

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR THE VILLAGE AT TOWNES

JUDY G. HAY  
REGISTERED CLERK

THIS DECLARATION, made on the date hereinafter set forth by CIMA PROPERTIES, LLC, a South Carolina limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Greenville, State of South Carolina, which is more particularly described on Exhibit A, attached hereto and incorporated herein by reference.

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

ARTICLE 1.

DEFINITIONS

Section 1. "Association" shall mean and refer to THE VILLAGE AT TOWNES PROPERTY OWNERS' ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Townhome which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

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Section 3. "Properties" 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.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association shall be the real property described on Exhibit A, less Townhomes 1 through 36 inclusive, to be shown on a final plat or plats thereof to be recorded.

Section 5. "Lot" or "Townhome" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area including, but not limited to residences, buildings, outside platforms and decks, canopies, porches and outbuildings.

Section 6. "Declarant" shall mean and refer to CIMA PROPERTIES, LLC, a South Carolina limited liability company, authorized to transact business in the State of South Carolina, its successors and assigns.

## ARTICLE II.

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Townhome, subject to the following limitations and provisions:

(a) The right of the Association to suspend the voting rights of any owner for any period during which any assessment against his Townhome remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(b) 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 by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded;

(c) The right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon which regulations may further restrict the use of the Common Area.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all liens and encumbrances, at the time or prior to the conveyance of the final Townhome in the Properties, except utility and drainage easements and easements to governmental authorities upon condition that such area shall be designated "Common Area" shall be the sole and exclusive use and benefit of members, as long as such area is maintained in conformity with the requirements of this Declaration, the By-Laws, and the Articles of Incorporation of the Association, at the sole expense of the owners. Notwithstanding anything herein to the contrary, after conveyance of the Common Area to the Association, Declarant shall continue to have the right to enter the Commons Area to complete landscaping and improvements for the Project.

Section 4. Vehicle and Parking Rights. The Association may promulgate rules and regulations restricting or prohibiting the parking of automobiles, vans, buses, inoperable vehicles, trucks, trailers, boats and recreational vehicles on the Common Area, or parts thereof, and may enforce such regulations or restrictions by levying enforcement charges, having vehicles towed away or taking such other lawful action as it deems appropriate. The provisions of this section shall not apply to Declarant or its duly authorized agents, representatives, contractors, suppliers or employees.

### ARTICLE III.

#### ASSOCIATION: MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Townhome 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 Townhome which is subject to assessment.

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 Townhome owned. When more than one person holds an interest in any Townhome, all such persons shall be members. The vote for such Townhome shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Townhome.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Townhome owned. The Class B membership shall cease and be converted to Class A membership when the total votes outstanding in Class A membership equal the total votes outstanding in Class B membership.

Section 3. The Association shall be a non profit corporation organized under the laws of the State of South Carolina. The Association shall be managed by a Board of three (3) Directors who need not be members of the Association. Until the first annual meeting is held, however, the initial Board of Directors shall be L. Russell Burleigh, Jr. and Thomas F. Dugas. The Association may increase the size of the Board up to five (5) members by a majority vote. The initial mailing address of the Board shall be: Care of Thomas F. Dugas, PO Box 10167, Greenville, South Carolina 29603. Said Board shall be responsible for preparing the initial by-laws of the Association and distributing the same to the members thereof.

#### ARTICLE IV.

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. (a) Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Townhome owned within the properties, hereby covenants, and each owner of any Townhome by acceptance of a deed therefore, 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, and costs in excess of insurance proceeds, 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 property 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 property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, security, safety and welfare of the residents in the Properties and in particular the procurement and maintenance of the blanket hazard and casualty insurance policy on the Properties as provided in Article X, the acquisition, improvement and maintenance of Properties, services and facilities devoted to this purpose and related to the exterior maintenance of the homes situated upon the Properties or for the use and enjoyment of the Common Area, including, but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area, payment of the termite bond, the procurement and maintenance of insurance related to the Common Area, its facilities and use in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, costs of construction, reconstruction, repair or replacement in excess of insurance proceeds covering the homes situate on the Properties, and such other needs as may arise.

Section 3. Maximum Monthly Assessment. Until January 1 of the year immediately following the conveyance of the first Townhome to an owner, the maximum monthly assessment shall not exceed \$60 per Lot; provided however, the assessment for the Class B Member shall be, until such time as all of the Townhomes are sold to third party purchasers, the shortfall in the operating budget of the Association as established by the Board of Directors.

From January 1 of the calendar year immediately following the first conveyance of a Townhome to an owner:

(a) The maximum annual assessment shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership.

(b) The maximum annual assessment may be increased without limit by a vote of sixty (60%) percent of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the Annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying, in whole or in part, the cost of construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the approval of sixty (60%) percent of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at subsequent meeting shall be one-half (1/2) of the required quorum at the preceding. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Townhomes subject to assessment and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The Annual assessments provided for herein shall be collected on a monthly basis and shall commence as to a Townhome at the time the Townhome is conveyed by Declarant to a third party Purchaser. At least

thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment against each Townhome and send written notice of each assessment to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an office of the association setting forth whether the assessments on a specified Townhome have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within ten (10) days after the due date shall bear interest from the due date at the rate of eighteen (18%) percent 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 Townhome, and interest, costs and reasonable attorneys' fees of such action or foreclosure shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for any of the assessments provided for herein by non-use of the Common Area or abandonment of his Townhome.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Townhome shall not affect the assessment lien or lien provided for in the preceding section. However, the sale or transfer of any Townhome pursuant to a foreclosure of a first mortgage or any conveyance or assignment in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such Townhome from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage.

Section 10. Exempt Property. All property dedicated to and accepted by a local public authority and all properties owned by the Association shall be exempt from assessments, however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Obligations of Declarant. Notwithstanding anything herein to the contrary, the obligation of the Declarant for payment of assessments as provided herein shall be as follows:

(a) Until conveyance by the Declarant of all of the Townhomes in the Properties, the Declarant shall only be required to pay the amount of deficits and the operating expenses of the Association in any fiscal year.

## ARTICLE V.

### ARCHITECTURAL CONTROL

No exterior addition to or change or alteration therein shall be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within ninety (90) after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Nothing herein contained shall be constructed to permit interference with the development of the Properties by the Declarant so long as said development follows the general plan of development of the Properties.

## ARTICLE VI.

### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Townhome upon the Properties and placed on the dividing line between the Townhomes shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rule of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion of such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it; and if the other owners



thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owners successors in title.

Section 6. Easement and Right of Entry for Repair, Maintenance and Reconstruction. Each owner shall have an easement and right of entry upon the lot of any other owner to the extent reasonable necessary to perform repair, maintenance or reconstruction of a party wall. Such repair, maintenance or reconstruction of a party wall shall be done expeditiously, and upon completion of the work, the owner shall restore the adjoining lot or lots to as near the same condition as that which prevailed prior to commencement of the work as is reasonable practical.

Section 7. Certification with Respect to Contribution. If an owner desires to sell his lot, he/she may, in order to assure a prospective purchaser that no adjoining owner has a right of contribution as provided in this Article, request the adjoining owner to make such certification immediately upon request and without charge. If the adjoining owner claims the right of contribution, the certification shall contain a recital of the amount claimed and the basis therefore. Failure of an owner to make a certification within ten days after receipt of written request shall be deemed a waiver of his rights to contributions.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one addition arbitrator, and the decision shall be by a majority of all the arbitrators.

## ARTICLE VII.

## EXTERIOR MAINTENANCE

Section 1. Association Responsibilities. In addition to maintenance of the common area, the Association shall provide exterior maintenance upon each lot which is subject to assessment hereunder, as follows: Paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces nor rear courtyards or fencing. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each lot at all reasonable times to perform maintenance as provided in this Article. In the event that the need for maintenance, repair or replacement is caused through the willful or negligent act of the owner, his family, guests, or invitees, or is caused by fire, lightning, wind storm, hail, explosion, riot, strike, civil commotion, aircrafts, vehicles, and smoke, as the foregoing are defined and explained in South Carolina Standard Fire and Extended Coverage insurance policies, the costs of such maintenance, replacement, or repairs shall be added to and become a part of the assessment to which such lot is subject.

Section 2. Reimbursement of Association. In the event a Townhome is damaged, through act of God or other casualty, that townhome owner shall promptly cause his dwelling unit to be repaired and rebuilt substantially in accordance with the original architectural plans and specifications. It shall be the duty of the Association to enforce such repair or rebuilding of the dwelling unit to comply with this responsibility. To accomplish the requirements of this section, each owner shall insure his dwelling unit at the highest insurable value pursuant to the requirements of Article X hereinbelow.

Section 3. The Association shall maintain in full force and effect a termite bond on all of the lots in the properties and it is hereby granted to the Association an easement for access over and upon each lot at reasonable times to complete its' obligations under this Section.

## ARTICLE VIII

## USE RESTRICTIONS

Section 1. Land Use and Building Type. No Townhome shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Townhome other than one attached single-family dwelling not to exceed two stories in height.

Section 2. Sales and Construction Facilities of Declarant. Notwithstanding any provision in Section 1, Declarant, its agents, employees and contractors shall be permitted to maintain during the period of construction and sale of the Townhomes on the Properties upon such portion of the Properties as Declarant may choose, such facilities as may be reasonably required in the construction and sale of Townhomes including, but not limited to a business office, storage area, construction yards, signs, model Townhomes, sales office, construction office, parking area and lighting and temporary parking facilities for all prospective tenants or purchasers of Declarant.

Section 3. No other Business. No other business activity of any kind shall be conducted in any Townhome or any part of the Properties except that the owner or occupant residing in a Townhome may conduct such business activities within the Townhome so long as:

(a) The existence of operation of the business activity is not apparent or detectable by sight, sound, or smell from the exterior of the Townhome;

(b) The business activity does not involve persons coming onto the property who do not reside on the property;

(c) The business activity conforms to all zoning requirements for the property;

(d) The business activity does not increase the liability or casualty insurance obligations or premium of the Association;

(e) The business activity is consistent with residential character of the property and does not constitute a nuisance or a hazardous or offensive use, as may be determined in the sole discretion of the Board of Directors.

"Business Activity" as used in the provision shall be construed to have its ordinary, general acceptable meaning.

Section 4. Nuisance. No noxious or offensive activity shall be conducted in or around any Townhome nor shall anything be done thereon which is or may become an annoyance or nuisance to the neighborhood.

Section 5. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided they are kept leashed or in enclosed areas, and are kept in compliance with applicable laws, and are not kept or maintained for commercial purposes. Each Townhome shall be limited to two (2) pets.

Section 6. Outside Antennas. No outside radio or television antennas or satellite dish shall be erected on any lot or dwelling within the Properties unless and until permission for the same has been granted by the Board of Directors of the Association or its Architectural Control committee. In granting or denying such permissions, the Board of Directors or Architectural Control Committee shall take into account all factors such as size, location and appearance from the street. Any satellite dishes approved by the Board of Directors or the Architectural Control Committee shall not exceed twenty-four (24) inches in diameter.

Section 7. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any Townhome within the Properties.

Section 8. Temporary Structures. No structures of a temporary nature, nor any trailer, tent, shack, shed, barn or other out buildings shall be allowed on any portion of the property at any time either temporary or permanently.

Section 9. Planting. With the exception of private courtyards, no planting or gardening shall be done without the prior written approval of the Board of Directors. The Board of Directors reserves the right to promulgate rules and regulations regarding planting or gardening including planting or gardening in a lot owner's private courtyard.

Section 10. Visible Areas. Nothing may be displayed on the outside or inside of windows,

except interior inoffensive drapes, curtains or louvered blinds which from exterior observation, must be white, beige or light gray, or as otherwise authorized by the Board of Directors, or placed on the outside walls of a building or otherwise outside of a Townhome, or any part thereof. No awning, canopy, shutter or television or citizens band or other radio antenna or transmitter, or any other device or ornament (except as set forth in Section 6), may be affixed to or placed upon an exterior wall or roof or any part thereof, or the exterior of any door or window, or in, on, or over a patio, porch or balcony visible to the exterior unless authorized by the Board of Directors. The Board of Directors reserves the right to promulgate rules regulating the displays of "yard art" including but not limited to planters, decorative signs, flags or any other objects visible from Townes Street, Main Street, Park Street, or the parking lot as referenced on the subdivision plat.

Section 11. Trash Disposal. Garbage and refuse containers shall be concealed within the Townhome courtyards.

#### ARTICLE IX.

#### EASEMENTS

Section 1. Utilities Easements. In addition to other easements granted herein, there shall exist the following easements or easement rights:

(a) The Association shall have easements upon, over and under all of the Properties for ingress to and egress from, and the installation, replacing, repairing and maintaining of, all utilities, including but not limited to water, sewer, gas, telephone, electricity, security systems, master television antennas and cable television, and the road system and all walkways, for all purposes necessary for the proper operation of the Properties.

(b) The Association shall have the power to grant and accept easements over, through, and across Common Area for the installation, maintenance and replacement of utilities, roads and other purposes reasonably necessary or useful for the proper maintenance or operation of the Properties and in addition, if the Board of Directors determine that the grant of easement rights to others is in the best interest of the Association, the Association shall have the right to grant the same, provided that the use of the same would not, in the

judgment of the Board of Directors, unreasonably interfere with the use and enjoyment of the Properties Owners' Townhome.

(c) The Association shall have the right of entry and access to, over and through all of the Properties, including each Townhome to enable the Association to perform its obligations, rights and duties pursuant to the Declaration with regard to maintenance, repair, restoration and/or servicing of any items, things, or areas of or in the Properties. In event of an emergency, the Association's, right of entry to a Townhome appurtenant Common Area may be exercised without notice. Otherwise, the Association shall give the Owners or Occupants of a Townhome no less than twenty-four hours advance notice prior to entering a Townhome or its appurtenant Common Area.

(d) There shall be non-exclusive easements for all police, firemen, ambulance operators, mailmen, delivery men, garbage men, and all similar persons, and to the local governmental authorities and the Association, but not the public in general, to enter upon the Properties in the performance of their duties, subject to reasonable rules and regulations as the Board may establish from time to time.

Section 2. Encroachments. If, as a result of the construction of improvements, any portion of the Common Area now or hereafter encroaches upon any Townhome, or if any Townhome now or hereafter encroaches upon any other Townhome or upon any portion of the Common Area, or if any such encroachment shall occur hereafter as a result of settling or shifting of any building or for any other reason, there shall exist a valid easement, not to exceed five (5) feet, for the encroachment and for the maintenance of the same so long as the improvement stands.

#### ARTICLE X.

#### COVENANTS OF OWNER TO KEEP TOWNHOMES INSURED AGAINST LOSS, TO REBUILD AND TO KEEP IN GOOD REPAIR

Section 1. The Declarant covenants with the Association, on behalf of itself and on behalf of each subsequent owner of a Townhome within the Properties, and each owner of any Townhome within the Properties, by acceptance of a deed therefore, whether or not it shall be so expressed in said deed, or by exercise of any act of ownership, is deemed to covenant:

(1) Each owner shall obtain a hazard insurance policy equal to the full replacement value of his/her Townhome on the Properties. Said policy shall contain a Replacement Cost Endorsement providing for 100% replacement of the townhome. The Association shall obtain a blanket hazard insurance policy equal to the full replacement value of all improvements in the Common Area. All policies shall name the Association as the insured party for the benefit of the Owners, subject to the rights of any mortgagee of a Lot.

(2) The Owner shall apply the full amount of any insurance proceeds to the rebuilding or repair of any residence (subject to the provisions and covenants contained in any mortgage or mortgages creating a lien against any Lot).

(3) The Owner must promptly rebuild or repair the residence in the event of damage thereto.

(4) The Owner shall keep the dwelling in good repair except for repairs required to be made by the Association.

(5) Premiums for the group or blanket hazard insurance policy shall be a common expense and shall be collectible in the same manner and to the same extent as provided for annual and special assessments in Article IV. No insurance proceeds, payable by reason of loss or destruction of the Property shall be used for any purpose other than the repair and replacement or reconstruction thereof.

(6) All insurance policies shall provide that coverage may not be cancelled by the carrier without first giving the Association and mortgagee of Lot, if any, ten (10) days written notice of cancellation. In the event of cancellation of an Owner's insurance policy, the Association shall have the right to obtain proper coverage and the amount paid by the Association shall constitute an additional assessment against said Owner's Lot. All such policies shall contain, if obtainable, a waiver of the right of subrogation against any Owner, members of the Owner's family, the Association, its officers, agents and employees, as well as a waiver of all co-insurance provisions.

(7) The Association shall also obtain a broad form public liability policy covering all the Common Area and all damage or injury caused by the negligence of the Association or any of its agents, officers, or employees in an amount of not less than One Million Dollars for each occurrence and such a policy shall contain a waiver of the right of subrogation against members of the Association, its officers, agents and employees.

(8) In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Association, the Board of Directors shall upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the Property to as near its former condition as practical. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provisions agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall obtain bids from at least two reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance bond for the repair, reconstruction, or rebuilding of such improvements.

(9) Any reconstructed or repaired residence shall be substantially identical to the destroyed residence, unless a change shall be approved by the Board, and shall be contracted in conformity with plans submitted to and approved by the Board prior to construction.

(10) Any residence which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the By-Laws of the Association.

(11) The Association shall maintain adequate fidelity coverage against dishonest acts by officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. Such fidelity bonds shall:

(a) Name of Association as an insured party;



- (b) Be written in an amount equal to at least 150% of the estimated annual operating expenses of the Property, including reserves;
- (c) Contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

## ARTICLE XI.

### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants 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. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, 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. This Declaration may be amended by an instrument signed by not less than seventy five (75%) percent of the Townhome owners, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be properly recorded.

Section 4. Amendment of Declaration Without Approval of Owners. Until such time as all Townhomes are sold to third parties, the Declarant without the consent or approval of any other Owner, shall have the right to amend this Declaration in its sole discretion for any purpose or to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Townhomes and improvements

thereon for mortgage or improvement loans made or insured by a governmental agency, or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of South Carolina, regarding purchase or sale of such Townhomes and improvements or mortgage interest therein, as well as any other law or regulation relating to the control of property, including, without limitations, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitations, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Association or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

No amendment made pursuant to this Section shall be effective until duly recorded in the Office of the Register of Deeds for Greenville County.

Section 5. Lease of Dwelling. No dwelling shall be leased for transient or hotel purposes. Any lease must be in writing and provide that the terms of the lease and the occupancy of the Townhome shall be subject in all respects to the provisions of the Declaration of Covenants, Conditions and Restrictions and By-Laws of the Association, and any failure by a lessee to comply with the terms of such documents shall be considered a default under the lease.

Section 6. Conflicts In the event of any irreconcilable conflict between the Declaration and the By-Laws of the Association, the provisions of this Declaration shall control. In the event of any irreconcilable conflict between this Declaration or the By-Laws of the Association and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

## ARTICLE XII

## RIGHTS OF FIRST MORTGAGEES

The following provisions, in addition to provisions set forth elsewhere in this Declaration, shall be applicable to the holders of first mortgages upon the individual dwellings subject to this Declaration and any amendments thereto:

Section 1. This Declaration and other constituent documents create a Planned Unit Development, hereinafter referred to "PUD" within the meaning of the regulations of the Federal Housing Administration and the Federal Home Loan Mortgage Corporation and otherwise.

Section 2. Any "right of first refusal contained in the PUD constituent documents shall not impair the right of a first mortgagee to:

- (a) foreclose or take title to a PUD Townhome pursuant to the remedies provided in the mortgage;
- (b) accept a deed (or assignment in lieu of foreclosure in the event of a default by a mortgagor; or;
- (c) sell or lease a Townhome acquired by the mortgagee.

Section 3. Any first mortgagee, who obtains title to a PUD Townhome pursuant to the remedies provided in the mortgage or foreclosure of the mortgage, will not be liable for such Townhome's unpaid dues or charges which accrue prior to the acquisition of title to such Townhome by the mortgagee.

Section 4. Unless at least two-thirds (2/3) of the first mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the sponsor, developer or builder of the individual Townhomes in the PUD) have given their prior written approval, the PUD homeowners association, corporation or trust shall not be entitled to:

(a) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the common property owned, directly or indirectly by such homeowners association, corporation or trust for the benefit of the Townhomes in the PUD (the granting of easements for public utilities or for

other public purposes consistent with the intended use of such common property by the PUD shall not be deemed a transfer within the meaning of this clause);

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against a PUD Townhome owner;

(c) by act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Townhomes, the exterior maintenance of Townhomes, the maintenance of the common property party walls or common fences and driveways, or the upkeep of lawns and plantings in the PUD;

(d) fail to maintain fire and extended coverage on insurable PUD common property on a current replacement cost basis in an amount not less than one hundred (100%) percent of the insurable value (based on current replacement cost); or

(e) use hazard insurance proceeds for losses to any PUD common property for other than the repair, replacement or reconstruction of such common property.

Section 5. First mortgagees of PUD Townhomes may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any PUD common property and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such common property and first mortgagees making such payments shall be owed immediate reimbursement therefore from the PUD homeowners association, corporation, or trust. Entitlement to such reimbursement is reflected in an agreement in favor of all first mortgagees of Townhomes in the PUD duly executed by the PUD homeowners association, corporation or trust and an original or certified copy of such agreement is possessed by Declarant.

Section 6. No provisions of the PUD constituent documents gives a PUD Townhome Owner, or any other party, priority over any rights of the first mortgagee of a Townhome in a PUD pursuant to its mortgage in the case of a distribution to such PUD Townhome Owner of insurance proceeds or condemnation awards for losses to or a taking of PUD common property.

Section 7. A first mortgagee, upon request, is entitled to written notification from the Association of any default in the performance of the individual PUD Townhome borrower of any obligation under the PUD constituent documents which is not cured within sixty (60) days.

Section 8. Any agreement for professional management of the PUD, or any other contract providing for services of the Developer, sponsor, or builder, may not exceed three (3) years. Any such agreement must provide for termination by either party without cause and without payment of a termination fee on ninety (90) days or less written notice.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed this 25th day of September, 2003.

WITNESS

Jane D. Hudson  
Julie G. Shealy

CIMA PROPERTIES, LLC

By: Russell Burleigh, Jr.  
Russell Burleigh, Jr., Member

By: Thomas F. Dugas  
Thomas F. Dugas, Member

STATE OF SOUTH CAROLINA     )  
                                                          )  
COUNTY OF GREENVILLE     )     PROBATE

PERSONALLY appeared the undersigned witness and made oath that (s)he saw the within named CIMA PROPERTIES, LLC, by its members sign, seal and as its act and deed deliver the within written Declaration of Covenants, Conditions and Restrictions and that (s)he, with the other witness subscribed above witnessed the execution thereon.

Jane D. Hudson

SWORN to before me this  
25th day of September, 2003  
Julie G. Shealy (SEAL)  
Notary Public for South Carolina  
My Commission Expires: 9-29-08

## EXHIBIT "A"

All those certain pieces, parcels or lots of land situate, lying and being in the State of South Carolina, County of Greenville, being shown and designated as 1.908 acres on a Summary Plat and as Built Survey for Heritage Park, dated August 30, 1991, prepared by Site Design, Inc., of record in the Office of the Register of Deeds for Greenville County, SC in Plat Book 20-T at Page 32; reference to said plat being hereby made for a more complete metes and bounds description thereof.

FILED FOR RECORD IN GREENVILLE  
COUNTY SC R.O.D. OFFICE AT 04:24 PM  
09 25 03 RECORDED IN DEED  
BOOK 2056 PAGE 1786 THRU 1807  
DOC # 2003113631

*Judy A. Hill*