase.

6.11 Nuisances. No offensive or illegal activity shall be carried on upon any

Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to any other Owner. No Lot shall be used in whole or in part for storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in any unclean or untidy condition or that is unsightly; nor shall any substance, thing or material be kept upon any Lot that will emit a foul odor or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding Lots. No trash, rubbish, stored materials, wrecked, unlicensed or inoperable vehicles, and/or trailers, recreational vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure. However, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pick up by governmental and other similar garbage and trash removal service units. In the event any Owner fails or refuses to keep his Lot free from unsightly objects, weeds or underbrush in a manner satisfactory to a majority of the Board of Directors, the Association may, through its agent or representative, five days after posting a notice on such Lot or mailing a notice to the Owner thereof at his property requesting the Owner to comply with the requirements of this paragraph, enter and remove all such unsightly objects, debris or other vegetation at Owner's expense and Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by the Association in the enforcement of this paragraph promptly upon demand. No such entry as provided herein shall be deemed a trespass. Notwithstanding anything to the contrary herein, the provisions of this Paragraph 6. 10 shall not apply to Declarant and Declarant shall be specifically exempt from being required to comply herewith.

6.12 Garbage Cans, Etc. All garbage cans, lawnmowers and similar equipment shall be kept in an enclosed structure or screened by adequate planting or fencing so as to conceal same from the view of neighboring Owner and streets. Incinerators for garbage, trash or other refuse shall not be used nor permitted to be erected or placed on any Lot. No clotheslines shall be permitted.

6.13 Use of Common Areas. No planting or gardening by individual Owners shall be done upon any Common Area. Except for the right of easement of enjoyment in and to the Common Areas herein given to each Owner, Owners are hereby prohibited and restricted from using any of the Common Area except as may be allowed and prescribed by the Association's Board of Directors or as expressly provided for herein. It is Declarant's intent that this paragraph inure to the mutual benefit of all Owners within the Properties.

6.14 Maintenance.

(a) Exterior maintenance, upkeep and repair to the main dwelling on each Lot, yard, fence, walkway, and shrubbery shall be the sole responsibility and expense of the Owner of the Lot subject to such reasonable requirements as may from time to time be established by the Committee to insure the

continuity and harmony of exterior design of Miller Pond II. This maintenance of the Lot and yard shall include the maintenance of the landscaping plan as stated in Section 6.9 herein. Should a majority of the Board determine that any Owner has failed or refused to discharge properly his obligations with respect to such maintenance, upkeep and repairs, the Association, through its agent or representative, may provide same as it may deem necessary and proper.

(b) All Lots, together with the exterior of all improvements thereon, shall be maintained in a neat and attractive condition by their respective Owners. Such maintenance shall include, but shall not be limited to, painting, repairing, replacing or caring for roofs, gutters, downspouts, building surfaces, trees, shrubs, lawns, walks or other exterior improvements. In the event an Owner shall fail to maintain the premises and the improvements thereon in a manner satisfactory to the Association Board of Directors, the Association may, through its agent or representative, after approval by two-thirds (2/3) vote of the Board, have the right to enter upon said Lot and repair, maintain and restore the Lot and the exterior of the buildings and any other improvements thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject and the Owner shall be personally liable to the Association for the costs of such maintenance, and the cost, until paid, shall be a permanent charge and lien upon such Lot, enforceable to the same extent and collectible as provided for in Article V. Such entry as provided herein shall not be a trespass, nor shall the Association be liable for doing anything reasonably necessary or appropriate in connection with carrying out those provisions, provided such entry shall be at reasonable times and places so as not to interfere with the right of quiet enjoyment of the individual Lot Owner.

(c) It is the duty of every Owner to keep their yard in a neat, trim and orderly condition. This requirement applies not only to lots which have been improved but also applies to lots before and during construction. Thus, any Owner, builder, or speculator must keep the yard in a neat, trim and orderly condition from the moment of purchase on, including before, during and after construction. In the event an Owner fails to keep the yard in a neat, trim and orderly condition, the Declarant shall give the Owner notice that Owner has three (3) days to remedy the deficiency. Such notice does not have to be in writing but can be by made by direct face to face conversation or by phone. If Declarant puts the notice in writing then Declarant can deliver the notice either by mail, e-mail, fax, telegram, regular first class mail, overnight delivery, or courier. In the event Owner fails to remedy the problem on or before three days of the date that notice is given, then Declarant, his agents or employees, shall have the right to enter the property under the same conditions as stated in paragraph 6.13.(b) above and perform the work on behalf of Owner and charge Owner the cost thereof and the cost, until paid, shall be a permanent

charge and lien upon such Lot, enforceable to the same extent and collectible as provided for in Article V.

6.15 Above Ground Swimming Pools. No above ground swimming pools are permitted.

6.16 Decorative Structures. No decorative statues, birdbaths, fountains, ornaments, figurines, or any other decorative structures or items are permitted in the front or side yards of any Lot except as approved by the Architectural Control Committee.

6.17 Boats, Commercial Vehicles and Recreational Vehicles. No boats, commercial vehicles, or recreational vehicles shall be permitted on any Lot except in an enclosed garage or to the rear of the house or otherwise appropriately screened from view from the street.

6.18 INTENTIONALLY DELETED

6.19 Wetlands. Areas shown as Wetlands on any recorded plat of the Properties may lie subject to the Corps of Engineers Wetland Regulations or other applicable laws and regulations governing wetlands.

6.20 Golf Carts. The use of golf carts by owners shall be allowed for transportation to and from the amenities on those public and private roadways within the Miller Pond II subdivision. The use of four wheelers shall not be allowed to be used or driven within the Miller Pond II subdivision.

ARTICLE VII EASEMENTS

7.1 General. Each Lot now or hereafter subjected to this Declaration shall be subject to all easements shown or set forth on the recorded plat or plats of survey upon which such Lot is shown. No structure of any type shall be erected or placed upon any part of a Lot or the Common Area which will interfere with rights and use of any and all easements shown on said recorded plat.

7.2 Utility and Drainage. An easement on each Lot is hereby reserved by Declarant for itself and its successors and assigns along, over, under and upon a strip of land ten feet (10') in width parallel and contiguous to the rear or back Lot line and the front Lot line of each Lot and a five foot (5') in width strip parallel to the side lines of each Lot, in addition to such other easements as may appear on a recorded subdivision plat for Miller Pond II. The purpose of these easements shall be to provide, install, maintain, construct and operate drainage facilities now or in the future and utility service lines to, from or for each of the Lots. Within these

easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may change the direction or flow of drainage channels in the easements. The easement area of each and all improvements in it shall be maintained continuously by Owner, except for those improvements for which a public authority or utility company is responsible. With ten (10) days prior written notice to Owner, Declarant may exercise the right to remove obstructions in such easements upon Owner's failure to do so. For the purpose of this covenant, Declarant reserves the right to modify or extinguish the herein reserved easements along any Lot lines when in its sole discretion adequate reserved easements are otherwise available for the installation of drainage facilities and/or utility service lines. For the duration of these restrictions, no such utilities shall be permitted to occupy or otherwise encroach upon any of the easement areas reserved without first obtaining the prior written consent of Declarant; provided, however, local service from utilities within easement areas to residences constructed upon any such Lots may be established without first obtaining separate consents therefor from Declarant. The Association may likewise reserve and grant easements for the installation and maintenance of sewerage, utility and drainage facilities in, across, under and over the Common Area.

7.3 Emergency. There is hereby reserved without further assent or permit and to the extent allowed by law, a general easement to all firemen, ambulance personnel, policemen and security guards employed by Declarant and all similar persons to enter upon the Properties or any portion thereof, in the performance of their respective duties.

7.4 Easements Reserved to Declarant and the Association. The Declarant and the Association hereby reserve perpetual easements over the Properties for access to and from the Common Area for the maintenance thereof.

ARTICLE VIII: GENERAL PROVISIONS

8.1 Covenants Running with the Land. All provisions of this Declaration shall be construed to be covenants running with the land, and with every part thereof and interest therein, and every Owner or any other person or legal entity claiming an interest in any Lot, and his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of this Declaration.

8.2 Duration. The covenants, conditions and restrictions of this Declaration shall be binding for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive and additional periods of ten (10) years each.

8.3 Amendment. This Declaration may be amended or terminated during the first twenty (20) year period by an instrument signed by not less than fifty percent (50%) of the Owners, and thereafter may be amended or terminated by an instrument signed by not less than fifty percent (50%) of the Owners. Any such amendment or termination shall not be effective until an instrument evidencing such change has been filed of record in the Office of the Clerk of Court of York County. The Declarant shall have the right to amend the Declaration so long as it is a Class B Member.

8.4 Enforcement. If any Owner shall violate or attempt to violate any of these restrictions, failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief, or both, maintainable by the Board of Directors on behalf of the Association, or, in proper case, by an aggrieved Owner. Any failure by Association or any other Owner to enforce any of the foregoing restrictions or other provisions shall in no event be deemed a waiver of their right to do so thereafter. Invalidation of any covenant, condition or restriction or other provision of this Declaration shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

8.5 Legal Proceedings. A vote of seventy five (75%) percent of the Owners shall be required before instigating a legal proceeding for any cause of action that is not an enforcement of a lien created under Article V herein or the enforcement of a violation of Article VI herein in which the Association is empowered to enforce under Section 8.4 above.

8.6 Headings. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer.

8.7 Unintentional Violation of Restrictions. In the event of unintentional violation of any of the setback line restrictions set forth on any recorded plat of the Properties, Declarant reserves the right, by and with the mutual written consent of the owner or owners for the time being of such lot, to change the setback line restriction set forth in the instrument provided, however, that such change shall not be violation of any zoning provision of the County of York.

8.8 Severability. The provisions of this Declaration are severable and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder hereof.

8.9 Indemnification of Officers and Directors. The Association shall indemnify any and all persons who may serve or whom have served at any time as directors or officers of the Association against any and all expenses, including amounts paid upon judgments, counsel fees and amounts paid in settlement (before or after suit is commenced), actually and necessarily incurred by such persons inn

connection with the defense or settlement of any claim, action, suit or proceeding in which they, or any of them, are made parties, or a party, which may be asserted against them or any of them, by reason of being or having been directors or officers or a director or an officer of the Association, except in relation to matters as to which any such director or officer or former director or officer or person shall be adjudged in any action, suit, or proceeding guilty of willful and intentional negligence or misconduct in the performance of his or her duties to the Association. Provided, however, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association.

The provisions hereof shall be in addition to and not exclusive of any and all other rights to which any director or officer may otherwise be entitled under any law, By-law, agreement, vote of Association Members or otherwise. In the event of death of any officer or director, the provisions hereof shall extend to such person's legal heirs, representatives, successors and assigns. The foregoing rights shall be available whether or not such person or persons were in fact directors or officers at the time of incurring or becoming subject to such expenses, and whether or not the proceeding, claim, suit or action is based on matters which antedate the recording of this Declaration.

Handwritten Signature
WITNESS

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

PROBATE

PERSONALLY Christopher F Baslin appeared before me and made oath that she saw the within named Miller Pond, LLC, by its above signed duly authorized Member, sign, seal and as the company's act and deed, deliver the within written deed, and that s/he with _____ witnessed, the execution thereof.

SWORN to before me this 6th day of ~~August~~, 2007.
Sept.

Handwritten Signature

Handwritten Signature (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 12-28-2016

EXHIBIT A

Being all of that piece, parcel or lot of land, lying and being situate in York County, South Carolina and being shown and designated as Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 as shown on that map or plat "A Final Plat of Miller Pond, Phase II" dated May 8, 2007, drawn by David L. Ferguson, SCPLS and recorded on August 20, 2007 in Plat Book D-243 Page 10, Office of the Clerk of Court, York County, South Carolina, which reference is hereby made for a more particular description.

Derivation: Being the same property conveyed to Grantor in Book 2114, Page 162 Office of the Clerk of Court, York County, South Carolina,