



WHEREAS, Mixson Assembly, Inc. (the “**Association**”), the Founder and Pamela N. Martin previously executed that certain Amendment No. 1 to Declaration of Covenants, Conditions and Restrictions for Mixson Residential Property, dated July 18, 2011 and recorded in the Register of Deeds Office for Charleston County, South Carolina on July 21, 2011 in Book 0198, Page 284, *et seq.* (the “**First Amendment**”);

WHEREAS, the Association and the Founder previously executed that certain Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for Mixson Residential Property, dated December 31, 2013 and recorded in the Register of Deeds Office for Charleston County, South Carolina on January 14, 2014 in Book 0383, Page 812, *et seq.* (the “**Amended and Restated Declaration**”);

WHEREAS, the Assembly, Mixson Avenue Partnership, LP, and the City of North Charleston, South Carolina previously entered into that certain Maintenance Agreement, dated May 14, 2015, and recorded in the Register of Deeds Office for Charleston County, South Carolina on February 25, 2016, in Book 0537, Page 073 (the “**Maintenance Agreement**”) relating to landscaping and maintenance of the “**City Parks**,” as that term is defined in the Maintenance Agreement;

WHEREAS, the Founder previously executed that certain First Supplemental Declaration to Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for Mixson Residential Property, dated April 13, 2017 and recorded in the Register of Deeds Office for Charleston County, South Carolina on April 14, 2017 in Book 0630, Page 716, *et seq.* (the “**First Supplemental**”);

WHEREAS, the Association and Founder previously executed that certain First Amendment to Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for Mixson Residential Property, dated April 13, 2017 and recorded in the Register of Deeds Office for Charleston County, South Carolina on April 14, 2017 in Book 0630, Page 717, *et seq.* (the “**First A&R Amendment**”);

WHEREAS, the Founder previously executed that certain Second Supplemental Declaration to Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for Mixson Residential Property, dated April 13, 2017 and recorded in the Register of Deeds Office for Charleston County, South Carolina on April 14, 2017 in Book 0630, Page 718, *et seq.* (the “**Second Supplemental**”);

WHEREAS, the Founder and FD Communities, LLC (the “**Previous Declarant**”) previously executed that certain Assignment of Declarant Rights, dated April 8, 2017 and recorded in the Register of Deeds Office for Charleston County, South Carolina on April 18, 2017 in Book 0631, Page 410, *et seq.* (“**Previous Assignment**”) (the Initial Declaration, First Amendment, Amended and Restated Declaration, First Supplemental, First A&R Amendment, Second Supplemental, and Previous Assignment are hereinafter collectively referred to as the “**Original Declaration**”);

WHEREAS, the Founder, the Previous Declarant, and Association previously executed the Restated Original Declaration, dated November 3, 2017 and recorded in the Register of Deeds

Office for Charleston County, South Carolina on November 6, 2017 in Book 0677, Page 846, *et seq.*;

WHEREAS, the Founder, the Previous Declarant, and SM Charleston, LLC previously entered into that certain Assignment of Declarant Rights, dated February 28, 2018 and recorded in the Register of Deeds Office for Charleston County, South Carolina on March 1, 2018 in Book 0701, Page 913, *et seq.* ("**First Assignment**");

WHEREAS, SM Charleston, LLC previously executed the First Amendment to the Restated Original Declaration, dated November 7, 2019, and recorded in the Register of Deeds Office for Charleston County, South Carolina on November 20, 2019, in Book 840, Page 869, *et seq.* ("**First Amendment to Restated Original Declaration**");

WHEREAS, the rights, title, interests, powers and authority of the Association's Declarant were previously assigned by SM Charleston, LLC to its affiliated entity, Stanley Martin Companies, LLC, and thereafter Stanley Martin Companies, LLC changed its name to Stanley Martin Homes, LLC and converted to a Delaware limited liability company, as evidenced by that certain Affidavit of Name Change and Conversion executed January 29, 2021, and recorded in the Register of Deeds Office for Charleston County, South Carolina, on February 8, 2021, in Book 0958, at Page 261, *et seq.*;

WHEREAS, SM Charleston, LLC and Declarant previously entered into that certain Assignment of Declarant Rights, dated February 1, 2021 and recorded in the Office of the Register of Deeds for Charleston County, South Carolina on April 7, 2021 in Book 0979, Page 294, *et seq.* ("**Second Assignment**");

WHEREAS, Declarant previously executed that certain Second Amendment to Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for Mixson Residential Property, dated July 15, 2021, and recorded in the Register of Deeds Office for Charleston County, South Carolina, on July 22, 2021 in Book 1016, Page 081, *et seq.* (the "**Second Amendment to Restated Original Declaration**");

WHEREAS, the Declarant, in accordance with Section 15.2 of the Restated Original Declaration, desires to amend the Restated Original Declaration;

WHEREAS, this Third Amendment to Restated Original Declaration is made to update certain provisions in the Restated Original Declaration and to give notice under Sections 1.15 and 6.1 of the Restated Original Declaration that the Declarant is surrendering certain authority; and

WHEREAS, the Declarant does hereby certify that the Declarant Control Period is still in effect as of the date of execution of this Third Amendment to Restated Original Declaration, and, pursuant to Section 15.21 of the Restated Original Declaration, that DRP SC 1, LLC does not own any portion of the Property subject to the Restated Original Declaration.

#### AMENDMENT

NOW, THEREFORE, in consideration of the premises, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Declarant,

pursuant to Section 15.2 of the Restated Original Declaration, hereby amends the Restated Original Declaration as follows:

1. The foregoing recitals are incorporated herein by reference.
2. Unless otherwise defined herein, any capitalized term used herein shall have the meaning set forth in the Restated Original Declaration, as previously amended.
3. Section 1.4 of the Restated Original Declaration is hereby deleted in its entirety and the following substituted therefor:

**Section 1.4. Area of Common Responsibility** shall mean and refer to the Common Property, together with other areas, if any, which by the terms of this Declaration or by contract or agreement any other Person or entity become the responsibility of the Association, including, but not limited to, the City Parks.

4. Section 1.9 of the Restated Original Declaration is hereby deleted in its entirety and the following substituted therefor:

**Section 1.9. Common Expenses** shall mean the expenses anticipated or actually incurred by the Association in maintaining, repairing, replacing, and/or operating the Area of Common Responsibility and otherwise for the benefit of all Lots, including those expenses anticipated or actually incurred in performing the obligations owed under the Maintenance Agreement.

5. Section 5.3 of the Restated Original Declaration is hereby amended by deleting the first sentence of the second paragraph of said section and substituting the following therefor:

The total of the annual assessments levied against all Lots for the coming year shall be set at a level which is reasonably expected to produce total revenue to the Association equal to the total budgeted Common Expenses, which includes, but is not limited to, expenses for maintaining the City Parks and performing the obligations owed under the Maintenance Agreement, as well as reserves. The annual assessment to be levied against each Lot for the coming year shall be determined by dividing the total budgeted Common Expenses, including reserves, proportionally among the total number of Lots.

6. The first two sentences of Section 9.1 of the Restated Original Declaration, following the section caption, are hereby deleted and the following substituted therefor:

The Association shall maintain and keep in good repair the Area of Common Responsibility. This maintenance shall include, without limitation, maintenance, repair, and replacement, subject to any insurance then in effect, of all landscaping, fencing, paving and other improvements located on the Common Property, as well as maintaining the City Parks in accordance with the Association's obligations set forth in the Maintenance Agreement.

7. Section 10.1 of the Restated Original Declaration is hereby amended by adding the following sentence to the end of the second paragraph of said section (said paragraph beginning with "The Board also..."):

The insurance policies required to be obtained and maintained by the Association, as set forth herein, shall include coverage required under the Maintenance Agreement, including coverage against any loss or liability relating to the Association's maintenance of the City Parks, with the City of North Charleston named as an additional insured on any such policy.

8. In accordance with Section 1.15 of the Restated Original Declaration, the Declarant hereby gives notice that it surrenders, as of August 22, 2023 or the date of recording of this Third Amendment to Restated Original Declaration, whichever occurs later, its right to appoint and remove members of the Board of Directors and officers of the Association.

9. In accordance with Section 6.1 of the Restated Original Declaration, the Declarant hereby gives notice that it surrenders, as of August 22, 2023 or the date of recording of this Third Amendment to Restated Original Declaration, whichever occurs later, its right to appoint members of the Association's Architectural Review Committee.

10. Any and all easements and/or other rights granted or available to the Declarant after expiration of the Declarant Control Period, as set forth in the Restated Original Declaration, as amended, which are not surrendered herein are expressly reserved.

11. Except as expressly amended by this Third Amendment to Restated Original Declaration, the Restated Original Declaration, as previously amended by the First and Second Amendments to Restated Original Declaration, shall remain in full force and effect. Each and every term, definition, covenant and condition of the Restated Original Declaration is incorporated herein by this reference, such that the Restated Original Declaration, as previously amended, and this Third Amendment to Restated Original Declaration shall be read and construed as one instrument.

[SIGNATURE PAGE FOLLOWS]

