

**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS, AND EASEMENTS FOR  
WHISPERING MEADOWS, PHASE 1  
THE COTTAGES AT WHISPERING MEADOWS**

This DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS <sup>April</sup> EASEMENTS (the "Declaration") is made and entered into this 24 day of ~~January~~, 2020 by Rosewood Communities, Inc., a South Carolina corporation company, Builder and HPS Development, LLC, a South Carolina limited liability company, Developer (hereinafter referred to as the "Declarant") (hereinafter referred to as the "Declarant") for the benefit of itself and its successors and assigns.

WHEREAS, Declarant is the owner of certain real property located in Greenville County, South Carolina, more specifically described on **Exhibit A** attached hereto, which is to be developed as a single family detached residential development to be known as The Cottages at Whispering Meadows (hereinafter the "Development") and which has been subdivided into 25 Lots (as this term is hereinafter defined) as shown on that certain Subdivision Plat recorded in the Office of the Register of Deeds for Greenville County in **Plat Book** 1366 at Page 54 on May 13, 2020; and

WHEREAS, Declarant now desires to foster the attractiveness of the Development, to prevent future impairment thereof, to preserve, protect and enhance the values and amenities of the Development, and to provide for the maintenance and upkeep of the Development.

NOW, THEREFORE, Declarant hereby declares that all of the Property (as this term is hereinafter defined) is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration, which shall run with the Property and be binding on all parties having any right, title, or interest in the Property or any part thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each owner thereof and their respective heirs, successors, and assigns.

**Article I  
Definitions**

In addition to any other terms defined in this Declaration, the following terms shall have the following meanings when used herein:

1. "Association" means the The Cottages at Whispering Meadows Homeowners' Association, Inc., a South Carolina non-profit corporation, its successors and assigns.
2. "Common Area or Open Space" means all real property (including improvements and fixtures thereon or attached thereto), and other property, real, personal, or mixed, which from time to time may be designated by Declarant for the common use and enjoyment of the Owners or conveyed to the Association in fee simple; together with all rights-of-way,

easements, appurtenant, improvements and hereditaments described in this Declaration or designated as Common Area on any recorded plats of the Development, including but not limited to landscape easements, utility easements, and those certain sewer and drainage easements and appurtenances as shown on that certain plat recorded in **Plat Book 1366 at Page 54** in the Office of the Register of Deeds for Greenville County, South Carolina ("Register of Deeds") which shall be and are covenants running with the land at law. Common area shall be further defined to include but not limited to, the open space, private roads and detention areas.

3. "Declarant" means and refers to Rosewood Communities, Inc., a South Carolina corporation, and its successors and assigns in interest, and shall also mean and refer to any person, firm, or corporation hereafter vested, at any given time, with title to two or more undeveloped Lots for the purpose of causing residences and appurtenant buildings to be constructed thereon, and any such successor in title to Rosewood Communities, Inc., shall be a Declarant during such period of time as such successor is vested with title to two or more such lots (whether undeveloped or developed by such successor but not conveyed from such successor), but no longer.

4. "Declaration" means this Declaration of Covenants, Conditions, Restrictions and Easements, as the same may be amended, renewed or extended from time to time in the manner herein prescribed.

5. "Development" means The Cottages at Whispering Meadows, a single-family detached residential development proposed to be developed by the Declarant on one or more of the Properties.

6. "Lot" means any numbered plot of land and improvements thereon, with delineated boundary lines intended for single-family detached residential use, appearing on the Plats, and expressly excluding Common Areas and roads and streets shown on the Plats.

7. "Member" means every person or legal entity that holds membership in the Association.

8. "Mortgage" means any mortgage constituting a lien on a Lot.

9. "Mortgagee" means the owner and holder of a Mortgage at the time such term is being applied.

10. "Owner" means the record owner, whether one or more persons or legal entities, of the fee simple title to any Lot, including Declarant if it owns any Lot, and contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

11. "Plat" or "Plats" means one or more plats of the Development recorded in the Office of the Register of Deeds, including but not limited to that certain plat entitled: Whispering Meadows, Phase 1, prepared by 3D Land Surveying, dated November 27, 2019 recorded in the Office of the Register of Deeds in **Plat Book 1364 at Page 54** and any plat of the Property constituting additional Properties (if they are annexed pursuant to Article II hereof) which may be recorded by Declarant in the Office of the Register of Deeds hereafter.

12. All streets in the subdivision are public and have been dedicated to and accepted by the County of Greenville.

**Article II**  
**Property Subject to This Declaration**  
**and The Jurisdiction of**  
**The Cottages at Whispering Meadows Homeowners' Association, Inc.**

1. Property. The Lots comprising the Property are and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and shall be within the jurisdiction of the Association as set forth in this Declaration.

2. Additional Property. The remaining portion of the Base Tract, or any property adjoining the Property, Base Tract, or any property adjoining such additional property within a one (1) mile radius thereof ("Additional Properties"), or any part thereof, may be brought under and made subject to the terms and conditions of this Declaration and be made part of the Property and brought within and made subject to the jurisdiction of the Association in future stages of development, without the consent of Owners, the Association or its Members, provided that (a) such additions occur within six (6) years after the date of the recording of this Declaration in the Office of the Register of Deeds; and (b) such additions are determined by the Federal Housing Administration and the Veterans Administration to be in accord with the general plan heretofore approved by them, as applicable.

The Additional Properties shall be made subject to this Declaration and the jurisdiction of the Association by recording one or more Amendments to this Declaration and associated Plats with respect to such Additional Property or Properties filed in the Office of the Register of Deeds, which shall extend the terms and conditions of this Declaration and the jurisdiction of the Association to such Additional Properties and thereby subject such additions to the benefits, agreements, restrictions, covenants and obligations set forth herein, including, but not limited to, assessments as determined in accordance herewith.

The obligation for Owners of Lots in any portion of the Additional Properties to pay the assessments described in Article V hereof shall commence upon the filing of the Amendment to this Declaration concerning such Additional Property. The Owners of such Lots shall have the same voting rights as the Owners of Lots in the initial property, and such voting rights shall commence as of the date of the filing of the Amendment to this Declaration concerning such Additional Property.

**Article III**  
**Property Rights**

1. Ownership of Common Areas. At such point in time as Declarant, in its sole discretion, deems appropriate, but in no event later than when Declarant ceases to own at least one Lot shown on any Plat of the Property, as amended by the addition of Additional Property, Declarant shall convey the Common Areas and any additional easement areas shown on any Plat of the Property to the Association subject to all rights-of-way, easements, management agreements and the like of record, unless the same has otherwise been conveyed in whole or in part as hereinafter provided. Notwithstanding

the recordation of any Plat or any other action by Declarant or the Association, all Common Areas shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public unless the Declarant, or the Association after conveyance to the Association, shall choose to convey or dedicate all or a portion of the Common Areas or interests therein, including without limitation, easements, to a public body or governmental entity or agency or to a private, non-profit entity for the purpose of creating a park or greenway. The Association shall not thereafter convey or mortgage any part of the Common Areas without the prior consent of those Owners owning at least sixty-seven (67%) of the Class A Lots.

2. Owners' Rights to Use and Enjoy the Common Areas. Each Owner shall have the nonexclusive, non-severable easement and right to use and enjoy the Common Areas, which easement and right shall be appurtenant to and run with the title to each Lot and shall pass with the title thereto, subject to the following:

(a) the right of the Association to promulgate and enforce reasonable rules and regulations governing the use of the Common Areas to insure the safety, enjoyment and rights of all Owners therein;

(b) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;

(c) the right of the Association to suspend the voting rights with respect to such Lot in the Association and the right of the Association to suspend the right to use the Common Areas by an Owner for any period during which any assessment against the Owner's Lot remains unpaid; and further to suspend such right to use the Common Areas for a period not to exceed sixty (60) days for any infraction of this Declaration, the Association By-Laws, or its published rules and regulations; and

(d) the right of the Declarant or the Association to grant utility, drainage, sewer, and such other easements of the types and for the purposes set forth in Article VII across the Common Areas or to make dedications or conveyances as set forth in Section 1 above;

(e) the obligation of each Owner to pay assessments as set forth in this Declaration;

(f) the right of the Association or its agents to enter any Lot in the case of an emergency threatening such Lot or any other Lot for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate and shall not constitute a trespass;

(g) the right of the Association, in accordance with this Declaration and the Association By-laws, to borrow money for the purpose of improving, repairing and maintaining the Common Area and facilities and in aid thereof to secure any such loans with mortgages or security agreements creating liens on the Common Area and facilities or a part thereof; provided, however, that the rights of any lien holder in the Common Area and facilities shall be subordinate to the rights of Lot Owners and mortgagees of Lots;

(h) the right of the Association to enter any Lot to perform any maintenance, alteration or repair required or permitted herein to be performed by the Association; and, the Owner of such Lot shall permit the Association or its representative to enter for such purpose at reasonable times.

3. Owners' Easements for Ingress and Egress. Every Lot shall have as a part thereof a perpetual, non-exclusive right to use any cul-de-sac or roadway, if any, which may be constructed by the Declarant and conveyed to the Association as part of the Common Area for the purpose of providing access to and from each Lot, and said perpetual, non-exclusive right shall be an easement running with the land and pass with the title to each Lot. Cuts-de-sac and roadways set forth as temporary easements on any Plats of the Property shall not be deemed to have granted perpetual, non-exclusive rights of use to Owners but shall be subject to removal upon opening of any road extensions adjacent thereto by Declarant.

4. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws of the Association, such Owner's right of enjoyment to the Common Areas and facilities thereon to the members of such Owner's family, guests, tenants, or contract purchasers who reside permanently or temporarily in the residential dwelling on such Owner's Lot so long as such Owner is not in default of payment of assessments or in violation of any terms of this Declaration.

#### **Article IV The Association**

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

2. Voting Rights and Classes of Lots. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots (as this term is defined below). Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person or legal entity owns an interest (other than leasehold or security interest) in any Lot, all such persons or legal entities shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by the Declarant which have not been conveyed to purchasers who are not affiliated with Declarant. The Declarant shall be entitled to three (3) votes for each Class B Lot owned by it. The Class B Lots shall be converted to Class A Lots when the total votes outstanding in the Class A Lots equals the total votes outstanding in the Class B Lots.

3. Availability of Document. The Association shall maintain current copies of the Declaration, the By-Laws, and rules and regulations, concerning the Development as well as its own books, records, and financial statements available for inspection by all Owners,

Mortgagees and insurers and guarantors of Mortgages that are secured by Lots. All such documents shall be available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

4. Management Contracts. The Association is authorized and empowered to engage the services of any person, firm, or corporation to act as managing agent of the Development at a compensation to be established by the Board of Directors and to perform all of the powers and duties of the Association; provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms, Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

5. Maintenance. The Common Areas, front, rear and side yards of all lots and certain features thereof that are deemed common amenities and facilities, being of benefit to all Lots, shall be maintained exclusively by the Association. Said common amenities may include, without limitation, entrance walls, signage, lighting, landscaping, hardscaping and landscape furniture, parks and greenways, playgrounds, and sidewalks, common walks, signs, picnic areas, irrigation systems and storm water and drainage easements located within the Common Areas. (The common amenities shall be provided at Declarant's sole and absolute discretion and Declarant is under no obligation to provide any of the amenities listed above.) The Association shall also maintain all utilities and all storm and drainage easements and appurtenances, equipment and facilities related thereto located within the Common Areas, together with common amenities not maintained by public entities or utilities. The Association shall be responsible for the landscaping maintenance of the Lots or the improvements within the boundaries thereof.

6. Working Capital Fund. The Association may establish a working capital fund equal to the aggregate of two (2) months of annual assessments (as described in Article V hereof) for each Lot. If established, each Lot's share of said working capital fund shall be collected from the purchaser and transferred to the Association at the time of the closing of the initial sale of each Lot to a party other than Declarant. The working capital fund shall be maintained in a separate account for the use and benefit of the Association and shall be used to meet unforeseen expenditures or to acquire furniture, equipment, or services deemed necessary or desirable by the Board of Directors of the Association. All sums paid unto the working capital fund are in addition to and not in lieu of regular assessments for common expenses.

7. Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of all Common Areas, and all improvements thereon, which the Association is obligated to maintain. Such reserve fund shall be maintained from the annual assessments described in Article V of this Declaration.

## Article V Covenant for Assessments

1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot owned within the Property, hereby covenants and causes by this Declaration to impose upon each such Lot, and each Owner of any 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, annual assessments or charges and special assessments for working capital and reserve funds for capital improvements, permitted in this Declaration, and established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made and shall be enforced as a lien in the same manner as a mortgage on the Lots, including foreclosure as a remedy. Each such assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

2. Purpose of Monthly Assessments. The monthly assessments levied by the Association shall be used as follows:

- (a) To maintain in a good and attractive condition the landscaping, including, without limitation, the mowing of lawns, planting and maintenance of shrubs, flowers and other plants, and watering on and within the boundaries of the Common Areas and lots. HOA must mulch each lot once a year and common areas as needed;
- (b) to maintain the parks and greenways, if any, in the Common Areas and sidewalks or other common walks, common signage and development statement pieces or entrance ways (including any walls erected at said entrance ways); to construct, maintain, repair and replace any and all lighting, drainage pipes, inlets, basins, ditches, swales, berms, rip rap, landscaping, vegetative cover, passive and active storm water detention, wetlands, and other facilities, equipment, and improvements installed upon, above, or under the Common Areas;
- (c) to construct, maintain, repair and replace all trails or paths, if any, in the Common Areas as a common amenity in a reasonably passable condition, free from falling trees, undergrowth, and other obstructions; and to keep all dead, diseased or decaying trees, shrubs and bushes removed from such areas and to replace such items with new trees, shrubs and bushes;
- (d) to construct, maintain, repair and replace all recreational and related facilities, if any (such as a picnic area), located within the Common Areas as a common amenity; provided, that, the reference to said facilities herein shall not be construed to require said facilities to be constructed or installed in the Common Areas or elsewhere on the Properties;

- (e) to maintain any improvements required by any County, State, or federal agency to be installed and maintained upon, under, or over the Common Areas;
- (f) to keep all Common Areas clean and free from debris and to maintain same in a clean and orderly condition, and to maintain the landscaping therein, including any necessary removal and replacement of landscaping;
- (g) to provide such security services as may be deemed reasonably necessary for the protection of the Common Areas, and any recreational and related facilities, if any, located within the Common Areas, from theft, vandalism, fire and damage from animals and also provide one sanitation service to maintain uniformity and reduce traffic within the community;
- (h) to pay all ad valorem taxes levied against the Common Areas and any property owned by the Association;
- (i) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the By-Laws;
- (j) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the By-Laws;
- (k) to maintain a reserve fund as provided in Article IV, Section 7, of this Declaration;
- (l) to maintain if possible a contingency reserve equal to 10% of the sum of the amounts described in the above subsections (a) through (k) of this Section 2 in order to fund unanticipated expenses of the Association.

3. Maximum Monthly Assessment. Until December 31 of the calendar year following the conveyance of the first Lot by Declarant to another Owner, the maximum monthly assessment shall be One Hundred Eighty Five Dollars and NO/100 (\$185.00) per Lot.

- (a) The maximum monthly assessments established above may be increased, effective January 1 of each calendar year following the conveyance of the first Lot By Declarant to another Owner, without a vote of the membership of the Association by an amount not to exceed the greater of (1) ten percent (10%) per year over the previous year; or (2) the percentage increase, if any, in the Consumer Price Index (published by the United States Department of Labor, Washington, DC) for all cities over the immediately preceding twelve (12) month period which end :ad on the previous October 31. If the monthly assessment is not increase . by the maximum amount permitted under the terms of this Section, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the assessment may be increased by that amount within the next three future years at the election of all members of the Board of Directors of the Association without a vote of the membership, in addition to the maximum increase permitted under the terms of the preceding sentence.



- (b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, said maximum monthly assessments may be increased without limitation if such increase is approved by Members entitled to no less than sixty-seven (67%) of all of the votes. Such voting may be represented in person or by proxy at a meeting duly called for such purpose. If the Association has not been turned over to the membership the Declarant reserves the right to increase the assessment as the Declarant deems necessary.
- (c) The Board of Directors may fix the monthly assessments at amounts not in excess of the maximum. If the Board of Directors shall levy less than the maximum monthly assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by majority vote, *levy* a supplemental assessment. In no event shall the sum of the initial and supplemental assessments for that annual period exceed the applicable maximum annual assessment permitted under Subsection 3(a) of this Article.

4. Special Assessments for Capital Improvements. In addition to the monthly and supplemental monthly assessments authorized in Section 3 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 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 requires the same assent of the members as provided in Section 3 (b) of this Article.

5. Assessment Rate. Both monthly and special assessments must be fixed at an equal amount for all Lots. The Declarant shall not be subject to payment of assessments at any time.

6. Notice and Quorum for Any Action Authorized Under Article V. Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 or 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 such meeting the presence of Members or of proxies entitled to cast fifty percent (50%) of all the votes of the membership shall constitute a quorum: If the required quorum is not present, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present. No such subsequent meeting shall be held more than sixty (60) days following date set for the preceding meeting.

7. Date of Commencement of Monthly Assessments: Due Dates. The monthly assessments provided for herein shall commence as to each Lot upon the filing of this Declaration (or the filing of an Amendment to this Declaration if relating to the Additional Properties) in the Office of the Register of Deeds. The first monthly assessment shall be adjusted and prorated according to the number of months remaining in the annual accounting period for the Association. Written notice of the monthly assessment for each year shall be sent to every Owner. 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 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.

8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twenty-five (25%) percent per annum. Assessments shall constitute a lien against the Lots. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot in the, same manner as tile foreclosure of a mortgage, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of the assessment due and owing. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Areas or by abandoning Owner's Lot.

9. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein shall be subordinate to the lien of any mortgage on a Lot or any mortgage of Declarant. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure, shall extinguish the lien of such assessments against such Lot as to payments which became due prior to such sale or transfer pursuant to mortgage foreclosure. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage as provided in this Declaration. No mortgagees shall be required to collect assessments hereunder and a failure to pay assessments hereunder shall not constitute a default under any applicable mortgage on a Lot.

## **Article VI Maintenance Encroachment and Support**

1. Maintenance of Lot Plantings. The Association shall provide landscape maintenance upon each Lot and shall have an easement and right of access to go upon any Lot for the performance of repairs, replacements and maintenance that are the responsibility of the Association.

Owners may have the right to plant and maintain flowers in the front and rear beds if established by Declarant in developing the Lots; provided that such plantings and their maintenance by the Owner do not hinder or interfere with the Association in performing its maintenance and replacement of landscaping on the Lots as the Association is required to maintain. No such maintenance by an Owner shall reduce the assessments payable by such Owner to the Association. The Owner shall not plant any vegetation on a Lot without the prior written approval of the Architectural Control Committee except flowers in beds as described above.

If the need for maintenance, repair or replacement of those matters which are the responsibility of the Association is caused, directly or indirectly, wholly or in part, through the willful, intentional, unintentional, or negligent act or omission of an Owner or such Owner's

family, guests, invitees, tenants, contractors or agents, the cost of such maintenance, repair or replacement shall be added to and become a part of the assessments to which such Lot is subject.

Prior to the Declarant transferring the Common Area to the membership, the Declarant may approve minor changes as the Declarant deems necessary in his sole discretion.

2. Encroachments. Each owner of a Lot with an exterior wall, roof or eave, including overhangs, fence, concrete or asphalt walk, patio, or driveway which encroaches on the Common Area and/or an unimproved portion of a Lot of another Lot Owner and which encroachment exists solely by virtue of original construction by the Declarant or with Declarant's express approval, shall have an easement over that portion of the Common Area or adjacent Lot affected by the encroaching wall, roof, eave, walk, patio, or driveway for the purpose of using said portion of the Common Area or adjacent Lot for the encroaching Owner's exclusive use and benefit and for the purpose of maintaining the encroaching structure in good condition and repair. In the case of a wall, roof, eave, walk, patio, or driveway encroachment, it shall be the responsibility of the Owner thereof to maintain the encroaching wall, roof, eave, walk, patio, or driveway in good condition and repair.

3. Support. To the extent that any land or improvements that are part of the Common Area or a Lot now or hereafter supports or contributes to the support of any other land or improvement that is part of the Common Area or another Lot, the land or improvement providing such support is hereby burdened with an easement and right for support for the benefit of the other land or improvement that is supported.

4. Covenants. The aforesaid easements and rights for encroachment and support shall be easements appurtenant and run with title to the land encumbered and benefitted respectively.

## **Article VII Architectural Control**

1. Plan of Design Approval; Fines for Failure to File; Lien. No improvements (including repairs, replacements, paint, siding, trim, doors, windows, fences, or ornamentation or residences and all other structures, outbuildings, yards and landscaping (hereinafter collectively referred to as "Design Details")) shall be undertaken upon any Lot, except by Declarant or, unless the plans and specifications and a site plan showing the location of the proposed improvements on the Lot shall have been submitted to the Architectural Committee established in Section 2 of this Article and expressly approved by the same in writing. The terms of this Article VI shall also not apply to the initial construction of improvements on a Lot by Declarant. The plans should also indicate the location of all existing trees on the Lot in excess of six (6) inches in diameter, such measurement to be taken four and one-half (4-1/2) feet above grade. No subsequent alteration or modification of any existing improvements or construction, erection or installation of additional improvements may be undertaken or allowed to remain on any of the Lots without the review and express written approval of the Architectural Committee, subject to Section 5 below.

Failure to submit plans or commencing construction without the prior written approval of the Architectural Committee (as required herein) shall be grounds for the Board of Directors to levy a fine against such Owner. Said fine shall be a lien against the Lot enforceable as a mortgage upon the filing of such lien as provided herein. Such lien shall be subordinate to the lien of any mortgage of record against such Lot.

2. Architectural Committee. The Board of Directors of the Association shall designate the number of and appoint the members of the Architectural Committee on an annual basis. In the event of the death, removal, or resignation of any member of the Architectural Committee, the Board of Directors shall appoint a successor member to complete the term of the member who died, resigned, or was removed. Members of the Architectural Committee may be removed and replaced at any time with or without cause, and without prior notice, by the Board of Directors.

3. Procedures. The Architectural Committee shall review plans and specifications submitted pursuant to Section 1 above as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and direction of facing of main elevation with respect to nearby streets, and nature and appropriateness within the Development of all Design Details;
- (b) conformity and harmony of all Design Details and the exterior design, color, type and appearance of exterior surfaces or residences, all fences, structures and ornamentation;
- (c) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots, Common Areas, and any improvements situated thereon and drainage arrangement; and
- (d) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Architectural Committee, or matters in which the Architectural Committee has been vested with the authority to render a final interpretation and decision.

The Architectural Committee is authorized to request the submission of samples of proposed construction materials. Any modification or change to the Architectural Committee approved set of plans, specifications, site plan, and materials must again be submitted to the Architectural Committee for its inspection and approval or disapproval. The Architectural Committee's approval or disapproval shall be in writing. If the Architectural Committee approves the plans, specifications and site plan for the proposed improvements, the construction of such improvements must be promptly commenced and diligently pursued to completion and if such construction is not commenced within the time set therefor by the Architectural Committee in the written approval (but in no event later than two (2) years after such approval), such approval shall be deemed rescinded and, before construction of improvements can thereafter be commenced on the subject Lot, the plans, specifications and site plan therefor must be again approved by the Architectural Committee pursuant to this Article.

4. Lien for Fines; Enforcement; Easement of Access for Enforcement; Remedy of Foreclosure. The Board of Directors of the Association, with or without the recommendation of the Architectural Committee, shall have the specific, nonexclusive right (but no obligation) to enforce the provisions contained in this Article and to prevent any violation of the provisions contained in this Article by a fine in such amount as determined by the Board of Directors levied against the Owner of a Lot who violates or attempts to violate any such provisions contained herein by filing any such fine as a lien against such Lot in the public records of Greenville County and enforcing payment of any such fine by an action in foreclosure against such Lot, including attorney's fees and costs of enforcement, as well as any other proceeding at law or in equity against the Owner of the Lot who violates or attempts to violate any such provisions contained herein. The Association shall have an easement and right of access over, upon and across the Lots in the Subdivision for purposes of enforcing the provisions of this Article and Article IX concerning maintenance of Lots.

5. Right of Inspection. The Architectural Committee shall have the right, at its election, to enter upon any of the Lots during preparation, construction, erection, or installation of any improvements thereon to determine that such work is being performed in conformity with the approved plans and specifications.

6. Limitation of Liability. Neither the Architectural Committee, the members thereof, the Board of Directors of the Association, Association Members, nor the Declarant shall be liable in damages or otherwise to any Owner or anyone submitting plans, specifications, site plans and other submittals pursuant to this Article VII, or to any third party, member of the Association, or Owner of any other Lot with respect to the review, approval, disapproval, failure to review or failure to approve or disapprove any plans, specifications, site plans or other submittals pursuant to this Article VII, or with respect to any claims of mistake of judgment, negligence or nonfeasance arising out of or related to this Article VII.

7. Compensation. No member of the Architectural Committee shall be entitled to compensation arising out of services performed pursuant to this Article.

### **Article VIII Easements Reserved By Declarant**

Lots and the Common Areas shall be subject to those easements and rights-of-way, if any, as shown on the recorded Plats of the Property.

In addition thereto and in lieu thereof, Declarant reserves the following perpetual use easements:

- (a) an easement along each side and rear Lot line of each Lot (I) for the erection, installation, construction, repair, replacement, and maintenance of wires, lines, conduits, pipes, and poles, appurtenances, appliances, equipment and the like in connection with the transmission and distribution of electricity, telephone, cable television, and other utilities; and (ii) for the erection, installation, construction, and maintenance of storm water, drainage facilities, land drains, pumping and lift stations, open drainage ditches, public and private sewers, pipelines for supplying

natural gas, water, and the like utilities and wires, lines, conduits, pipes, appurtenances, appliances, equipment and the like in connection therewith, and for, any other public or quasi-public facility, service or function;

- (b) a five foot easement along Lot lines adjacent to streets for the installation of driveways, curbing, and curb cuts for driveways;
- ©) the right and easement to erect permanent walls on the Common Areas for the purposes of providing screening, privacy, decoration, retain age and topographical stability in connection with the overall plan and development of the Development, the Property and the Lots located therein and thereon;
- (d) a temporary easement for the benefit of Declarant over the Common Areas for the purpose of temporarily storing construction materials or parking vehicles and equipment in connection with the construction of improvements on the Common Areas or on adjacent or contiguous property owned by Declarant;
- (e) an easement over all lots for the purpose of maintenance of landscaping over the Common Areas and Lots in such amount, manner and maintenance as the Declarant, in its sole discretion, shall determine; and
- (f) an easement for the installation and maintenance of utilities (including transformers and service facilities) and other commonly beneficial amenities including, without limitation, mailboxes, trash containers and area lighting over the Property and Common Areas.
- (g) temporary cul-de-sac easements as shown on any Plat of the Property.

Each Owner, by acceptance of a deed to a Lot, and the Association by its acceptance of a deed to the Common Areas, acknowledge and agree to the foregoing reservation of easements and the right of Declarant to transfer such easements to the Association or to public or private utility companies as Declarant may choose.

The easements reserved by the Declarant include the right to cut or remove without replacement any trees, bushes or shrubbery, make any gradings of the soil, or take any similar action required by a utility for acceptance of a transfer or reasonably necessary to provide economical utility installation and maintenance of the overall appearance of the Development.

Within any of the foregoing easements, no structure, planting or other material shall be placed or permitted to remain which may, in Declarant's sole opinion, interfere with the installation or use of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements, or which may otherwise damage or interfere with the enjoyment or use of the easements for their intended purposes.

The easement area of each Lot and all improvements in it shall be maintained continuously by the Association, except for those improvements for which, a public authority or utility company is responsible.

2. Encroachments. Each Owner of a Lot with an exterior wall, roof or eave, including overhangs, fence, concrete or asphalt walk or patio, which encroaches on the Common Area and/or an unimproved portion of a Lot of another Lot Owner and which encroachment exists solely by virtue of original construction by the Declarant or with Declarant's express approval, shall have an easement over that portion of the Common Area or adjacent Lot affected by the encroaching wall, roof, eave, fence, walk or patio for the purpose of using said portion of the Common Area or adjacent Lot for the encroaching Owner's own benefit and for the purpose of maintaining the encroaching structure in good condition and repair. In the case of a wall, roof, eave or fence encroachment, it shall be the responsibility of the Owner thereof to maintain the encroaching wall, roof, eave or fence in good condition and repair.

**Article IX**  
**General Covenants**  
**Uses Permitted and Restricted**

1. Residential Use of Property; Enforcement of Article; Fines; Lien; Foreclosure. All Lots shall be used for single-family residential purposes only, and no business or business activity other than use for a home office and provided no outside traffic or advertising related to the business shall be carried on or upon any Lot at any time; provided, however, that nothing herein shall prevent Declarant from using any Lot owned by Declarant for the purpose of carrying on business related to the development, improvement and sale of Lots in the Development.

The Board of Directors of the Association, with or without the recommendation of the Architectural Committee, shall have the specific, nonexclusive right to enforce the provisions contained in this Article and to prevent any violation of the provisions contained in this Article by a fine in such amount as determined by the Board of Directors levied against the Owner of a Lot who violates or attempts to violate any such provisions contained herein, by filing any such fine as a lien against such Lot in the public records of Greenville County and enforcing payment of any such fine by an action in foreclosure against such Lot, including attorney's fees and costs of enforcement, as well as any other proceeding at law or in equity against the Owner of the Lot who violates or attempts to violate any such provisions contained herein.

The Association shall have an easement and right of access over, upon and across the Lots in the Development for purposes of enforcing the provisions of this Article and Article VIII concerning maintenance of Lots.

2. Setbacks and Building Lines. Each structure, including without limitation, residential dwellings, garages, whether attached or detached, utility buildings, and any other permitted structures, erected on any Lot shall be situated on such Lot in accordance with the building and setback lines as shown on the recorded Plats of the Development.

3. Re-Cutting Lots; Combining Lots. No Lot may be re-cut so that it faces a street other than as shown on the pertinent Plat of the Property. Lots or portions thereof may

be combined with adjacent Lots to form a larger Lot than shown on a Plat. Easements and rights-of-way reserved in Article VII shall then apply to the new exterior Lot lines.

4. Dwelling Floor Space. Each Lot shall contain no more than one (1) residential dwelling containing the minimum floor space of 1400 square feet on the first level.

No dwelling on any Lot shall have more than two stories as measured from grade and above. In calculating the minimum floor space, only the heated area of the dwelling shall be included. Any area comprising porches, garages, breezeways, porte-cocheres, unfinished attics and unfinished basements shall be excluded.

5. Garages. No garage other than original construction shall be erected on any Lot.

6. Detached Structures. No detached outbuilding or other structure shall be erected on any Lot.

7. Building and Zoning Codes. All structures must comply with all applicable building and zoning codes.

8. Swimming Pools. No swimming pools may be erected or constructed on any Lot, whether above or below ground, whether temporary or permanent.

9. Obstructions to View at Intersections and at Driveway Entrances to Streets. Vegetation shall not be permitted by any Owner to obstruct the view at street intersections or at driveway entrances to streets.

10. Delivery Receptacles and Property Identification Markers. The Architectural Committee 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 similarly delivered materials, and of name signs for such receptacles, as well as Lot identification markers.

11. Use of Outbuildings and Similar Structures. No structure of a temporary or permanent nature, unless approved in writing by the Architectural Committee, shall be erected or allowed to remain on any Lot. In no event shall any trailer, camper, shack, tent, garage, utility building, shed, greenhouse, barn or other structure of a similar nature be used as a residence, either temporarily or permanently; provided, however, that this Section shall not be construed to prevent the Declarant from using sheds or other temporary on Lots during construction.

12. Completion of Construction. The Architectural Committee shall have the right to take appropriate legal action, at law or in equity, to compel the immediate completion of any dwelling or other structure not completed within one (1) year from the date of commencement of construction.

13. Animals; Pets; Livestock. No animals, livestock, exotic pets, poultry, or other fowl of any kind (whether domestic or exotic) shall be raised, bred or kept on any Lot, except



that a reasonable number of dogs, cats, or other small in-door household pets (ex. parakeets, fish, hamsters, gerbils) may be kept; provided, however, that they are not kept, bred, or maintained for any commercial purposes. "Reasonable number" shall mean no more than two pet at any given time may be outdoors and when outdoors must be secured by a leash. Any household pets must not constitute nuisance or cause unsanitary conditions. All applicable local laws or regulations, including leash laws, shall be observed. No outdoor fencing or dog kennels will be permitted within the community. No dogs such as "pitbulls" that may be considered inherently dangerous will be allowed. The owner shall immediately remove any pet waste.

14. Offensive Activities. No noxious, offensive or illegal activities shall be carried on upon any Lot, nor shall anything be done thereon or *any* substance, thing, or material be kept thereon which is or may cause any noise or foul or obnoxious odors or become an annoyance or nuisance to the Owners of other Lots or that will or might disturb the peace, quiet, comfort, or serenity of other Owners. The Board of Directors shall establish rules and regulations for the enforcement of this Section.

15. Signs. No advertising signs or billboard shall be erected upon any Lot. This restriction shall not apply to signs used to identify and advertise the subdivision as a whole, nor to signs for selling Lots during the initial construction of residences on Lots. In addition, 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 of a Lot or as a transferee pursuant to any proceeding in lieu of foreclosure so long as such signs are approved by the Architectural Committee.

16. Fencing. Underground fencing may be installed on any lot. Fencing will only be allowed at the time of construction and shall be installed by the Builder only on selected lots. If fence needs to be repaired or replaced it must be replaced by fence of similar style and construction approved by the HOA.

17. Decorative Yard Ornamentation. No decorative statues, birdbaths, fountains, ornaments, figurines, or any other decorative structures or items are permitted in the front, rear or side yards of any Lot or upon any wall unless approved by the Declarant or H.O.A..

18. Maintenance. The Association shall keep and maintain the Lots in regard to lawn maintenance. The Owner shall keep and maintain the dwelling and any improvements thereon in good condition and repair, including, without limitation repairing and painting (or other appropriate external care) of all structural improvements. The Architectural Committee shall have the power and responsibility of enforcing this Section.

19. Antennae Satellite Dishes and Disks. No antennae, satellite dishes or disks, ham radio antennae, or antenna towers for receiving or transmitting radio, television, or other electronic transmission shall be permitted to be placed or used upon any Lot, except as provided Satellite dishes or disks are allowed to be mounted on the roof as long as it is behind the ridge of the roof and is not visible from the street facing home.

20. Playground Equipment and Basketball Goals. Basketball hoops or goals or playground equipment, whether free-standing, removable or attached to mounts shall not be permitted.

21. Motorized Vehicles. No commercial, recreational, or disabled vehicles, boats, jet skis, boat trailers, motorcycles, motor homes, trucks, buses, vehicles on blocks or any like equipment or mobile or stationary trailers of any kind shall be kept, stored or parked overnight either on any street or on any Lot, except for construction or sales trailers or other vehicles used by Declarant and its agents and contractors and except for such designated parking areas as the Board of Directors may establish by rules and regulations. Notwithstanding the foregoing, passenger automobiles may be parked only in driveways with the exception of visitors. All motor vehicles must be equipped with functioning mufflers to maintain the lowest possible noise level when operated.

22. Construction Debris Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste. All construction debris and litter shall be maintained in a manner that prevents any hazardous condition and/or distribution to any other Lot. All construction debris and litter shall be removed within fifteen (15) days of construction completion. No other garbage and refuse shall be kept or allowed to accumulate on any Lot except in sanitary containers provided by the community's sanitation service.

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

24. Tanks. Fuel oil and gas tanks may not be installed on any Lot. Small fuel containers for grills, tools and like implements may be kept.

25. Clotheslines and Garbage Cans. Exterior clotheslines are not permitted on Lots. No garbage incinerators shall be permitted on any Lot.

26. Firearms and Weapon Discharge. Any firearm or weapon discharge or release, other than for defense or protection or one's life or property, is strictly prohibited on any and all Property in the Development. Firearms and weapons shall include, without limitation, rifle, gun, pistol, shotgun, black powder gun, pellet or BB gun, bow and arrow, crossbow and arrow, and any other weapon from which any bullet, shot, or projectile may be discharged or released.

27. Model Homes. Declarant shall have the right to construct and maintain model units on any of the Lots.

28. Aesthetics. Natural Growth. Screening. Trees which have a diameter in excess of six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior written approval of the Architectural Committee.

29. Wild Bird Sanctuary. The Properties are declared to be a wild bird sanctuary. No wild bird of any type shall be killed or harmed above, upon or within the boundaries of the Properties.

30. Grilling Pads. At the time of construction the owner may request the builder to add an additional concrete pad extending from the covered patio provided it extends no more than eight (8) feet to the rear of the property. This pad may be used for grilling purposes so that the grill can be out from under the covered patio.

31. Driveways. The driveway for each resident is a limited common area exclusively for the benefit of the owner and their guests. The maintenance of the driveways will be handled by the owner of the unit.

32. Storm Doors and Awnings. No storm doors or awnings may be installed on any exterior portion of the house.

33. Playground Equipment. No swing sets, trampolines or similar playground equipment of that nature will be allowed.

34. Fences. No fences shall be erected or begun on any Lot.

35. Flag Poles. No flag poles shall be placed on any lot.

36. Fenced Gardens. An option to have a 10' x 40' fenced garden at the rear of the lot will be allowed if the lot terrain permits. Maintenance of the area within the garden walls of the Garden Series homes will be the responsibility of the owners. However, the fence itself will be maintained by the H.O.A. and the water provided to the garden area will be provided for by the H.O.A.. This option for the garden will be an "extra" paid for by the owner. The garden must be kept neat and free from tall weeds. No pets will be allowed to stay unattended in the garden area.

## **Article X General Provisions**

1. Enforcement by Fine; Lien; Court Action; Foreclosure of Lien. The Association, or any Owner, shall have, the right to enforce, by any proceeding at law or in equity, all or any provisions of this Declaration including, without limitation, all restrictions conditions, covenants, reservations, liens end charges now or hereafter imposed by this Declaration as amended. Failure of the Association or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter and such failure shall not be deemed acquiescence in any breach of this Declaration. Each Owner shall have all appropriate remedies at law or in equity to enforce the provisions of this Declaration and the By-Laws of the Association and any duly authorized rules and regulations governing the Development against the Association.

2. Severability. Invalidation of any of the terms and conditions or provisions of this Declaration by final judgment or a court of competent jurisdiction shall not affect any other provisions which shall remain in full force and effect.

3. Amendment. This Declaration may be amended only by an instrument signed by the Declarant, so long as the Declarant owns any Lots and has not transferred the Common

Area to the Association. After transfer of the common area to the Association this Declaration may be amended by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Lots.

4. FHA/VA Approval. Notwithstanding anything to the contrary contained in this Declaration, as long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: (a) annexation of additional Properties; (b) dedication of Common Areas; and (c) amendment of this Declaration.

5. Duration. This Declaration and its covenants and restrictions shall run with and bind the land until January 1, 2048 after which time they shall be automatically extended for successive periods of ten (10) years.

## **Article XI MISCELLANEOUS AND CONSERVATION EASEMENT**

The owner of each lot shall send written notice to the Association of the conveyance of the lot to owner. Owner shall include in the notice owners mailing address for receipt by owner of notices from the Association and a current phone number at which owner may be reached. Owner shall be responsible for giving the Association notice of any change in owners address or phone number, and delivery by the Association of notices to owner at the last address given by owner to the Association shall continue actual and complete notice to said owner.

Additional residential property may be annexed to the subdivision property. Declarant retains the right to use any lot or lots owned by the Declarant as a street or streets for access to the annexed property so as to make the annexed property a part of the subdivision. All properties annexed to the subdivision shall be subject to the covenants and restrictions and shall be annexed only at the absolute sole discretion of the home owner.

The Association shall maintain all common areas in the subdivision.

A perpetual, non-exclusive easement over the Common Area is hereby granted to each Lot and its Owners, family members and Tenants of such Owners, the occupants of such Lot, and guests and invitees of such Owners, tenants or occupants, for the purpose of providing access, ingress egress to and from the streets, parking and walkways serving the Properties.

## **Article XII MISCELLANEOUS PROVISIONS**

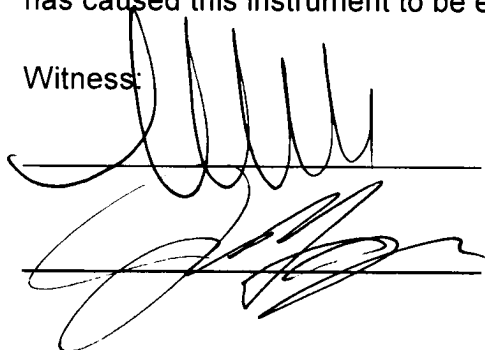
1. Garbage Container. All garbage containers must be stored in the garage at all times except on the day of pick-up.

2. Flowers. Any flowers planted in permitted mulch beds must not exceed 12" in length and must be removed when dead. The HOA is not responsible for any damage to the flowers during maintenance.

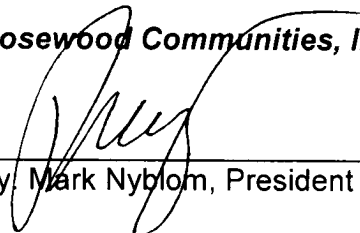
3. **Garden Hose.** Any garden hose stored outside the garage must be on a roller at the exterior faucet.
4. **Storm Doors.** No storm doors may be placed on any doorway.
5. **Hanging Items.** No items are permitted to hang from the house or privacy fence.
6. **Holiday Decorations.** Holiday decorations may go up one week before Thanksgiving but must be removed no later than January 6<sup>th</sup> of the new year. Decorations may be placed on the front porch and garage lights but not in the yard or shrubs due to maintenance.

IN WITNESS WHEREOF, Declarant, by and through its authorized representative, has caused this instrument to be executed the day and year first above written.

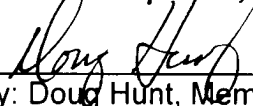
Witness:



**Rosewood Communities, Inc.**

  
By: Mark Nyblom, President

**HPS Development, LLC**

  
By: Doug Hunt, Member


State of South Carolina )

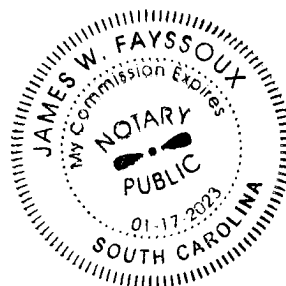
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**ACKNOWLEDGMENT**

County of Greenville

I, James W. Fayssoux, a Notary Public for the State of South Carolina, do hereby certify that Rosewood Communities, Inc. and HPS Development, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

SWORN to before me this 24 day of April, 2020  
 (SEAL)  
Notary Public for South Carolina  
My Commission Expires: 1/17/2023



**EXHIBIT A**

**Legal Description of Property**

All that certain piece, parcel or lot of land situate, lying and being in the State of South Carolina, County of Greenville being shown and designated as The Cottages at Whispering Meadows, also known as Whispering Meadows, Phase 1, consisting of 25 lots and 2.01 acres, more or less, of conservation area, as shown on plat thereof recorded in Plat Book 1366 at Page 57 and having, according to said plat, metes and bounds as shown thereon.