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FILED IN GREENVILLE COUNTY, SC

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

This DECLARATION, made on the date hereinafter set forth, is imposed upon that certain area of land in the County of Greenville, State of South Carolina, commonly known as Powderhorn Subdivision and which is shown as follows:

Section 1, Lot 1 through Lot 66, recorded on Feb. 26, 1974 in the ROD of Greenville County in Plat Book 4X, page 95:

Section 2, Lot 67 through Lot 89, recorded on Sept. 29, 1977 in the ROD of Greenville County in Plat Book 6H, page 155;

Section 3, Lot 95 through Lot 143 and Lot 153 through Lot 177, recorded on Feb. 19, 1979 in the ROD of Greenville County in Plat Book 7C, page 4;

Section 4, Map 1, Lot 179 through Lot 211 and Lot 299 through Lot 308, recorded on June 29, 1981 in the ROD of Greenville County in Plat Book 8P, page 22; and

Section 4, Map 2, Lot 212 through Lot 298, recorded on Feb. 9, 1983 in the ROD of Greenville County in Plat Book 9F, page 50.

WHEREAS, American Service Corporation has heretofore imposed on property known as "Powderhorn, Section 1", certain covenants, conditions and restrictions as set forth in the ROD of Greenville County, South Carolina, in Deed Book 1011, at page 155, and has extended the general overall scheme of said covenants and restrictions to property known as "Powderhorn, Section 2" and property known as "Powderhorn, Section 3" by Supplementary Declarations recorded in said office in Deed Book 1080, Page 8330 and in Deed Book 1105, Page 630 respectively, and to property known as "Powderhorn, Section 4, Map 1" and "Powderhorn, Section 4, Map 2", recorded in Deed Book 1105, Page 630, with certain changes and modifications hereinafter set forth in this Declaration to bring said property within the jurisdiction of the Powderhorn Homeowners Association, Inc. (collectively known hereafter as the "Old Restrictive Covenants"); and

WHEREAS, by vote of three-fourths (3/4) of the lot owners, the Powderhorn Homeowners Association, Inc. has the authority to revise and supplement the covenants, conditions and restrictions pertaining to the subject property described herein; and

WHEREAS, the Powderhorn Homeowners Association, Inc. desires to replace the Old Restrictive Covenants in their entirety with this Supplemental Declaration of Covenants, Conditions and Restrictions, thereby rendering the Old Restrictive Covenants obsolete;

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

## **ARTICLE I DEFINITIONS**

SECTION 1. "Association" shall mean and refer to Powderhorn Homeowners Association, Inc., its successors and assigns.

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

SECTION 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "Common Area" shall mean all real property now or hereafter owned by the Association and described in this Supplementary Declaration of Covenants, Conditions and Restrictions exclusive of Lots 1 through 66 of Section 1; Lots 67 through 89 of Section 2; Lots 95 through 143 and 153 through 177 of Section 3; Lots 178 through 211 and Lots 299 through 308 of Map 1, Section 4, and Map 2, Section 4; Lots 212 through 296, and those roads dedicated or to be dedicated to Greenville County as shown on the plat of Powderhorn, Map 2, Section 4, recorded in Plat Book 9F, page 50, Greenville County Office of the ROD.

SECTION 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

## **ARTICLE II PROPERTY RIGHTS**

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

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) The right of the Association to suspend the voting rights, and right to use the recreational facilities by an owner for any period not to exceed 60 days for any infraction of its published rules and regulations;

- (c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of members agreeing to such dedication or transfer has been recorded.

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

### **ARTICLE III RESIDENTIAL AREA COVENANTS**

Section 1. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted on any lot other than ones approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved, as provided for, hereinafter.

SECTION 2. No structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the utility easements, or which may obstruct or retard the flow of water through drainage channels in the utility easements.

SECTION 3. No obnoxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

SECTION 4. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

SECTION 5. No lot shall be re-cut to a smaller size than that shown on the recorded plats referenced herein. On all of said lots, the main building or dwelling orientation shall be determined prior to construction by the Architectural Control Committee.

SECTION 6. No dwelling shall be placed on Lots 1 through 10 that contains less than 1200 square feet of internal heated floor space. No dwelling shall be placed on Lots 11 through 66 that contains less than 1600 square feet of internal heated floor space. No dwelling shall be placed on Lots 67 through 89 that contains less than 1500 square feet of internal heated floor space. No dwelling shall be placed on Lots 95 through 308 that contains less than 1400 square feet of internal heated floor space.

- (a) On all lots, no two-story residence shall be located, placed, altered or permitted to remain containing less than 1000 square feet of floor space on the ground floor.
- (b) In computing the square footage of any split-level residence, any basement that is finished and heated shall be computed on a one-half of its square footage toward computation of the total square footage required.

SECTION 7. No sign of any kind shall be displayed to the public view on any lot except one sign, approved by the Architectural Control Committee, containing the lot owner's name and/or address, or approved signs used by a builder or realtor to advertise the property during construction or sale period or resale by owner.

SECTION 8. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any public purpose.

SECTION 9. Trash, garbage or other waste shall not be kept on any lot except in sanitary containers. Cans for garbage or trash maintained above-ground shall be kept on a paved surface surrounded by a fence at least twelve inches higher than the highest container, or out of view from the road.

SECTION 10. No motorcycle, motorbike, go-cart or motorized vehicle of any type shall at any time be kept or used on the Common Area as defined hereinabove in Article I, Section 4, except where parking is available for the temporary use of the Common Area.

SECTION 11. All mailboxes and stands on said properties shall be similar in size, shape and color to other mailboxes and stands in the neighborhood and as recommended by the United States Government and approved by the Architectural Control Committee. No fence shall be erected, placed or allowed to remain in the area of any numbered lot lying between the front building set back line as shown on a plat, and the edge of any street or avenue. Prior to construction of any fences, plans and specifications shall be furnished the Architectural Control Committee, whose approval or disapproval shall be given within thirty days after receipt thereof. Approval shall be based upon fences that will blend with the community.

SECTION 12. No individual water supply system shall be permitted on any lot. All sewerage disposals shall be by sewerage system disposal as provided for by the City and not by individual septic system.

SECTION 13. No trees larger than three inches in diameter at a point four feet above grade shall be cut down by the owner without permission of the Architectural Control Committee. This does not include the trees required to be removed to make room for construction and improvements as shown on the site plan presented to the Architectural Control Committee for approval. All trees to be cut down must also have the stump removed.

SECTION 14. Front and side setback lines for the construction of individual dwellings and any other structure attached thereto shall be as determined by the Architectural Control Committee, provided, however, that in any event the front set back line shall not be less than 30 feet from the front line of each lot.

SECTION 15. No concrete blocks, cinder blocks or any similar type building material, or asbestos shingle siding, shall be used in connection with the construction of any buildings erected upon said lots so that said materials are visible from the outside of said building. Plans of all dwelling units and out buildings shall be reviewed and subject to the approval of the Architectural Control Committee prior to construction.

SECTION 16. Nothing herein contained shall be construed to prohibit the use of more than one lot or portions of one or more lots as a single residence building site, provided that said lot would otherwise meet the requirements as to size, setback and directional facing of said dwellings as determined by the Architectural Control Committee

SECTION 17. The right is reserved by local and state authorities to lay or place or authorize the laying and placing of sewer, gas and water pipe lines, telephone, telegraph and electric light poles on any of the streets, easements and greenways shown on said plat, or hereafter cut, without compensation or consent of any lot owner in said subdivision. An easement for the installation and maintenance of utilities and drainage facilities is reserved over said streets, easements and greenways.

SECTION 18. Easements for utility installation and drainage facilities are reserved over and across the side and rear five feet of all of said lots, with the provision that in the event that one or more lots or portions thereof are joined together to form a larger lot, the easement shall exist on only the side and rear boundaries of the lot as formed. The greenways adjacent to side and rear lot lines may be utilized for recreation as well as an easement for utility lines. Such greenways are community property, part of the Common Area, and shall be maintained and controlled by Powderhorn Homeowners Association, Inc.

#### **ARTICLE IV MEMBERSHIP AND VOTING RIGHTS**

SECTION 1. The Powderhorn Homeowners Association, Inc. is a non-profit corporation organized under the laws of the State of South Carolina for the purpose of administration of some of the functions of these covenants, and of collecting and disbursing the maintenance charges hereinafter provided.

SECTION 2. Subject to its provisions of its by-laws to the contrary, every person or entity who is a record owner of a free or undivided fee interest in any lot which is subject to these covenants shall be a member of the Association subject to such voting rights as are hereinafter provided; provided, however, that any person or entity who holds such an interest merely as security for the performance of an obligation shall not be a member.

SECTION 3. All owners shall be entitled to one vote for each lot owned. The vote for such lot shall be exercised as the owners among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

## **ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENT**

SECTION 1. All lots shown on the recorded plats shall be subject to an annual assessment at the rate to be determined by the Association. All sums are payable to the Association, and shall be administered by the officers, members and directors of said Association and may be used for functions hereinafter set out, it being especially stipulated that the Association is empowered to perform any and all of said functions but that it shall be under no duty to perform or continue to perform any of said functions.

SECTION 2. The annual assessments or charges, and special assessments for capital improvements, which assessments may be established and collected as hereinafter provided, shall constitute a lien or encumbrance upon the land. Acceptance of a deed of conveyance for any lot in the subdivision shall be construed to be a covenant by the grantee to pay the said charges, which covenants shall be to the benefit of the Association, and all other lot owners in the subdivision, and which covenants shall run with the land and be binding upon the grantee and his successors, heirs and assigns. The Association shall have exclusive right to take and prosecute all actions or suits legal or otherwise which may be necessary for the collection of said assessments or charges.

SECTION 3. In the event that it is necessary to foreclose a lien herein created as to any property, the procedure for foreclosure shall be the same as for foreclosure of a real estate mortgage in the State of South Carolina.

SECTION 4. The lien hereby reserved, however, shall be subject to the following limitations:

- (a) At all times such lien shall be subordinate to a lien of any mortgagee or lender of any sums secured by properly recorded mortgage or deed to secure a debt, to the end and intent that the lien of any mortgagee, trustee or lot holder shall be paramount to the lien for charges herein provided; further, that such subordination shall apply only to the charges that shall become payable prior to the passing of title under foreclosure or mortgage or deed to secure and hold acquisition of the title by deed in lieu of foreclosure, and nothing herein contained shall be held to affect the rights herein given to enforce the collection of such charges or assessments accruing after sale under foreclosure of such mortgage or acquisition of title by deed in lieu of foreclosure.
- (b) Notice of any charge or assessment due and payable shall be given by filing Notice Pendency of Action in the Lis Pendens Book in the Office of the Clerk of Court for Greenville County. As to subsequent bona fide purchasers for value, a lien herein reserved for charges and assessments due and payable shall be effective only from

the time of filing said Lis Pendens; provided, however that nothing herein contained shall affect the right of the Association to enforce the collection of any charges and assessments that shall become payable after the acquisition of title by such subsequent bona fide purchaser for value.

- (c) The lien herein created shall be subordinate to the lien of laborers, contractors or materialmen furnishing labor, services or materials in connection with the construction or alteration of any improvements located on any lot, except that nothing herein contained shall be held to affect the rights herein given to enforce the collection of such charges or assessments accruing after foreclosure of any such lien.

**SECTION 5. Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in Powderhorn, for the improvement and maintenance of the greenways, parks and Common Area, and of the recreation facilities situated in the clubhouse area, and otherwise as the Association may direct by two-thirds (2/3) vote of all members entitled to vote.

**SECTION 6. Maximum Annual Assessment.** The maximum assessment shall be \$150.00 per year.

- (a) The maximum annual assessment may be increased each year not more than 5% above the maximum assessment for the previous year without a vote of the membership.
- (b) The maximum annual assessment may be increased above 5% by a vote of two-thirds (2/3) of members who are voting in person or by proxy, at a meeting duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

**SECTION 7. Special Assessments for Capital Improvements.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

**SECTION 8. Notice and Quorum for any action authorized under Sections 6 and 7.** Written notice of any meeting called for the purpose of taking any action authorized under Sections 6 and 7 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or proxies entitled to cast sixty percent (60%) of all votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be held more than 60 days following the preceding meeting.

**SECTION 9. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

**SECTION 10. Due Dates.** The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Board of Directors shall establish the due dates. 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.

**SECTION 11. 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 six percent (8%) per annum.

## **ARTICLE VI ARCHITECTURAL CONTROL**

No building, fence, wall or other structure shall be commenced, erected or maintained upon any lot within the Powderhorn Subdivision, nor shall any exterior addition to or change or alteration therein be made, until the plans and specification showing the nature, kind, shape, height, materials and location of the same shall have been submitted to, and approved in writing as to harmony of external design and location in relation to the surrounding structures, by the Architectural Control Committee composed of three (3) or more representatives appointed by the Association. In the event said Association, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, written approval will not be required but will be presumed, and this Article will be deemed to have been fully complied with.

## **ARTICLE VII PARTY WALLS PERTAINING TO PATIO HOMES**

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

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

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



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

**SECTION 4. Weatherproofing.** Notwithstanding any other provisions of this Article, an Owner who by his negligence or willful act caused the party wall to be exposed to the elements shall bear the whole cost of repair and the whole cost of furnishing the necessary protection against such elements.

**SECTION 5. Right to Contribution Runs with Land.** The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

**SECTION 6. Arbitration.** In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

## **ARTICLE VIII ANNEXATION**

Additional real property, including existing subdivisions, may become subject to these covenants without the approval of any purchaser or transferee of American Service Corp. by filing of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property, which shall automatically extend the scheme of the covenants and restrictions of this Declaration to such property. Such Supplementary Declaration may contain such additions and modifications of these covenants as may be necessary to reflect the different character of added properties, but in no event shall such Supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the existing property as hereinabove described.

## **ARTICLE IX EXTERIOR MAINTENANCE**

In the event an owner of any lot in Powderhorn shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, upon approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repaint, maintain and restore the lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such lot is subject.

**ARTICLE X  
GENERAL PROVISIONS**

SECTION 1. Enforcement. The Association or any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Association or by any owner to enforce any covenant or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

SECTION 3. Amendment. The covenants and restrictions of this Supplemental Declaration of Covenants, Conditions, and Restrictions shall run with and bind the land for a term of ten (10) years from the date this Declaration is recorded, after which time they shall automatically extend for successive periods of ten (10) years. This Supplemental Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the lot owners. Any amendment must be recorded. The Old Restrictive Covenants ran with and bound the land, for a term of twenty (20) years from the date they were recorded and could be amended by an instrument signed by not less than ninety percent (90%) of the lot owners. The foregoing amendment provisions notwithstanding, no change or amendment may be made to Article VIII of these covenants without the written consent of American Service Corp.

SECTION 4. Commercial Signs. No commercial signs, excluding (for rent), (for sale), shall be erected or maintained on any lot except with the written permission of the Architectural Control Committee, or except as may be required by legal proceedings it being understood that the Architectural Control Committee will not grant permission for said signs unless the erection is reasonably necessary to advert serious hardship to the property owner. If such permission is granted, the Architectural Control Committee reserves the right to restrict size, color and the content of such signs. Property identification and like signs exceeding a combined total of no more than two (2) square feet may not be erected without the written permission of the Architectural Control Committee.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 2nd day of December 2009.

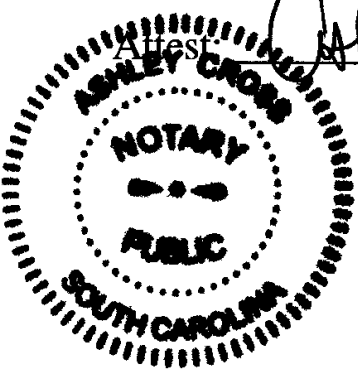
POWDERHORN HOMEOWNERS ASSOCIATION, INC

By: James Gary Gray  
Its President

Phil J. Haygood  
Witness

Alley Cus

Jon [Signature]  
Witness



My Commission Expires  
March 23, 2019

**AMENDMENT 1A - Common Area sale - 105 Frankfort Court**

The Association shall have the right to sell a triangle-shaped piece of land behind 105 Frankfort Court to the owner of 105 Frankfort Court.

**AMENDMENT 1B - Common area sale - 302 Canebrake Lane**

The Association shall have the right to sell an original lot located at 302 Canebrake Lane.

**AMENDMENT 1C - Common area sale - 308 Manassas Drive**

The Association shall have the right to sell a new lot located at 308 Manassas Drive.

*Appendment 1A*

