IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF SOUTH CAROLINA

In re: Foxwood Hills Property Owners Association, Inc., Debtor.	Case No. 20-02092-hb Chapter 11

AMENDED AND RESTATED CHAPTER 11 PLAN OF REORGANIZATION

Filed by Foxwood Hills Property Owners Association, Inc.
Debtor-in-Possession

May 3, 2021

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AMENDED AND RESTATED PLAN OF REORGANIZATION

Foxwood Hills Property Owners Association, Inc. (the "**Association**"), as the debtor and debtor-in-possession in this case, provides the following Amended and Restated Plan of Reorganization, filed on May 3, 2021 (as amended, the "**Plan**") pursuant to 11 U.S.C. § 1121.

ARTICLE I

HISTORY AND OTHER GENERAL INFORMATION RELATING TO THE PLAN

1.1 **Background.** The Association's history and background, including a description of the assets of the Estate, are provided on pages 2 through 14 of the Amended Disclosure Statement to Amended and Restated Chapter 11 Plan of Reorganization and its attached exhibits filed by the Association on May 3, 2021 (as amended, the "**Disclosure Statement**") in support of this Plan. The Disclosure Statement is provided with this Plan.

1.2 **Financial Condition of the Estate**. The information providing the reader with the current and historical financial condition of the Association and its Estate is located in the Disclosure Statement and its attached exhibits, particularly on pages 14 through 20 and in **Exhibit A**, **Exhibit B**, **Exhibit C**, **Exhibit D**, **Exhibit E**, **Exhibit F**, **Exhibit G** and **Exhibit H** to the Disclosure Statement.

1.3 **Proceedings Since the Commencement of the Case**. The Association filed its petition for relief under Chapter 11 of the U.S. Bankruptcy Code (11 U.S.C. § 101 et seq.) on May 8, 2020. Information concerning the proceedings in this case is provided in the Disclosure Statement. The Disclosure Statement includes information on the progress of this case, the Association's proposed reorganization of its operations, the treatment of creditors, the sale of assets proposed in this case, a summary of transactions, historical and projected income and expenses, and matters occurring subsequent to the filing of the Chapter 11 petition.

1.4 **Definitions**. The following words, terms, and definitions shall be used and apply exclusively for this Plan:

a. **Acceptance**. A specific class of claims has accepted a plan when the plan has been accepted by those voting individual creditors in that class who hold at least two-thirds (2/3) in amount ($'s) and more than one-half (1/2) in number (greater than 50%) of the voting individual allowed claims of that class of creditors. A class of interests has accepted a plan if such plan has been accepted by holders of such interest aggregating at least two-thirds (2/3) in the amount of the allowed interest of such class (e.g., number of shares held by shareholders or partners) that have voted on confirmation of such plan. **It is important to note that computation in the confirmation voting process is based only upon the total amount of claims and interests actually voting, rather than on claims proven and allowed.**

b. **Administrative Claims Bar Date** means the date by which a creditor or party asserting an administrative priority claim under 11 U.S.C. § 503 must file a motion or application for allowance of its claim, unless the claim has been paid by the Association in the ordinary course of business during the Case. The Administrative Claims Bar Date is the date which is **sixty (60) days after the later of** (i) the conclusion of the Adversary Proceeding, either

by final non-appealable judgment or settlement, (ii) the conclusion of all claims objections, either by entry of final non-appealable judgment or settlement, or (iii) confirmation of the Plan.

c. The **Adversary Proceeding** shall mean **Adversary Proceeding No. 20-80049-hb**, in which the Association seeks relief relating to membership in the Association, voting rights, and certain restrictions of record relating to the amount and calculation of assessments, fees and dues payable to the Association. The Association alleges causes of action seeking a declaratory judgment and equitable relief based on equitable and common law principles and doctrines.

d. **American Legal Claim Services, LLC ("ALC")** is the claims and noticing agent employed in this Case pursuant to South Carolina Local Bankruptcy Rule 2081-1.

e. **Approved Claim** or **Allowed Claim** shall mean each individual creditor's claim or claim of interest whose validity is accepted by the Association for payment, or if challenged by the Association, a claim which is ultimately proved by that claimant and approved by the Court after notice. Some claims by law can be approved only by the Court for payment, *e.g*., administrative priority claims.

f. The **Assets** shall mean substantially all assets now owned by the Estate, including but not limited to all interests in real estate and all personalty, contract rights, permits, intellectual property, and intangible assets owned by the Association.

g. The **Association** shall mean Foxwood Hills Property Owners Association, Inc.

h. **Assumption Amounts** shall mean the payment amounts required for the assumption of executory contracts and leases under 11 U.S.C. § 365(b).

i. The **Bankruptcy Code** shall mean Title 11 of the United States Code of Laws, known as the United States Bankruptcy Code, 11 U.S.C. § 101, *et seq.*

j. The **Board** shall mean the Board of Directors of the Association. As of April 1, 2021, the Board is comprised of Gregory Scot Lohman, President; Belinda Lynn Burnette-Belvin, Vice President; Patrick H. Coates, Jr., Treasurer; Sonya Thompson Hale, Secretary; William Eugene Neville; Kelly Marie Clark; and Michael Dale Shaffer.

k. The **Bylaws** shall mean the Second Revised Bylaws of Foxwood Hills Property Owners Association, Inc., approved and effective as of March 18, 2011, which are the bylaws currently in effect. The Chapter 11 Plan of Reorganization filed by the Association on March 4, 2021 provided for the adoption of new or amended bylaws; however, the Plan, as amended herein, deletes the adoption of amended or new bylaws by the Plan. The Plan does not amend or replace the Bylaws. If the Board proposes new or amended bylaws for the Association, the Association will seek approval and adoption of them under and pursuant to the amendment provisions of the current Bylaws.

l. **CAMS** shall mean Southern Community Services, LLC, now known as Community Association Management Services, which served as the financial management

company for the Association prior to and at the time of the filing of this Case, and in the first months of the Case.

m. The **Case** shall mean the bankruptcy case of Foxwood Hills Property Owners Association, Inc., **Case No. 20-02092-hb** in the United States Bankruptcy Court for the District of South Carolina, filed on May 8, 2020.

n. **Cash on Hand** shall refer to that cash available on or immediately after confirmation, and which is in the Association's possession, or which has been derived from the disposition of assets of the bankruptcy estate or from the operations of the bankruptcy estate.

o. **Chapter 7** shall mean a hypothetical case that is administered under 11 U.S.C. § 700, *et seq.*, wherein an estate identical to the Association's Chapter 11 estate, with identical assets and liabilities, is liquidated by a Chapter 7 trustee.

p. **Chapter 11** shall mean a case administered under 11 U.S.C. § 1101, *et seq.*

q. **Claim of Interest** shall mean any claim of ownership interest in the Association, whether actual, or contingent. An interest may exist in the form of equity securities (e.g. shareholders' interest), partnership interest, membership interest, or proprietorship interest.

r. **Claims** shall mean any right or claim to a right to receive payment of monies or other property from the Association or the Association's bankruptcy estate. "Claims" can include a right to an equity interest in the debtor in a bankruptcy case.

s. **Class of Claims** shall mean a classification of claims or interests that are substantially identical in kind or nature and which are grouped together without any unfair discrimination for payment or other treatment by this Plan. The classes of claims are set forth in Article III of this Plan, with a statement of the Plan's treatment and provisions for the creditors in each class.

t. The **Code** is 11 U.S.C. §§ 101, et seq., the **Bankruptcy Code**.

u. The **Community** shall mean the residential development known as Foxwood Hills, which is located on Lake Hartwell in Oconee County, South Carolina and comprised of approximately 4,100 lots, with common areas and amenities.

It is noted, however, that some owners of lots in the Community assert that the Community consists of 7,000 or more lots, by the inclusion of nearly 3,000 lots in the Leland, Fontana, Bellhaven, Chapin, Dellwood, Granby and Woodcrest sections (the "**Outparcel Property**") that the developer originally intended to develop and include. These sections have not been developed with roadways or infrastructure, and the Association neither charges their owners assessments on such property nor provides any services (or use of amenities) for the owners of such property.

v. **Confirmation** of this Plan shall be effective when the Court enters an order approving the Plan for it to become effective, after the Court has found that: (1) the Plan has been accepted by the requisite number of creditors and parties of interest eligible to vote for confirmation of the Plan, (2) the Plan is feasible, (3) the Plan is fair and equitable, (4) the Plan

does not unfairly discriminate against creditors or interest holders, and (5) the Plan meets all of the other requirements of 11 U.S.C. §§ 1123, 1126, and 1129.

w. The **Court** shall mean the United States Bankruptcy Court for the District of South Carolina.

x. The **Debtor** shall mean Foxwood Hills Property Owners Association, Inc., which is the Debtor in this case.

y. The **District Court** shall mean the United States District Court for the District of South Carolina.

z. **Effective Date of Plan** shall mean the date the Order Confirming Plan is entered with the Clerk of Court, U.S. Bankruptcy Court for the District of South Carolina, upon which date the Plan shall be deemed effective as to all parties.

aa. The **Estate** shall mean the Chapter 11 bankruptcy estate of the Association.

bb. **Executory Contracts** shall mean all contracts or agreements not completed and to be performed or satisfied by the parties in the future.

cc. **Final Consummation** shall refer to the date and time at which provisions of the Plan have been fully implemented, either by payment, conveyance, the issuance of instruments, or other acts required or contemplated by the Plan, and all payments required under the Bankruptcy Code, statutes governing bankruptcy matters, and orders of the Court have been made. It should be noted that the Court may enter a Final Decree closing the Case prior to the Association's completion of performance under the Plan and prior to final payment to creditors under the Plan, upon a showing of substantial consummation, *i.e.*, that the Plan is being implemented pursuant to its terms.

dd. **Goodmanagement** is Goodmanagement, LLC, the financial management company employed by the Association effective October 1, 2020.

ee. **Impaired Class** shall mean a class of claims given under this Plan less than the full amount of the filed and approved individual claims in the class, or a class of claims as to which contract rights are modified or compromised by the Plan; provided, however, that any Court-approved rejection of an executory contract or lease shall not in itself be deemed to render a class impaired. In the case of a rejected contract or lease, the Plan's treatment of the claim (if any) resulting from the rejection will determine whether or not the class is impaired.

ff. **Oconee County FLC** shall mean the Oconee County, South Carolina Forfeited Land Commission.

gg. The **Outparcel Property** shall mean the property in the Leland, Fontana, Bellhaven, Chapin, Dellwood, Granby and Woodcrest Sections which the developer originally intended to include in the Community, but which sections were never developed with roads or infrastructure. The Association provides no services to this property, and has not in many years

(probably, never), and the Association has not charged assessments to the owners of this property on account of it for many years.

hh. **Personalty Leases** shall mean all leases between the Association and third parties for the use of any and all personal property.

ii. The **Plan** shall mean this Amended and Restated Chapter 11 Plan of Reorganization filed by the Association on May __, 2021, as may be hereafter amended, pursuant to 11 U.S.C. § 1121.

jj. **Priority and Administrative Claims** shall mean all claims entitled to priority status under 11 U.S.C. §§ 507 and 364 or other specific provisions of the Code. These claims include, but are not limited to, generally, all costs and expenses incurred during the Case which are necessary or for the benefit of the bankruptcy estate; all wages, salaries or commissions allowed priority status under 11 U.S.C. § 507(a)(4) which were owed by the Association at the time of filing up to $13,650.00 per claimant; allowed unsecured claims of individuals, to the extent of $3,025.00 for each such individual, arising from the deposit, before the commencement of the Case, of money in connection with the purchase, lease or rental of property, or the purchase of services, for the personal, family, or household use of such individuals, that were not delivered or provided, under 11 U.S.C. § 507(a)(7); all post-petition wage claims due at confirmation; all taxes owing to the United States, any individual State or local taxing authority which are entitled to priority status under 11 U.S.C. § 507(a)(8); all post-petition debts incurred in the ordinary course of business and unpaid since the commencement of this Case; any unpaid fees due to the United States Trustee in this Case; all other statutory costs or fees assessed or assessable by the Court; and any claims given priority status during this proceeding by specific order of the Court.

kk. **Property to be Dealt With by the Plan** shall refer to the property that is described in Article IV of the Disclosure Statement.

ll. **Realty Leases** shall mean all valid, enforceable leases of real estate between the Association and other parties.

mm. **RV** shall mean recreational vehicle.

nn. **Sale Motion** shall mean a motion for an order (1) authorizing the sale of assets of the Estate free and clear of liens, claims, encumbrances and other interests pursuant to 11 U.S.C. §§ 363(b)(1) and (f), and possibly (2) approving the assumption and assignment of unexpired executory contracts and leases designated for assignment to a purchaser, if any, pursuant to 11 U.S.C. §§ 365(b)(1) and (f). In this Case, it is anticipated that Sale Motions will pertain only to sales of lots owned by the Association, which are not subject to mortgages or liens, and without the assumption and assignment of any executory contracts or leases (because none exist with respect to the lots).

oo. **Secured Claim** shall mean each individual claim completely or partially secured by real estate mortgages, security agreements, assignment agreements, consignment agreements, chattel mortgages, recorded lease-purchase agreements, liens, setoff, or any other legal encumbrance which is entitled to secured status under applicable state or federal law.

pp. **Southern Community Services, LLC ("SCS"), now known as Community Association Management Services (CAMS)** is the financial management company employed by the Association prior to and at the filing of this Case, and during the first months of this Case.

qq. **Substantial Consummation** shall refer to that date and time on which the Association has commenced the distribution of payments to creditors under the Plan, and otherwise commenced performance of the provisions of the Plan.

rr. **TESI** means Total Environmental Solutions, Inc., which provides the water and sewer service to the Community.

ss. **Unimpaired Class** shall mean (1) a class of claims for which the claim rights are not altered by this Plan, or which is entitled to and shall receive under the Plan full satisfaction of its filed and approved claims as required by the Code, or (2) a class of interests as to which the rights of the interest holders are not altered. **Unimpaired classes are deemed to have accepted this Plan by specific provision of the Code and solicitation of acceptances of the Plan by any such class from the holders of claims or interests of such class is not required. 11 U.S.C. § 1126(f).**

tt. **Unsecured Claims** shall mean all claims against the Association other than Secured Claims, Priority and Administrative Claims, or Claims of Interest.

uu. **UST** means the Office of the United States Trustee.

NOTE: The defining of the various parties of interest and claimants against this Estate in no way imputes any relative priority among them nor is it to be construed to validate or approve any of their claims.

ARTICLE II

AMENDED AND RESTATED PLAN OF REORGANIZATION

2.1 Preface. In reviewing the Plan, the reader should understand what is meant by "impairment". An "impaired" class of creditors shall mean a class of claims given under the Plan less than the full amount of the filed and approved individual claims in the class, or a class of claims as to which contract rights are modified or compromised by the Plan. An "unimpaired" class shall mean a class of claims whose rights are not affected under the Plan, or which is entitled to and will receive under the Plan full satisfaction of its filed and approved claims as required by the Bankruptcy Code. A class of claims shall not be deemed to be impaired, however, solely by virtue of any Court-approved rejection of an executory contract or lease; for any creditor whose executory contract or lease has been rejected under 11 U.S.C. § 365, the Plan's treatment of the claim (if any) resulting from the rejection will determine whether or not the class is impaired.

2.2 Overview of Plan Provisions. The Plan provides for the payment of the Association's creditors. It also includes provisions for the clarification and statement of how the Association will, for its part, apply and enforce certain recorded restrictions regarding the use of property in the Community (but not changing or limiting the rights of property owners, in their

individual capacities, to seek or oppose application or enforcement of recorded restrictions), confirming the settlement of issues relating to property currently owned by Oconee County, and to formalize the treatment of the Outparcel Property which has not been developed with roadways or infrastructure, and which has been treated for many years as not included in the Community. The Association Board believes that this Plan is in the best interest of the Association and its Estate.

Unlike most Chapter 11 cases, this case does not involve substantial creditor claims and the need to significantly restructure payment obligations, or the need to sell substantial portions of the assets of the Estate. Instead, the Association filed this case primarily to avoid the ruinous prospect of multiple litigations of issues - with substantial never-ending legal expense and substantial impacts on its receipt of assessments from lot owners - over membership and assessments, which needed to be decided for the Association to properly perform its responsibilities for the Community. The Association also hoped to address and resolve other issues affecting its operation.

Much of what the Association needed to address for its ability to continue operating and performing its responsibilities, now and prospectively, has been accomplished by and through the Adversary Proceeding. The judgments entered in the Adversary Proceeding already have determined Association membership and assessment matters for approximately 97% of the lot owners in the Community, and the completion of the Adversary Proceeding will determine those matters as to the other 3% as to whom determinations have not yet been made. Accordingly, the provisions of the Plan do not include the issues and matters addressed in the Adversary Proceeding. The issues and matters addressed in the Adversary Proceeding have been or will be determined in the Adversary Proceeding, not in or by the Plan.

The Association initially contemplated that the Plan would also address certain operational issues by the adoption of new bylaws; however, some lot owners objected and argued that amendment of the Bylaws can be made only under and pursuant to the amendment provisions in the Bylaws, *i.e.*, not by confirmation of a Chapter 11 plan of reorganization. The Association now agrees. The Plan does not adopt or make amendments to the Bylaws. The Association Board believes that amendments and/or new bylaws would improve the Association's operation; however, the amendment of the Bylaws, or the adoption of new bylaws, is not necessary for the Association to operate and perform its duties, and not necessary for the Association's Chapter 11 reorganization. Therefore, any proposed amendments to the Bylaws, or new bylaws, will be made under and pursuant to the amendment provisions of the existing Bylaws, separate from the Plan.

In summary, the Plan provides for the following:

1. The payment of creditors for their allowed claims, as set forth herein in Sections 2.7 through 2.12.

2. Any proposed amendment of the Bylaws or new bylaws will be presented for approval and adoption independent of the Plan (not by or through the Plan), in accordance with the provisions for amendment in the existing Bylaws. See Section 2.3 below.

3. The statement of how the Association will apply and enforce provisions in certain

restrictions on the use of property in the Community, as stated hereinbelow. **For clarity, it must be noted that the Plan does not purport to amend or alter recorded restrictions, or to alter or affect the rights of lot owners, acting in their individual capacities, to enforce or oppose enforcement of the restrictions on the use of property.** See Section 2.4 below.

4. Formalize the treatment that has existed for many years between the Association and owners of property in the Leland, Fontana, Bellhaven, Chapin, Dellwood, Granby and Woodcrest Sections (the "**Outparcel Property**"), which the developer originally intended to include in the Community, but which sections were never developed with roads or infrastructure. The provisions regarding the Outparcel Property are that (a) the Association shall not seek to enforce, and releases, any right it has or may have to charge and/or collect assessments on account of the Outparcel Property, and (b) the owners of the Outparcel Property shall not have and release any right they have or may have to use Association amenities (on account of their Outparcel Property) or seek to compel services to the Outparcel Property by the Association. As stated, these provisions formalize the treatment between the Association and the Outparcel Property owners that has existed for many years. The Association provides no services to this property, and has not in many years (probably never), and the Association has not charged assessments to the owners of the Outparcel Property for many years. The Association is informed and believes that it would not be able to legally compel the owners of the Outparcel Property to pay assessments to the Association, and that, likewise, the owners of the Outparcel Property would not be able to legally compel the Association to provide services to the Outparcel Property. See Section 2.5 below.

5. The exception of lots owned by the Oconee County FLC from the payment of dues or assessments during such ownership, with the exception terminating immediately upon the transfer of ownership to a person or entity other than the Oconee County FLC or a related government entity, such that the successor owner will be responsible for payment of assessments and dues like other members of the Association. See Section 2.6 below.

2.3 The Plan Does Not Provide for the Amendment of the Association Bylaws. The Plan has been amended from its initial version to delete the approval of new bylaws as part of the Plan. **Any proposed amendment of the Bylaws or new bylaws will be presented for approval and adoption independent of the Plan, in accordance with the provisions for amendment in the existing Bylaws.**

2.4 Association Application and Enforcement of Restrictive Covenants on the Use of Property. In regard to existing restrictions of record on the use of property in the Community, the Association shall deem the following provisions to be effective upon confirmation of the Plan **regarding its application and enforcement; these provisions do not and shall not alter or abridge the right of any owner in the Community to, in his/her/its own capacity, seek or oppose enforcement of the use restrictions of record.** The Association deems the following provisions to be in effect for its application and enforcement of the use restrictions:

a. Section M. For the property in Section M, the Association:

1. The Association will not enforce restrictions prohibiting manufactured/mobile homes, modular homes (prefabricated homes) and "stick built" homes (site

constructed), provided that (i) they are no less than 300 square feet and no more than 2,000 square feet of interior floor space, (ii) the lot owner obtains a building permit or a mobile home permit before constructing or adding a home or dwelling structure to the property, and (iii) the buildings to be added to the property have been approved by the Architectural Control Committee.

b. Hatteras I Section. For the property in the Hatteras I Section:

1. The Association will not enforce restrictions prohibiting the construction or installation of homes, other than mobile homes or manufactured homes, in the Hatteras I Section.

2. The Association will not enforce restrictions prohibiting permanent residences.

3. The Association will allow a variance for structures existing as of the date of the filing of the Plan, *i.e.*, they are "grandfathered in."

c. Kinston Section. For property in the Kinston Section:

1. The Association will not enforce restrictions prohibiting permanent residences.

2. The Association will not enforce restrictions prohibiting residences which are single-family only homes, which may be an RV, a "stick-built" home (site constructed), or a "tiny home" (small unit home).

3. The Association will not enforce restrictions prohibiting lot owners from placing and using tents on their lots, provided that such placement and use are only for a maximum of fourteen (14) days at a time.

4. The Association will not enforce restrictions requiring setbacks on the lots of 20-5-5 feet, provided that the setbacks are not less than 10-5-5 feet.

5. The Association shall allow a variance for structures existing as of the date of the filing of the Plan, *i.e.*, they are "grandfathered in," provided that the structure has a setback of not less than 10-5-5 feet.

d. Aaron, Homestead, Tidewater, Sherando and Hatteras II Sections. For property in the Aaron, Homestead, Tidewater, Sherando and Hatteras II Sections:

1. The Association will not enforce restrictions prohibiting modular (prefabricated) homes.

NOTE: The Association has addressed restrictions and provisions of record relating to membership in the Association, member voting rights and assessments on property in the Community in the Adversary Proceeding. Those matters have been, or will be, exclusively decided in the Adversary Proceeding. **The Plan does not propose to, and shall not, alter the judgments entered in the Adversary Proceeding, or any consensual resolutions filed in it.**

2.5 Treatment of Leland, Fontana, Bellhaven, Chapin, Dellwood, Granby and Woodcrest Sections and Mutual Release of Rights. The properties in the Leland, Fontana, Bellhaven, Chapin, Dellwood, Granby and Woodcrest sections, the Outparcel Property, were to be developed as part of the Foxwood Hills Community, but the developer never constructed or installed roads and infrastructure for these sections. The Association provides no services to these sections. It is hereby provided that (a) the Association shall not seek to enforce, and releases, any right it has or may have to charge and/or collect assessments on account of the Outparcel Property, and (b) the owners of the Outparcel Property shall not have and release any right they have or may have to (i) use Association amenities or (ii) seek to compel services to the Outparcel Property by the Association.

The Association provides no services to this property, and has not in many years (probably never), and the Association has not charged assessments to the owners of the Outparcel Property for many years. This provision formalizes that treatment between the Association and the Outparcel Property owners that has existed for many years. The Association is informed and believes that it would not be able to legally compel the owners of the Outparcel Property to pay assessments to the Association, and that, likewise, the owners of the Outparcel Property would not be able to legally compel the Association to provide services to the Outparcel Property.

2.6 Exception For Property Owned by the Oconee County FLC. The lots owned by the Oconee County FLC are, and shall be, excepted from the payment of dues or assessments during such ownership, with the exception terminating immediately upon the transfer of ownership to a person or entity other than the Oconee County FLC or a related government entity, such that the successor owner will be responsible for payment of assessments and dues like other members of the Association. Oconee County FLC shall not be a member of the Association on account of the lots it owns; however, successor owners of lots owned by Oconee County FLC in the Community shall be deemed members of the Association upon transfer of title to them. Oconee County FLC comprises **Class 1** under the Plan. Because the Plan modifies potential membership rights Oconee County FLC may have in relation to the Association, Class 1 (Oconee County FLC) is **impaired** under the Plan.

2.7 Provisions for Payment of Creditors. As set forth in the following sections, the Plan provides for the full payment of all allowed claims or as may be agreed by the Association and the creditor.

2.8 Payment of Administrative Priority Claims. Pursuant to 11 U.S.C. § 1129(a)(9)(A), allowed claims entitled to administrative priority pursuant to 11 U.S.C. §§ 503(b) and 507(a)(2) must be paid upon the effective date of the Plan, or upon authorization by the Court, unless the administrative priority claimant agrees to accept a different treatment of its claim. The administrative priority claims will be paid by the Association in accordance with these requirements. Due to the requirements for payment of allowed administrative priority claims, administrative priority claims are not impaired and they are not designated as a class under this Plan.

2.9 Payment Provisions Regarding Secured Claims. The Association has two secured creditors at this time, John Deere Financial and Total Environmental Solutions, Inc. ("**TESI**"). At the filing of this Case, First Citizens Bank & Trust Company was also a secured creditor, but it

has since been paid in full.

a. **John Deere Financial** comprises **Class 2** under the Plan. It holds a claim in the amount of $34,722.81 as of January 25, 2021 secured by four items of equipment: a John Deere 5075E Cab MFWD Utility Tractor; a Hardee/EVH Mfg Co LR 41142 Broom Mower; a John Deere 520M Loader; and a Frontier AP12F Fixed Pallet Fork. The Association is current in its obligations to John Deere Financial under the terms of the Loan Contract – Security Agreement dated September 5, 2018. This class is **unimpaired**. The Association shall continue making payments under the Loan Contract – Security Agreement in the amount of $1,085.10 per month and perform its obligations pursuant to the contract. John Deere Financial shall retain its security interest in its collateral until it is fully paid.

b. Total Environmental Solutions Inc. comprises **Class 3** under the Plan. TESI provides water supply service and public sewage collection for the Community. TESI acquired its rights in the water and sewer system and to provide the services to it, along with related rights, from the Chapter 11 bankruptcy estate of Johnson Properties, Inc.[1] on or about December 19, 2000. Johnson Properties, Inc. had acquired the same rights and related assets by purchase of Mountain Bay Utility Company, Inc. from Foxwood Corporation on or about November 15, 1992. Mountain Bay Utility Company, Inc. operated and provided the services pursuant to authorization issued by the South Carolina Public Service Commission. TESI filed a proof of claim (designated as Claim No. 1 in this Case) in the amount of $103,465.74 for enhancement fees due on lots owned by the Association.

Enhancement fees are fees charged to lots for which service has not been provided. They are deemed to be a cost of the infrastructure installed. TESI's claim indicates that it is an unsecured claim, but it also states that the "Unpaid fees must be paid at time of sale before transfer." Accordingly, to the extent that the unpaid fees must be paid upon the sale of the lot on which they are charged, it appears that TESI asserts a lien on the lots. Therefore, TESI is deemed to hold a secured claim.

Class 3 is **impaired**. The amount and validity of the TESI claim, as an allowable claim against the Estate, has not yet been determined, and the Association reserves its right to challenge all or a portion of the allowability of the claim. The following shall apply for TESI's allowed claim:

1. TESI's claim will be paid from the sale proceeds of the lots against which the enhancement fees are due, when such lots are sold by the Association. The sale proceeds of a lot will be used to pay the TESI fees charged against that lot, but not fees charged against other lots.

2. It is uncertain when the lots will be sold, or even if the Association will receive offers to purchase the lots. The Association will advise TESI of any written offer to purchase a lot which is subject to TESI's lien for unpaid enhancement fees, within ten (10) days of receipt of the written offer, unless such offer is withdrawn by the offeror prior to such notice.

3. The Association shall not be liable to TESI for payment of the enhancement fees (or

[1] Case No. 99-10437 in the United States Bankruptcy Court for the Middle District of Louisiana. In the bankruptcy case, Johnson Properties, Inc.'s affiliates, including Mountain Bay Estates Utility Company, Inc. and Eastern Utilities, Inc., were substantively consolidated to become one with Johnson Properties, Inc.

related charges) other than the payment of sale proceeds from the lots on which the enhancement fees are due.

4. When any lot for which enhancement fees are owed to TESI is sold, TESI will receive (a) one-half of the net sale proceeds of the lot ("net" meaning sale proceeds after payment of any *ad valorem* taxes due on the lot, any realtor's commission on the sale, and customary costs of sale for sellers of lots), (b) up to the amount of the enhancement fees due to TESI for such lot, but (c) not to exceed three years of enhancement fees for the lot, (d) in satisfaction and release of TESI's lien on the lot.

5. The Association has no obligation to TESI to pay the *ad valorem* taxes due on any of the lots, and if lots are sold at tax sale, the Association shall have no liability to TESI from such sale.

6. As a condition to payment of sale proceeds, TESI shall repair any damage done by it to the Association's roads to serviceable condition within ninety (90) days of the damage. This damage typically may occur in connection with TESI's repair of broken pipes. TESI will repair the road back to its condition existing prior to the damage done, which includes replacing asphalt on roads that are paved. If damage caused by TESI to the Association's roads has not been repaired as of the closing of a sale of a lot(s) for which enhancement fees are due to TESI, the portion of the sale proceeds otherwise due to TESI for its lien on the lot will not be paid to TESI until the damage is repaired.

2.10 Plan Treatment of Executory Contracts and Leases.

a. TIAA Commercial Finance, Inc. ("TIAA") Lease comprises **Class 4** under the Plan. TIAA, a/k/a Sharp Business Systems, leases a Sharp mx3050n copier machine to the Association pursuant to a Value Lease Agreement dated March 21, 2018. Payments are in the amount of $182.00 per month, for a period of 60 months expiring April 25, 2023. The balance due on the lease, as of September 15, 2020, was $6,366.36. The Association is current in its payments and other obligations under the lease. The Association shall continue to make payments and otherwise perform its obligations under the lease in accordance with the terms of the lease. Class 3 is **unimpaired**.

b. At Home.net was the web host provider for the Association at the commencement of this Case. However, the Association has since changed to another web host provider. The Association made all payments due to At Home.net, and is informed and believes that it owes no amount or obligations to At Home.net. At Home.net was previously listed as an unimpaired creditor class. It is not deleted as a class.

c. AT&T Telephone/U-Verse Services ("AT&T") comprises **Class 5** under the Plan. AT&T provides office telephone services, facsimile service and internet services to the Association. The Association is current in its payments and obligations to AT&T under its account, and the Association shall continue to make payments and perform any other obligations it owes to AT&T in regard to the Association's account in accordance with the terms of the account. Class 5 is **unimpaired**.

d. DirectTV comprises **Class 6** under the Plan. DirectTV provides satellite television service to the Association, for the restaurant and bar in the clubhouse. The Association is current in its payments and obligations to DirectTV, and the Association shall continue to make payments to DirectTV and to perform any other obligations it owes to DirectTV in accordance with the terms of its contract with DirectTV. Class 6 is **unimpaired**.

e. Harbor Touch comprises **Class 7** under the Plan. Harbor Touch provides point of sales merchant services to the Association. The Association is current it its payments and obligations to Harbor Touch, and the Association shall continue to make payments to Harbor Touch and to perform any other obligations it owes under its contract with Harbor Touch in accordance with the terms of the contract. Class 7 is **unimpaired**.

f. Priority One Security comprises **Class 8** under the Plan. Priority One Security provides security services to the Association, on a renewable 12-month contract, presently to expire on March 31, 2021. The Association is current in its payments and obligations to Priority One Security, and the Association shall continue to make payments to Priority One Security and to perform any other obligations it owed under the contract in accordance with the terms of the contract. Class 8 is **unimpaired**.

g. Oconee County, South Carolina ("Oconee County") comprises **Class 9** under the Plan for property the Association leases from Oconee County. The leased property is commonly known as the Mt. Bay Park, the lease is Lease No. DACW21-1-14-2011A, the rent is $1.00 per year, and the lease expires in 2024. The Association is current in its obligations under this lease, and the Association shall continue to perform any obligations it owes under the lease. Class 9 is **unimpaired**.

h. Verizon comprises **Class 10** under the Plan. Verizon provides cell phones to the Association under a 24-month contract which expires in November 2021. The Association is current in its payments and other obligations to Verizon, and the Association shall continue to make payments and to perform any obligations it owes to Verizon in accordance with the contract. Class 10 is **unimpaired**.

i. Community Association Management Services ("CAMS"), successor to **Southern Community Services, LLC ("SCS")** does not comprise a class, but is a claimant under Class 12 for non-priority unsecured creditors. CAMS provided financial management services to the Association under an Association Management Agreement entered by the Association and SCS as of December 18, 2018. The term of the Association Management Agreement was to expire on January 31, 2022. The Association asserts that CAMS breached and defaulted under the contract and failed to timely and properly cure its defaults. CAMS denies it breached or defaulted under the contract or failed to cure any defaults if it was in default. After the filing of this Case, the Association notified CAMS that its services were being terminated effective October 1, 2020. The Association maintains that it owes no amount to CAMS because CAMS breached and defaulted under the contract. CAMS asserts that, by the Association's termination of its services, the Association breached the contract, and that CAMS is entitled to damages for breach of contract. If CAMS is determined to have an allowed claim, such claim will be a non-priority unsecured claim, and it will be paid under the provisions for Class 12.

j. Existing Adjoining Lot Agreements with Owners in the Community. The property owners in the Community with existing adjoining lot agreements with the Association comprise **Class 11** of the Plan. Class 11 is **unimpaired**. The adjoining lot agreements are assumed under 11 U.S.C. § 365(a) upon entry of the Order confirming this Plan. The existing adjoining lot agreements will remain in effect according to their terms.

2.11 Payment Provisions for Priority Creditors (Excluding Administrative Priority Claims). The Association is informed and believes that, other than administrative priority claims (which are to be paid as incurred or allowed), no priority claims exist in this Case. In the event that a priority claim is filed against the Estate and allowed, it will be treated in accordance with 11 U.S.C. § 1129(a)(9). The Association will file any objections it asserts to filed priority claims within thirty (30) days after confirmation of the Plan.

2.12 Payment Provisions for Non-Priority Unsecured Creditors. **Class 12** of the Plan consists of the general **non-priority unsecured claims** against the Estate. This class is **impaired**. The creditors in Class 12 will receive full payment within sixty (60) days after the earlier of (a) the Effective Date of the Plan, or (b) allowance by the Court, if disputed. The Association will file any objections it asserts to filed claims within forty-five (45) days after Confirmation of the Plan.

2.13 Owners of the Outparcel Property. The owners of the Outparcel Property comprise **Class 13** under the Plan. The treatment of these owners is set forth above under Section 2.5 of this Plan. The Association denies that it owes any obligations to the owners of the Outparcel Property; however, because the Plan provides for the termination and release of any rights the Outparcel Property owners may have to use of the Association's amenities and to compel services by the Association, the Outparcel Property owners are designated as Class 13 for the possible rights terminated and released under the Plan. Class 13 is **impaired**. Class 13 will receive treatment pursuant to Section 2.5 of this Plan.

2.14 Equity Interests: Member Interests. The owners of lots in the Community are members of the Association. Members in good standing are thus the equivalent of owners of the Association. The Plan does not change or alter the rights of the members in the Association, and thus the member interests remain the same. The Plan provisions in Section 2.4 above are in regard to the Association's application and enforcement of restrictive covenants on the use of property in the Community, but the Plan does not alter or abridge the rights of lot owners in the Community to enforce or oppose enforcement of use restrictions, in their individual capacities; the Plan provisions in Section 2.5 regarding the treatment of the Outparcel Property state terms between the Association and the Outparcel Property owners, in accordance with what the Association is informed and believes to be the existing legal status of the rights between them, but the Plan provisions do not alter or abridge the rights of members in the Association, or in their individual capacities as to the Outparcel Property; and the Plan provisions in Sections 2.6 regarding the lots owned by Oconee County FLC, recognize Oconee County's senior rights in the lots it owns, and do not alter or abridge the rights of members in the Association, or in their individual capacities as to the Oconee County FLC lots. Therefore, the Plan includes one class of member interest, which is **Class 14**. Because the Plan does not alter the member interests, Class 14 is **unimpaired**.

2.15 Sales of Lots Owned by the Association Shall Be Made in the Ordinary Course of Its Business. The Association owns hundreds of undeveloped lots in the Community, which are not subject to a mortgage or other lien. Prior to the Chapter 11 filing, the Association sold these lots in the ordinary course of business, without notice to members for special authorization. Subsequent to the filing of this Chapter 11 case, a procedure was established by the Court for notice to creditors and parties in interest, with an order issued to authorize the sale of a lot(s). Upon confirmation of the Plan, the sale process will revert to the prepetition sale in the ordinary course of business. The Association shall endeavor to obtain the best sale prices and terms reasonably available for the lots; however, notice to members of a proposed sale will not be required for undeveloped lots having no special value or significance.

2.16 Continued Operation by the Board. The Association's corporate structure remains in place unchanged. Board members will serve their terms in accordance with the Bylaws. The Board shall be responsible for overseeing the operation of the Association, both through and after consummation of the Plan. All members of the Board shall act in the best interests of the Association and its members, in working to consummate the Plan.

ARTICLE III

CLASSIFICATION OF CREDITORS AND PARTIES IN INTEREST AND PROVISIONS OF TREATMENT OF EACH CLASS OF CREDITORSAND PARTIES IN INTEREST BY THE PLAN

Article II above states the Plan provisions, including a description of the classes and treatment of them under the Plan. The following is a definition of each Class of Claims and Interest, and the specific provisions of treatment of each Class of Claims or Interest under the Plan:

3.1 Class 1: Oconee County Forfeited Land Commission. The lots owned by the Oconee County FLC are, and shall be, excepted from the payment of dues or assessments during such ownership, with the exception terminating immediately upon the transfer of ownership to a person or entity other than the Oconee County FLC or a related government entity, such that the successor owner will be responsible for payment of assessments and dues like other members of the Association. Oconee County FLC shall not be a member of the Association on account of the lots it owns; however, successor owners of lots owned by Oconee County FLC in the Community shall be deemed members of the Association upon transfer of title to them. Oconee County FLC comprises **Class 1** under the Plan. Because the Plan modifies potential membership rights Oconee County FLC may have in relation to the Association, Class 1 is **impaired** under the Plan.

3.2 Class 2: John Deere Financial. John Deere Financial holds a claim in the amount of $34,722.81 as of January 25, 2021 secured by four items of equipment: a John Deere 5075E Cab MFWD Utility Tractor; a Hardee/EVH Mfg Co LR 41142 Broom Mower; a John Deere 520M Loader; and a Frontier AP12F Fixed Pallet Fork. The Association is current in its obligations to John Deere Financial under the terms of the Loan Contract – Security Agreement dated September 5, 2018. This class is **unimpaired**. The Association shall continue making payments under the Loan Contract – Security Agreement in the amount of $1,085.10 per month and perform its obligations pursuant to the contract

3.3 Class 3: Total Environmental Solutions Inc. TESI provides water supply service and public sewage collection for the Community. TESI filed a proof of claim (designated as Claim No. 1 in this Case) in the amount of $103,465.74 for enhancement fees due on lots owned by the Association. TESI's claim indicates that it is an unsecured claim, but it also states that the "Unpaid fees must be paid at time of sale before transfer." To the extent that the unpaid fees must be paid upon the sale of the lot on which they are charged, it appears that TESI asserts a lien on the lots. Therefore, TESI is deemed to hold a secured claim. Class 3 is **impaired**. The amount and validity of the TESI claim, as an allowable claim against the Estate, has not yet been determined, and the Association reserves its right to challenge all or a portion of the allowability of the claim. The following shall apply for TESI's allowed claim:

1. TESI's claim will be paid from the sale proceeds of the lots against which the enhancement fees are due, when such lots are sold by the Association. The sale proceeds of a lot will be used to pay the TESI fees charged against that lot, but not fees charged against other lots.

2. It is uncertain when the lots will be sold, or even if the Association will receive offers to purchase the lots. The Association will advise TESI of any written offer to purchase a lot which is subject to TESI's lien for unpaid enhancement fees, within ten (10) days of receipt of the written offer, unless such offer is withdrawn by the offeror prior to such notice.

3. The Association shall not be liable to TESI for payment of the enhancement fees (or related charges) other than the payment of sale proceeds from the lots on which the enhancement fees are due.

4. When any lot for which enhancement fees are owed to TESI is sold, TESI will receive (a) one-half of the net sale proceeds of the lot ("net" meaning sale proceeds after payment of any *ad valorem* taxes due on the lot, any realtor's commission on the sale, and customary costs of sale for sellers of lots), (b) up to the amount of the enhancement fees due to TESI for such lot, but (c) not to exceed three years of enhancement fees for the lot, (d) in satisfaction and release of TESI's lien on the lot.

5. The Association has no obligation to TESI to pay the *ad valorem* taxes due on any of the lots, and if lots are sold at tax sale, the Association shall have no liability to TESI from such sale.

6. As a condition to payment of sale proceeds, TESI shall repair any damage done by it to the Association's roads to serviceable condition within ninety (90) days of the damage. This damage typically may occur in connection with TESI's repair of broken pipes. TESI will repair the road back to its condition existing prior to the damage done, which includes replacing asphalt on roads that are paved. If damage caused by TESI to the Association's roads has not been repaired as of the closing of a sale of a lot(s) for which enhancement fees are due to TESI, the portion of the sale proceeds otherwise due to TESI for its lien on the lot will not be paid to TESI until the damage is repaired.

3.4 Class 4: TIAA Commercial Finance, Inc. ("TIAA") Lease. TIAA, a/k/a Sharp Business Systems, leases a Sharp mx3050n copier machine to the Association pursuant to a

Value Lease Agreement dated March 21, 2018. Payments are in the amount of $182.00 per month, for a period of 60 months expiring April 25, 2023. The balance due on the lease, as of September 15, 2020, was $6,366.36. The Association is current in its payments and other obligations under the lease. The Association shall continue to make payments and otherwise perform its obligations under the lease in accordance with the terms of the lease. Class 4 is **unimpaired**.

3.5 Class 5: AT&T Telephone/U-Verse Services ("AT&T"). AT&T provides office telephone services, facsimile service and internet services to the Association. The Association is current in its payments and obligations to AT&T under its account, and the Association shall continue to make payments and perform any other obligations it owes to AT&T in regard to the Association's account in accordance with the terms of the account. Class 5 is **unimpaired**.

3.6 Class 6: DirectTV. DirectTV provides satellite television service to the Association, for the restaurant and bar in the clubhouse. The Association is current in its payments and obligations to DirectTV, and the Association shall continue to make payments to DirectTV and to perform any other obligations it owes to DirectTV in accordance with the terms of its contract with DirectTV. Class 6 is **unimpaired**.

3.7 Class 7: Harbor Touch. Harbor Touch provides point of sales merchant services to the Association. The Association is current it its payments and obligations to Harbor Touch, and the Association shall continue to make payments to Harbor Touch and to perform any other obligations it owes under its contract with Harbor Touch in accordance with the terms of the contract. Class 7 is **unimpaired**.

3.8 Class 8: Priority One Security. Priority One Security provides security services to the Association, on a renewable 12-month contract, presently to expire on March 31, 2021. The Association is current in its payments and obligations to Priority One Security, and the Association shall continue to make payments to Priority One Security and to perform any other obligations it owed under the contract in accordance with the terms of the contract. Class 8 is **unimpaired**.

3.9 Class 9: Oconee County, South Carolina ("Oconee County"). Class 9 is for property the Association leases from Oconee County. The leased property is commonly known as the Mt. Bay Park, the lease is Lease No. DACW21-1-14-2011A, the rental rate is $1.00 per year, and the lease expires in 2024. The Association is current in its obligations under this lease, and the Association shall continue to perform any obligations it owes under the lease. Class 9 is **unimpaired**.

3.10 Class 10: Verizon comprises **Class 10**. Verizon provides cell phones to the Association under a 24-month contract which expires in November 2021. The Association is current in its payments and other obligations to Verizon, and the Association shall continue to make payments and to perform any obligations it owes to Verizon in accordance with the contract. Class 10 is **unimpaired**.

3.11 Class 11: Existing Adjoining Lot Agreements with Owners in the Community. The property owners in the Community with existing adjoining lot agreements with

the Association comprise **Class 11** of the Plan. Class 11 is **unimpaired**. The adjoining lot agreements are assumed under 11 U.S.C. § 365(a) upon entry of the Order confirming this Plan. The existing adjoining lot agreements will remain in effect according to their terms.

3.12 Class 12: Non-Priority Unsecured Creditors. **Class 12** of the Plan consists of the general **non-priority unsecured claims** against the Estate. This class is **impaired**. The creditors in Class 11 will receive full payment within sixty (60) days after the earlier of (a) the Effective Date of the Plan, or (b) allowance by the Court, if disputed. The Association will file any objections it asserts to filed claims within forty-five (45) days after Confirmation of the Plan.

3.13 Owners of the Outparcel Property. The owners of the Outparcel Property comprise **Class 13** of the Plan. The Association denies that it owes any obligations to the owners of the Outparcel Property; however, because the Plan provides for the termination and release of any rights the Outparcel Property owners may have to use of the Association's amenities and to compel services by the Association, the Outparcel Property owners are designated as Class 13 for the possible rights terminated and released under the Plan. Class 13 is **impaired**. Class 13 will receive treatment pursuant to Section 2.5 of this Plan.

3.14 Class 14: Member Interests of Owners. The member interests of owners in the Association comprise **Class 14** under the Plan. The Plan does not change the rights of members of the Association, and their rights remain the same as existed at the filing of this Case. Class 14 is **unimpaired**.

ARTICLE IV

FEASIBILITY OF PLAN

Section 1129(a)(11) of the Bankruptcy Code (11 U.S.C. §101, *et seq*.) requires that in order for a plan to be confirmed, it must be demonstrated that the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor of the debtor under the plan, unless such liquidation or reorganization is proposed in the plan. The Plan satisfies this requirement.

The Plan does not provide for the restructuring or modification of payment of substantial debt. The Association owes a small amount of debt in relation to its income from assessments and its annual operating budget. The financial issues for the Association have been in regard to its ability to collect assessments, and the use of the collected funds in providing services, maintaining assets and providing for future needs of the Community.

The Association's income from assessments and fees has been and is more than sufficient to pay its debt obligations as set forth in the Plan. During this Case, the Association has paid its operating expenses, remained current in its secured, lease and contract obligations, and paid substantial legal fees and expenses. Indeed, the Association fully paid the secured claim of First Citizens Bank & Trust Company during this Case, well before the loan maturity date.

The primary concern precipitating this case was the Association's ability to operate and perform its responsibilities prospectively. This concern included concerns about membership in

the Association, the rights regarding assessments charged to lot owners in the Community, collection of assessments charged, and the need to eliminate, or at least significantly reduce, legal expenses caused by lengthy litigation over membership and assessment issues. Although the Association understood that Chapter 11 would involve substantial legal expense, the Association determined it best to "bite the bullet" and file the Chapter 11 case, with the goal of litigating the issues once and for all, instead of possibly multiple times with different groups over a period that might extend many years. The Chapter 11 filing enabled the Association to file the Adversary Proceeding, for a onetime adjudication and determination of the membership and assessment issues which would be effective as to all owners in the Community.

Were the issues of membership and assessments to continue, or if the state court litigation of issues were to continue, then the Association is informed and believes the feasibility of its continued operation would be in serious jeopardy. The prepetition legal expenses alone indicate that, if the Association were to have to litigate the issues in state court, potentially multiple times, the Association would be unable to continue performing its services, including maintaining the roads of the Community. However, by addressing the problems in this Case, the Association believes that it has averted the problems jeopardizing its future ability to properly operate.

Based upon the outcome of the Adversary Proceeding, issues over the Association's ability to charge and collect assessments and fees have been clarified and impediments eliminated. The Association's budget is annually approved, with consideration of factors affecting the funding to be received from assessments. With the completion of this Case, the Association believes that its legal expenses, will substantially decrease. The Association should be in much improved position, financially and in its operations, following confirmation of the Plan.

The Plan's provisions involve no material risk to creditors. There is a reasonable probability that the Plan will be fully consummated by its terms. Therefore, the Plan satisfies the requirement of 11 U.S.C. § 1129(a)(11).

ARTICLE V

STATUS OF THE DEBTOR AFTER CONFIRMATION

The Plan expressly reserves the Association's right after Confirmation to challenge the validity and enforceability of all contracts, leases, and claims against the Estate which have not been previously addressed.

From and after Confirmation of this Plan, the Association is exonerated from any and all claims not filed by a creditor or claimant of interest against the Association prior to the deadline date set by the Court. The Association will be, from and after Confirmation of this Plan, indebted for, and obligated to pay, only (1) those liabilities and obligations set forth in Article III of this Plan, upon the provisions of this Plan, (2) United States Trustee Quarterly Fees until the Case is closed, dismissed or converted to Chapter 7, and (3) administrative expenses incurred in the Case.

Any defaults with respect to any indebtedness or obligations, or in the terms and conditions thereof, which are or may be based on events, facts, or occurrences that occurred on or before the date of Confirmation, or by lapse of time, or both, (1) shall be deemed to have occurred on or

before the date of Confirmation, (2) shall be deemed to have been waived and (3) shall not thereafter be a basis for the exercise by any person for any right or remedy whatsoever, as a creditor or claimant against the Estate.

ARTICLE VI

JURISDICTION

Retention of Jurisdiction. The Court shall retain jurisdiction over the Estate and the parties appearing in this Case as provided in the Code until entry of the final decree closing this Case. The Court shall retain jurisdiction over matters as necessary or appropriate for the purposes of (i) determining all claims that have been asserted against the Association, or the Estate; (ii) completion of the Adversary Proceeding; and (iii) carrying out and giving effect any and all provisions of the Plan and the Order Confirming Plan.

ARTICLE VI

POST-CONFIRMATION ACTS

7.1 Acts Necessary for Completion and Consummation of the Plan. The Association, and its agents, shall perform all acts necessary to complete and consummate this Plan, to include:

a. The prosecution of all claims against third parties, and the challenge of claims filed against the Estate by third parties, as appropriate;

b. The execution and filing of all legal documents required;

c. The filing of post-confirmation monthly reports;

d. The payment of Quarterly Fees due to the United States Trustee until the Case is closed, dismissed or converted to Chapter 7; and

e. The performance of any and all functions required by the Code.

At least thirty (30) days prior to the closing of this Case, the Association shall cause to be filed with the Court a final report stating the receipts and disbursements by the Association after Confirmation.

7.2 Prosecution and Defense of Claims. The Association shall retain full power after Substantial Consummation to prosecute and defend any causes of action or proceedings existing at Substantial Consummation by or against the Association or the Estate; resulting from the administration of the Estate; resulting from any other claim by or against the Association or its assets; or arising prior to or existing before Substantial Consummation, including the collection of outstanding accounts receivable. The Association may use the services of its attorneys and accountants in the prosecution or defense of such claims, and shall have full power to employ, retain, and replace counsel to represent it in the prosecution or defense of any action. The

Association shall have the full right and power to discontinue, compromise, or settle any action or proceeding, or adjust any claim.

Furthermore, the Association reserves the right to file and pursue any actions to avoid and recover transfers or payments, or to invalidate or challenge the enforceability of transactions and agreements, by use of rights and powers granted to the Association under the Code. The time for filing any such actions shall not be shortened or abridged by confirmation of the Plan.

ARTICLE VII

"CRAM DOWN" FOR IMPAIRED CLASSES NOT ACCEPTING THE PLAN

With regard to any class of creditors that is impaired but does not accept the Plan by the requisite majority in number and two-thirds in amount, the proponent of this Plan requests that the Court find that the Plan does not discriminate unfairly and is fair and equitable with respect to each Class of Claims or Interest that is impaired under the Plan, and that the Court confirm the Plan without such acceptances by the said impaired classes.

ARTICLE IX

DISCHARGE OF THE DEBTOR

The entry of an Order Confirming Plan acts as a discharge of any and all liabilities of the Association that are dischargeable under 11 U.S.C. § 1141. As a corporation, the Association will not be discharged of liabilities or obligations other than as set forth in this Plan.

/s/ Julio E. Mendoza, Jr.

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May 3, 2021

Columbia, South Carolina