

FILED, RECORDED, INDEXED  
02/11/2004 03:32:29PM  
Rec Fee: 44.00 St Fee: 0.00  
Co Fee: 0.00 Pages: 38  
Issued to: LYNN MCCANTS  
Register of Deeds Berkeley Co., SC  
Cynthia B. Forte

STATE OF SOUTH CAROLINA )  
 )  
COUNTY of CHARLESTON )

DECLARATION OF COVENANTS  
AND RESTRICTIONS FOR  
TANNER HALL SUBDIVISION

THIS DECLARATION made by Century Development L.L.C.,  
hereinafter called "Developer";

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property  
Located in the Town of Hanahan, Berkeley County, South  
Carolina, which is more particularly described on Exhibit "A" and  
"B" attached hereto and made a part hereof by reference; and

WHEREAS, the Developer proposes to create on such property a  
subdivision known as "Tanner Hall" (hereinafter referred to as  
("the Subdivision") containing detached homesite lots together with  
Common Areas as more fully described herein; and

WHEREAS, the Developer wishes to accomplish the following  
objectives for its benefit and the benefit of Owners of property  
in the Subdivision by the imposition of the covenants and  
restrictions set forth herein:

- (a) To maintain the value and the residential character and integrity of the residential portions of the Subdivision and to maintain the quality and value of any recreational portions of the Subdivision,
- (b) To preserve the quality of the natural amenities of the Subdivision,
- (c) To minimize or eliminate the possibility of any disruptions of the peace and tranquility of the residential environment of the Subdivision,
- (d) To prevent the abuse or unwarranted alteration of the trees, vegetation, lakes, creeks, ponds, and other bodies of water and natural character of the land in the Subdivision,
- (e) To prevent any property Owner or any other persons from carrying on any other activity in the Subdivision to the detriment of any Owners of Property in the Subdivision,
- (f) To keep property values in the Subdivision high, stable, and in a state of reasonable appreciation; and

(38)

WHEREAS, the Developer is desirous of maintaining design criteria, location, construction specifications, and other controls to assure the integrity of the Subdivision; and

WHEREAS, as hereinafter provided in this Declaration, the Developer has retained and reserved the right, privilege, and option to submit to the provisions of this Declaration at a later time and from time to time as a part of the Subdivision, all or any portion of the real property described in Exhibit "B" attached hereto and incorporated herein by reference;

NOW, THEREFORE, the Developer hereby declares that all of the Property described in Exhibit "A" shall be subjected to this Declaration, shall be held, mortgaged, transferred, sold, conveyed, leased, occupied, and used subordinate and subject to the following easements, restrictions, covenants, charges, liens, and conditions which are hereby imposed for the purpose of protecting the value and desirability of these lands and which restrictions, easements, charges, liens, conditions, and covenants shall touch and concern and run with title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title, or interest in these described properties or any portion of them. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone or anything who/which purchases or takes any interest in real property within the lands subject to this Declaration.

#### ARTICLE I DEFINITIONS

When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have the following meanings, and all definitions shall be applicable to the singular/plural forms of any such term(s) :

**Section 1.1 Additional Property** shall mean and refer to the real property described in Exhibit "B" and all improvements thereon.

**Section 1.2 Assessment** shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.

**Section 1.3 Association** means Tanner Hall Property Owners Association, Inc. (a South Carolina eleemosynary corporation to be formed) , its successors and assigns.

**Section 1.4 Board of Directors** shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

**Section 1.5 By-Laws of the Association** shall mean and refer to those By-Laws of Association which govern the administration and operation of the Association, as they may be amended from time to time.

**Section 1.6 Common Areas** shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or designated by the Developer as Common Areas. Such areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public and the general public shall thereby have no easement of use or enjoyment therein. Specifically included as part of the Common Areas are all of the following including improvements: maintenance areas, alleys, parking lots and parking areas, medians, green areas, walkways, docks set aside for the lot owners, sidewalks, jogging trails, bike paths, tennis courts, swimming pool, clubhouse, irrigation systems, boat landing, entrance structures, lighting other than street, signage, lagoons, streams, ponds, marshes, easement areas designated as Common Areas, access easements across other real property, parks, and other Recreational Amenities as hereinafter defined, and such other lands and/or improvements as, by subsequent amendment of or supplement to this Declaration, may be subjected to this Declaration and designated as Common Areas by the Developer. However, nothing herein contained nor any general plan or plat of the Properties showing areas which may later be developed as additional phases of the Development shall be deemed to include such property as Common Areas, nor shall the Association or any Owner be entitled to any right, title, or interest in such property unless and until such property shall have been formally included as a part of the Subdivision by the Developer pursuant to the terms herein contained. Notwithstanding anything contained herein to the contrary, the Developer, its successors and assigns, shall not be obligated to convey to the Association the above-described marshes nor shall the Developer, its successors or assigns, be obligated to convey to the Association any natural buffer zone.

**Section 1.7 Common Expenses** shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of equipment, financial, or material reserves, consistent with the provisions and intent of this Declaration.

**Section 1.8 Declaration** shall mean this Declaration and all supplements and amendments to this Declaration as filed in the office of the Berkeley County Register of Mesne Conveyances.

**Section 1.9 Developer** means Century Development L.L.C., its successors and assigns.

**Section 1.10 Foreclosure** shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

**Section 1.11 Lease** shall mean and refer to any lease, sublease or rental contract, whether oral or written, and for a term of hours, days, months, or years.

**Section 1.12 Living Space** shall mean and refer to enclosed and covered areas within a dwelling on a Lot, exclusive of garages, unenclosed porches, porte-cocheres, carports, breezeways, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements.

**Section 1.13 Lot** shall mean and refer to: (1) those portions of the Subdivision identified as "Lots" on Exhibit "A" attached hereto, (2) any lots and/or portions of the Additional Property (Exhibit "B") that may be so designated as lots from time to time by the Developer, but shall not include any Common Areas as defined herein.

**Section 1.14 Mortgage**, with an initial capital letter, shall mean and refer to a mortgage, security deed, deed of trust, installment land sales contract and security agreement or other similar security instrument granting, creating or conveying a lien upon, a security interest in, or a security encumbered title to a Lot or Common Area.

**Section 1.15 Mortgagee**, with an initial capital letter, shall mean and refer to the holder of a Mortgage.

**Section 1.16 Occupant** shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, licensee, lessee, tenant, transient paying guest, or family member of an Owner lawfully occupying or otherwise using a Lot within the Subdivision.

**Section 1.17 Owner**, with an initial capital letter, shall mean and refer to one or more persons or entities, including Developer, who or which own(s) fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" shall also refer to the heirs, successors and assigns of any Owner.

**Section 1.18 Person** shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust, or any other legal entity or any combination thereof.

**Section 1.19 Recreational Amenities** shall include such recreational facilities and improvements so designated by Developer and are, from time to time, located within the Subdivision or located within or dedicated to the Common Areas, including, without limitation, playground areas, lakes, entrance areas, common boat launches, docks, clubhouses, tennis courts, swimming pools, and others.

**Section 1.20 Subdivision**, with an initial capital letter, shall mean and refer to those tracts or parcels of land described on Exhibit "A", together with all improvements presently thereon and subsequently constructed thereon, and, upon the submission to the provisions of this Declaration of the tracts or parcels of land described in Exhibit "B", or any portion thereof, shall mean and refer to the real property described in Exhibit "A" and the real property described in Exhibit "B" or such portion thereof so submitted, together with all improvements thereon or thereafter constructed thereon. [The term "Subdivision" is used interchangeably herein with the term "Property."]

**Section 1.21 Subdivision Plat** shall mean and refer to those certain plats described in Exhibit A attached hereto together with: (1) any future revisions thereof; or (2) any subdivision plat for any portion of the Additional Property as may be submitted to the terms of this Declaration, and recorded from time to time in the RMC Office of Berkeley County.

## ARTICLE II PLAN OF DEVELOPMENT

**Section 2.1 Plan of Development of the Subdivision.** The Subdivision initially shall consist of the property described on Exhibit "A" attached hereto. The Property shall include certain improvements to the Common Areas, as well as utility systems, drainage systems, and other improvements serving the Lots, and various Recreational Amenities to the extent the same are, from time to time, installed and existing and submitted to the provisions hereof. The dimensions of the Subdivision are shown on the Subdivision Plat. The Property within the Subdivision shall be subject to the covenants, easements, and restrictions set forth in this Declaration. Developer shall have the right, but not the obligation, for so long as Developer: (1) owns any portion of the Common Areas; or (2) owns any Lot primarily for the purpose of sale of the Lot; or (3) has the option to add the Additional Property or any portion thereof to the Development, to make improvements and changes to all Common Areas and to any or all Lots or any other property owned by Developer for: (a) installation and maintenance of any improvements in and to the Common Areas, including the Recreational Amenities; (b) making changes in the location of the boundaries of the Common Areas, any Recreational Amenities, and any Lots owned by Developer or of the dedicated or undedicated Common Areas; (c) installation and maintenance of any water, sewer and other utility systems and facilities, to include, but not limited to, television cable and its various attendant services and telephone service to include teletype or computer, telex, news service, or computer, or any such like instrument, used in the transmittal, reception, or

retrieval of messages, facts, or information; and (d) installation of security and/or refuse facilities. The Developer and the Association, as the case may be, shall have the right to assess and collect reasonable fees and charges for the use of Recreational Amenities.

**Section 2.2 Plan of Development of Additional Property.**

Developer hereby reserves the option, to be exercised in its sole discretion, to submit at any time, or from time to time the Additional Property or a portion or portions thereof to the provisions of this Declaration and thereby to cause the Additional Property or a portion or portions thereof to become part of the Property. Developer reserves the right to plan, design, develop, construct, maintain, and manage the Common Areas, the Additional Property, the Recreational Amenities, and any unsold Lot as Developer deems necessary or convenient for its purposes (except as otherwise expressly proscribed in this Declaration) including without limitation the right to expand or contract the number, size, and density of the unsold Lots, and enlarge the Common Areas, Recreational Amenities and the Additional Property. This option may be exercised by Developer in accordance with the following rights, conditions, and limitations (which regardless of any other provision herein are the only conditions and limitations on such option) to add all or any portion of the Additional Property to the Subdivision:

This option to add Additional Property/phase(s) may be exercised from time to time during a period of twenty (20) years from the date of recordation of this Declaration; provided, however, that Developer reserves the right to terminate such option at any time prior to the expiration of such twenty (20) year period by executing and filing an agreement evidencing such termination in the Office of the Register of Mesne Conveyances for Berkeley County, South Carolina, and, except for such termination by Developer, no other circumstances will terminate such option prior to the expiration of such twenty (20) year period.

A legal description and boundary survey of the Additional Property are set forth on Exhibit "B" though a lot subdivision of the Additional Property may, at Developer's election necessitate a new plat or plats of such Additional Property (such right of replatting being hereby reserved by Developer).

If the Additional Property or any portion thereof is added to the Development, any improvements developed therein and any dwellings constructed thereon will be subject to the standards and restrictions set forth herein.

If the Additional Property or any portion thereof is added to the Subdivision, Developer reserves the right to designate and restrict the boundaries of the Lots, Recreational Amenities, if any, to be added to the Subdivision in connection therewith.

Should the option to add the Additional Property or any portion of it not be exercised within the term specified herein or be terminated by Developer, such option shall in all respects expire and be of no further force and effect. DEVELOPER SHALL

NOT BE OBLIGATED TO IMPOSE ON THE ADDITIONAL PROPERTY OR ANY PORTION OF IT ANY COVENANTS, CONDITIONS, OR RESTRICTIONS SIMILAR TO THOSE CONTAINED HEREIN, AND THAT PROPERTY NOT SUBMITTED TO THIS DECLARATION WILL BE FREE OF ANY COVENANT OR CONDITIONS WHATSOEVER UNLESS OTHERWISE AFFIRMATIVELY IMPOSED.

The option reserved by Developer to cause all or any portion of the Additional Property to become part of the Subdivision shall in no way be construed to impose upon Developer any obligation to add all or any portion of the Additional Property to the Subdivision or to construct thereon any improvements of any Nature whatsoever or to restrict or limit its use in any manner.

The option reserved under this Section 2.2 may be exercised by Developer only by the execution of an amendment to this Declaration which shall be filed in the Office of the Register of Mesne Conveyances for Berkeley County, South Carolina, together with a revision of or an addition to the Subdivision Plat showing the Additional Property or such portion or portions thereof as are being added to the Subdivision by such amendment, as well as the Lots, Recreational Amenities, Common Areas, or other types of Property located within the Subdivision.

SUBSEQUENT TO INCLUSION AND/OR RESTRICTION AND IN ITS SOLE DISCRETION, DEVELOPER MAY CONVEY TO THE ASSOCIATION THE COMMON AREAS DESIGNATED BY DEVELOPER OR ANY OTHER PROPERTY OWNED BY THE DEVELOPER, BE IT RECREATIONAL AMENITY OR OTHERWISE, CONTAINED WITHIN THE PROPERTY AS DESCRIBED IN EITHER EXHIBIT "A" OR EXHIBIT "B" OR SUCH PORTION OR PORTIONS OF ANY, EITHER, OR ALL OF THEM, ANY SUCH CONVEYANCES TO BE SUBJECT TO THE LIEN OF TAXES NOT YET DUE AND PAYABLE, ALL EASEMENTS AND RESTRICTIONS OF RECORDS, UTILITY EASEMENTS SERVING OR OTHERWISE ENCUMBERING THE PROPERTY AND/OR THE ADDITIONAL PROPERTY, AND ANY EXCEPTIONS WHICH WOULD BE DISCLOSED BY AN ACCURATE SURVEY OR PHYSICAL INSPECTION OF SUCH PARCEL(S).

Any such amendment shall expressly subject the Additional Property or such portion of it to all the provisions of this Declaration, and upon the exercise, if any, of such option or options, the provisions of this Declaration shall then be construed as embracing the real property described in Exhibit "A" and the Additional Property or such portion or portions thereof so submitted to the terms hereof, together with all improvements thereon. If the Additional Property or any portion or portions of it is added to the Subdivision, then from and after the addition to the Development of the Additional Property or such portion or portions by such amendment to this Declaration, the number of votes in the Association shall be modified to include the Lots to be located on the Additional Property or such portion or portions of it as are added, so that there shall continue to be one vote in the Association per Lot in the Subdivision, and the total number of votes in the Association shall be increased by the number of Lots added as determined by the formulae provided in this document for the voting rights for any Lot or Developer-owned facility located on the Additional Property or such portion or portions thereof as are added.

**Section 2.3 Utilities and Related Facilities.** Developer, its affiliates, successors and assigns may retain ownership of the telephone, master television antennas and/or cable system facilities serving the Subdivision, including all lines, plugs, conduits, outlets, pipes, cables, and wires, and other systems related thereto which are located within the Subdivision. Telephone, master television antennas and/or cable system services shall be provided to the Subdivision pursuant to the terms of agreements between the Association and Developer, its affiliates, successors or assigns. Notwithstanding the foregoing Developer, its affiliates, successors or assigns owning such telephone, master television antennas and/or cable system facilities or any of them shall have the right but not the obligation, to convey at any time all or any part of such facilities to either the Association as a portion of the common Areas or to the municipality, public authority, governmental agency, public service district or a public or private utility. Cable system services will be subject to its availability from company providing those services.

**Section 2.4 Interest Subject to Plan of Development.** Every purchaser of a Lot or any portion of the Subdivision shall purchase such Lot or other Property and every mortgagee and lien holder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of Developer's plan of development as set forth herein, and Developer shall have and does hereby specifically reserve the right to add the Additional Property or any portion or portions thereof to the Subdivision as hereinabove provided, and, with respect to each Lot or other Property located within the Additional Property, to convey to the purchaser thereof the title to the Lot or other Property and its appurtenant membership and voting rights in the Association. Any provision of this Declaration to the contrary notwithstanding, the provisions of the foregoing plan of development set forth in this Article may not be abrogated, modified, rescinded, supplemented, or amended in whole or in part without the prior written consent of Developer.

### ARTICLE III

#### THE ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS

**Section 3.1 The Association.** The Developer will establish the Association for the purpose of exercising powers of maintaining and administering common facilities and providing common services, administering and enforcing covenants, conditions, and restrictions contained herein, and levying, collecting and disbursing assessments and charges herein created. Further, the Developer reserves the right to convey to the Association any or all of its rights and obligations set forth herein. The Association shall be authorized but not required to provide the following services:

- (a) Clean-up, maintenance, landscaping of all open spaces, lagoons, lakes, open spaces within the Subdivision or in



a reasonable proximity to the Subdivision such that their deterioration would affect the appearance of the Subdivision as a whole.

- (b) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the State and local governments.
- (c) To take any and all actions necessary to enforce all covenants and restrictions affecting the Subdivision and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Subdivision.
- (d) To set up and operate the Architectural Review Board as provided herein, after such time as Developer agrees to release this function to the Association.
- (e) To construct improvements on open spaces and common properties.
- (f) To provide administrative services including, but not limited to, legal, accounting, and financial communication services informing members of activities, notice of meetings, referendums, etc., incident to the above listed services.
- (g) To provide liability and hazard insurance covering improvements and activities on the open spaces and the Common Areas, independently or in collaboration with the Declarant.
- (h) To provide director's and officer's liability insurance for the Association and its duly elected Directors and Officers.
- (i) Maintenance of all lakes and lagoons located within the properties, including the stocking of such lakes and lagoons if approved by the Board of Directors.
- (j) Landscaping and irrigation of roads, medians, parkways, parking areas, and walking paths within the Subdivision and any common properties or open spaces located therein.
- (k) To provide any and all services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligation and business under the terms of this Declaration.

**Section 3.2 Rules and Regulations.** The Association may adopt from time-to-time additional reasonable rules and regulations governing the use of Common Areas, Recreational Amenities and Lots.

**Section 3.3 Members.** Every person or entity who is an Owner of a Lot which is subjected to this Declaration shall be a member of the Association.

**Section 3.4 Voting Rights.** The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners excepting the Developer. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 3.3 above. When more than one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine, but in no event shall more than one vote be cast with respect to any such Lot.

**Class B.** The sole Class B member shall be the Developer. The Class B member shall be entitled to two (2) votes for each Lot in which it holds either the interest required for membership under Section 3.3 above or (as to the Additional Property) the right to submit Lots to this Declaration (up to a maximum of 300 Lots). The Class B membership shall cease and become converted to Class A membership upon the occurrence of the first of either of the following two events:

1. When the total votes held by the Class A members equal or exceed the total votes held by the Class B member (Lots shall include without limitation those Lots contained in or situate on any Additional Property which Developer shall hereafter bring under the terms of this Declaration) or
2. December 31, 2009.

When a purchaser of an individual Lot or Lots takes title thereto from the Developer, such purchaser becomes a Class A member.

**Section 3.5 Initial Assessment.** At the time of the first sale of each Lot from the Developer to an Owner, there shall be assessed by the Association and collected from each Owner/purchaser an initial assessment of three hundred (\$300.00) Dollars, to establish and maintain a working capital fund for the use and benefit of the Association. The purpose of such working capital fund is to insure that the Association will have cash available to meet unforeseen expenditures, or to acquire equipment or service deemed necessary by the Association. Such initial assessments shall not be considered as advance payment of regular assessments. Initial assessments are applicable only to the first sale of each Lot from the Developer to an Owner.

**Section 3.6 Transfer Fee.** Excluding the first sale of each Lot from the Developer to an Owner, but including all subsequent sales of all Lots, there may be assessed by the Association and

collected from the new purchaser of each Lot, a transfer fee equal to one-fourth percent (1/4%) of the sales price of such Lot (valued together with any improvements thereon), which transfer fee shall be paid to the Association and used by the Association for its regular operations and/or reserves. In the event of non-payment of such transfer fee the amount due shall bear interest and shall be collectible as an assessment as set forth in Article VI hereof. The Association may require the purchasing and/or selling Owner to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deed, or other such evidence. Initial assessments are not due and not applicable to subsequent sales.

**ARTICLE IV  
PROPERTY RIGHTS IN THE COMMON AREAS**

**Section 4.1 Owner's Easements of Enjoyment.** Subject to the provisions of Section 4.3 below, every owner shall have a non-exclusive right and easement of enjoyment in and to the dedicated Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Lot; provided, however, any docks, walkways, and related structures as are approved within the marsh and/or Common Areas by Developer or the Association shall be the exclusive property of the upland Lot Owner free of such right or easement.

**Section 4.2 Title to Common Areas.** The Developer hereby covenants for itself, its successors and assigns, that on or before July 31<sup>st</sup> 2005, it will convey to the Association, in such portions as may be convenient to the Developer, by limited warranty deeds, fee simple title to all highland portions of the Common Areas and quitclaim all lagoon, lowland, wetland, and/or marshland portions of the Common Areas, subject, however, to all liens and encumbrances of record and to these covenants, which shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns:

"In order to preserve and enhance the property values and amenities of Tanner Hall, the Common Areas, and all facilities now or hereafter built or installed thereon shall at all times (to the extent practicable) be maintained in good repair and condition by the Association and shall be operated in accordance with high standards. The maintenance and repair of the Common Areas shall include, but not be limited to, the repair of damage to walkways, buildings, recreational equipment, if any, fences, signs, landscaping, irrigation, pools, tennis courts, common docks, boat ramp, parking areas, clubhouse, and utility lines, connections and appurtenances."

This Section shall not be amended so as to eliminate or substantially impair the obligation for the maintenance and repair of the Common Areas. The Developer may also impose additional covenants on such Common Areas at the time of such conveyance(s).

**Section 4.3 Extent of Owners' Easements.** The rights and easements created hereby shall be subject to the following:

- (a) The right of the Developer and of the Association to dedicate, transfer, or convey all or any part of the Common Areas, with or without consideration, to any successor association, governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Areas by the Owners;
- (b) The right of the Developer and of the Association to grant, reserve and accept easements and rights-of-way through, under, over, and across the Common Areas, for the installation, maintenance, and inspection of lines and appurtenances for public or private water, sewer, drainage, fuel oil and other utilities and services, including a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Developer to grant and reserve easements and rights-of-way through, over, and upon and across the Common Areas for the completion of the Development, and for the operation and maintenance of the Common Areas;
- (c) The right of Developer or the Association, as provided in its By-Laws, to suspend the enjoyment rights of any Owner for any period during which any assessment remains unpaid, for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;
- (d) The rights of the Developer and the Association, as the case may be, to establish rules and regulations for the Subdivision and to prescribe fees and charges from time to time for use of the Recreational Amenities.
- (e) Right of the Developer or Association to approve docks and related structures within the marsh and waterfront Common Areas.

**Section 4.4 Delegation of Owner's Rights.** No Owner may delegate, except in accordance with the By-Laws of the Association, his right of enjoyment to the Common Areas and facilities to his employees, tenants, invitees, or licensees. The Association reserves the right to impose user fees in such cases for certain amenities (i.e., pool, etc.).

**Section 4.5 Additional Structures.** Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of Developer and the Architectural Review Board erect, construct or otherwise locate, or permit the existence of, any structure or other improvement in the Common Areas.

**Section 4.6 Access.** All Owners, by accepting title to Lots conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from

such Lot and acknowledge and agree that such access, ingress and egress shall be limited to roads, sidewalks, walkways, and trails located within the Subdivision from time to time, provided that pedestrian and vehicular access to and from all Lots shall be provided at all times.

**Section 4.7 Easements for Developer.** During the period that Developer owns any Common Area, or owns any Lot primarily for the purpose of sale or has the option to add the Additional Property or any portion thereof to the Subdivision, Developer shall have an alienable and transferable right and easement on, over, through, under and across the Common Areas for the purpose of constructing or improving Lots, any improvements to the Common Areas, and the Additional Property and for installing, maintaining, repairing and replacing such other improvements to the Subdivision (including the Recreational Amenities and other portions of the Common Areas) as are contemplated by this Declaration or as Developer desires, in its sole discretion, including without limitation any improvements or changes permitted and described in this Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided that in no event shall Developer have the obligation to do any of the foregoing.

**Section 4.8 Changes in Boundaries. Additions to Common Areas.** Developer expressly reserves for itself and its successors and assigns the right to change and realign the Amenities owned by Developer, including the realignment of boundaries between adjacent Lots and Common Areas, owned by Developer. In addition, Developer reserves the right, but shall not have the obligation, to convey to the Association at any time, and from time to time, any portion of the Additional Property, such real property to be conveyed to the Association as an addition to Common Areas and subject to the other provisions set forth in this Declaration.

**Section 4.9 Easements for Utilities.** There is hereby reserved the benefit of Developer, the Association and their respective successors and assigns the alienable, transferable and perpetual right and easement (as well as the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person) upon, over, under, and across: (1) all of the Common Areas subject to the right of Lot owners to locate docks on the creeks as may be approved by the Developer, the Association and O.C.R.M; (2) an area across every Lot ten (10') feet in width along the front (i.e., street) boundary lines thereof, and five (5') feet in width along the side boundary lines thereof; and ten (10') feet in width along the rear of Lots not bordering on the marsh or a creek; for the purpose of installing, replacing, repairing, maintaining, and using master television antenna and/or cable systems, security and similar systems, and all utilities, including but not limited to storm sewers and drainage systems and electrical, gas, telephone, water and sewer equipment, apparatus, and lines. Such easements may be granted or accepted by Developer, its successors

and assigns or by the Board of Directors; provided, however, that for so long as Developer owns any portion of the Common Areas, owns any Lot primarily for the purpose of sale or has the option to add the Additional Property, or any portion thereof to the Subdivision, the Board of Directors must obtain the written consent of Developer prior to granting or accepting any such easements. To the extent possible, all utility lines and cables serving the Subdivision and located therein shall be located underground though some transformers and switchboxes may be located above ground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Subdivision so encumbered: (1) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities; (2) to cut and remove any trees, bushes, or shrubbery; (3) to grade, excavate or fill; or (4) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement, and use of such utilities and systems.

**Section 4.10 Easements for Association.** There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents, and employees, including but not limited to any property manager employed by the Association and any employees of such manager, to enter upon any Lot, or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner, occupant, or Owner(s).

**Section 4.11 Sales Offices, Rental Offices, Property Management Offices and Construction Offices.** Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Developer, its successors and assigns, the perpetual, alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, rental offices, property management offices, construction offices, business offices and model or sample Lots, together with such other facilities as in the sole opinion of Developer reasonably may be required, convenient or incidental to the completion, management, rental, improvement and/or sale of Lots, Common Areas or the Additional Property. The Developer reserves the right to use Association buildings as a sales office until such time as all Lots in the Subdivision have been sold.

**Section 4.12 Easements for Additional Property.** There is hereby reserved by the Developer, its successors, assigns and successors in title to the Additional Property, for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Subdivision, perpetual, non-exclusive rights and easements for: (1) pedestrian and vehicular access, ingress, egress and parking over, across, within and on all sidewalks, parking facilities and lagoons from time to time located on or within the Common Areas or within easements serving the Common Areas; (2) the installation, maintenance, repair, replacement,

and use of security systems and utility facilities and distribution lines, including without limitation drainage systems, storm sewers, and electrical, gas, telephone, water, sewer, and master television antenna and/or cable system lines; and (3) drainage and discharge of surface water onto and across the Subdivision, provided that such drainage and discharge shall not materially damage or affect the Subdivision or any improvements from time to time located thereon.

**Section 4.13 Maintenance Easement.** Subject to the other terms of this Declaration, there is hereby reserved for the benefit of the Developer, the Association, and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Subdivision; provided that such easements shall not impose any duty or obligation upon either the Developer or the Association to perform any such actions. Furthermore, there is hereby reserved for the benefit of the Developer, the Association, and their respective agents, employees, successors and assigns an alienable, transferable, and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of the Lots which are located within ten to twenty five (10' to 25') feet from the top of the bank of any lagoon, or pond (the exact width of the easement is as shown on the recorded Plat) within the Subdivision for the purpose of mowing such area and keeping same clear and free from unsightly growth and trash, as well as for the purpose of maintaining such body of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

**Section 4.14 Environmental Easement.** There is hereby reserved for the benefit of the Developer, the Association, and their respective agents, employees, successors and assigns an alienable, transferable, and perpetual right and easement on over, and across all unimproved portions of the Common Areas and Lots for the purposes of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to dispense pesticides.

**Section 4.15 Wells and Effluent.** There is hereby reserved for the benefit of Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement: (1) to pump water from lagoons, ponds and other bodies of water located within the Subdivision for the purpose of irrigating any portions of the Subdivision and for other purposes; and (2) to drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer

treatment facilities and systems within the Common Areas, including within any portion of the Recreational Amenities.

**Section 4.16 No Partition.** There shall be no judicial partition of the Subdivision or any part thereof, nor shall any person acquiring any interest in the Subdivision or any part thereof seek any such judicial partition unless the Subdivision has been removed from the provisions of this Declaration.

**Section 4.17 O.C.R.M. Jurisdiction.**

Notice is hereby given of the restriction that as to any portion of any Lot within the Subdivision which may contain or border on submerged land or other critical areas, all activities on or over and all uses of such land or critical areas are subject to the jurisdiction of the Office of Coastal Resource Management. Any Lot owner is liable to the extent of such owner's ownership for any damages to, any inappropriate or unpermitted uses of any submerged land, waters, or critical areas. It is further understood and agreed that the Developer and/or the Homeowner's Association may promulgate reasonable rules regulating and/or restricting the location, size and type of docks leading from Lots to watercourses. Each Lot designated by Developer as having an opportunity for a dock (permit for which must be obtained by Lot owner from the Office of Coastal Resource Management), will carry with it an easement which shall permanently designate the dock location; only the Developer or the Homeowner's Association may alter or amend such easements.

**ARTICLE V**

**RIGHT OF ASSOCIATION TO ALTER, IMPROVE, MAINTAIN AND REPAIR COMMON AREAS AND PORTIONS OF LOTS**

**Section 5.1** The Association shall have the right to make or cause to be made such alterations, modifications, improvements, repairs, maintenances, and replacements to the Common Areas and the portions of Lots set forth herein, and the cost thereof shall be assessed as common expenses and collected from the Owners on an equal basis.

**Section 5.2 Responsibilities of Owners' Association** Unless specifically identified herein as being the responsibility of the Association all maintenance and repair of Lots, together with all other improvements thereon or therein and all lawns, landscaping and grounds on and within a Lot shall be the responsibility of the Owner(s) of such Lot. Developer shall be responsible for Developer-owned properties. Each Owner shall be responsible for maintaining such Owner's Lot in a neat, clean, and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of all buildings and other structures. All attendant lawns, trees, shrubs, hedges, grass, natural areas, and other landscaping shall be maintained by the Owner(s) thereof. As provided in Section 5.3(b) hereof, each Owner shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining, or cleaning any item which is the responsibility of such Owner but which responsibility such Owner fails or refuses to discharge. No Owner shall: (1) decorate, change, or otherwise alter the



appearance of any portion of the exterior of a structure on any Lot unless such decoration, change, or alteration is first approved, in writing, by the Architectural Review Board as otherwise provided herein; or

(2) do any work which, in the reasonable opinion of the Architectural Review Board, would jeopardize the soundness and safety of the Subdivision, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Board and the Owners and Mortgagees of the Lots directly affected thereby or benefiting from such easement or hereditament.

### Section 5.3 Association's Responsibility.

(a) Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas which responsibility shall include the maintenance, repair, and replacement of: (1) all common area, driveways, walks, trails, common docks, boat landing, buildings, lagoons, ponds, lakes, pool, tennis courts, landscaped areas/natural areas and other improvements situated within the Common Areas or within easements encumbering Lots, (2) such security systems and utility lines, pipes, plumbing, wires, conduits and related systems which are a part of the Common Areas and which are not maintained by the Developer or a public authority, public service district, public or private utility or other person; and (3) all lawns, trees, shrubs, hedges, grass, and other landscaping situated within the Subdivision as it may be constituted from time to time. The Association shall not be liable for injury or damage to any person or property (a) caused by the elements or by any Owner or any other person, (b) resulting from any rain or other surface water which may leak or flow from any portion of the Common Areas, or (c) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system or utility line or facility, the responsibility of the maintenance of which is that of the Association, becoming out of repair. Nor shall the Association be liable to any Owner for personal injury or harm, loss or damage, by theft or otherwise, of any property of such Owner which may be stored or left in or upon any portion of the Common Areas or any other portion of the Subdivision. No diminution or abatement of assessments or any dues or charges shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association or from any action taken by the Association to comply with any law, ordinance, or with an order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner. The Developer intends that all roads and the bridge providing access to Lots within the Subdivision shall be dedicated as public roads to the appropriate governmental entity at the appropriate time, as is determined by the Developer.

(b) In the event that the Developer or the Board of Directors determines that: (1) any owners have failed or refused to discharge properly his, her or it's obligations with regard to the maintenance, cleaning, repair or replacement of items for which he or it is responsible hereunder; or (2) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, tenants, guests or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, the Developer or the Association, except in the event of an emergency situation (same to be determined in Developer's or the Association's discretion), may give such Owner written notice of the Developer's or the Association's intent to provide such necessary maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner and setting forth with reasonable particularity the maintenance, cleaning, repairs, or replacement deemed necessary. Except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner. In the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, the Developer or the Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair, or replacement at the sole cost and expense of such Owner, and said cost shall be added to and become a part of the assessment to which such Owner and his Lot are subject and shall become a lien against such Lot. In the event that the Developer undertakes such maintenance, cleaning, repair, or replacement, the Association shall promptly reimburse the Developer for the Developer's costs and expenses.

**Section 5.4** The Association shall elect officers and directors annually. Officers will consist of not less than a President, Vice President, Treasurer, and Secretary. There shall be at least three (3) board members in addition to officers. Officers shall be elected at annual meetings by vote of duly notified Lot Owners in attendance at meeting. The Association shall determine length of service for Board members. Officers are to be elected annually.

#### ARTICLE VI COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 6.1** **Creation of the Lien and Personal Obligation of Assessments.** The Developer, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges for the operation and maintenance of the Common Areas, including such reasonable reserves as the Association may deem necessary, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interest, costs of collection, and reasonable attorney's fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with interest, costs of collection, and reasonable attorney's fees for the collection thereof, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due. Their personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

**Section 6.2 Purpose of Assessments.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners in the Subdivision (and their respective families, guests, tenants, and invitees) and for the improvement, protection, replacement, operation, and maintenance of the Common Areas and for the provision of various forms of insurance for the Association, its property (including the dedicated Common Areas and Recreational Amenities) members, directors, officers, employees, and agents, and for the provision of necessary and reasonable services and other expenses of the Association.

**Section 6.3 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 Areas, including fixtures and personal property related thereto. So long as the total amount of special assessments allowable to each Lot does not exceed Five Hundred (\$500.00) Dollars in any one fiscal year, the Board of the Association may impose the special assessment. Any special assessment in excess of this amount shall require 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 6.4 Notice and Quorum for Any Action Authorized Under Section 6.3.** Written notice of any meeting called for the purpose of taking any action authorized under Section 6.3 above shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

**Section 6.5 Uniform Rate of Assessment.** Both annual and

special assessments must be fixed at a uniform rate for all Lots (whether improved or unimproved) and may be collected on a monthly, quarterly, or annual basis.

**Section 6.6. Date of Commencement of Annual Assessments: Dues Dates.** The annual assessments provided for herein shall commence as to each Lot on the date of conveyance by the Developer to an Owner. The first annual assessment shall be adjusted according to the number of days 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 assessments shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge to the Owner, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

**Section 6.7 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 a rate equal to the lesser of (a) eighteen percent (18%) per annum or (b) the maximum rate provided by applicable law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot (as in the foreclosure of a mortgage), or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of such Owner's Lot.

**Section 6.8 Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any deed or other proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

**Section 6.9 Exempt Property.** The following property, individuals, partnerships, or corporations, subject to this Declaration, shall be exempted from the assessment, charge and lien created herein:

- (a) The grantees in conveyances made for the purpose of granting utility easements.
- (b) Owners of all open space and common properties.

- (C) All lands below the mean high water mark.
- (d) Unsubdivided land and/or Lots not appearing on a final governmentally approved plat of residential lots owned by the Declarant.

**ARTICLE VII  
USE RESTRICTIONS**

**Section 7.1 Conformity and Approval of Structures.** No structure, fence, sidewalk, wall, drive or other improvement shall be placed or altered on any Lot except in accordance with the provisions of this Declaration.

**Section 7.2 Prior Review of All Plans.** No building, fence, wall or other structure, and no change in topography, tree removal, landscaping, grading, filling or any other item shall be commenced, erected or maintained upon any portion of the Subdivision, nor shall any exterior addition to or change be made until the plans and specifications (including but not necessarily limited to all elevations) showing the grading, filling, nature, kind,, size, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to the harmony of the proposed construction, building, tree removal, landscaping, grading, filling, external design, color, and location in relation to the surrounding structures and topography by the Developer or its designee. Any change in exterior appearance of any building, wall, fence or other structural improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval.

Provided, however, that upon the Developer's transfer of title to not less than fifty (50) of the Lots in the Subdivision, this right of approval may be transferred to an Architectural Review Board of the Association [ARB]. Such Architectural Review Board shall be comprised of not less than three (3) representatives to be appointed by the Board of Directors of the Association; provided, further, that the Developer may transfer its rights of approval under this Declaration prior to its transfer of title to fifty (50) Lots in the development if it so chooses. The transfer of control shall not be mandatory on the part of the Developer. The Developer or the Architectural Review Board shall require a minimum application fee of \$50.00 with each request or submission of plans or specifications. The Architectural Review Board shall have the power and authority to adjust the application fee at any time after it begins to act as the approval authority.

In the event either the Developer or the Architectural Review Board fails to approve or disapprove any written request within thirty (30) days after complete written plans and specifications have been submitted to and received by it, the same shall be deemed approved, and this article shall be deemed to have been fully complied with; provided however, that no such failure to act shall be deemed an approval of any matters specifically prohibited by any other provisions of this Declaration. Refusal or approval of plans, specifications and plot plans or any of them may be based on any grounds, including purely aesthetic

grounds, which in the sole and uncontrolled discretion of the Developer or the Architectural Review Board may be deemed sufficient. Neither Developer nor any member of the Architectural Review Board shall be responsible or liable in any way for any defects in any plans or specifications approved by Developer or the Architectural Review Board, nor for any structural or other defects in any work done according to such plans and specifications approved by Developer or the Architectural Review Board. Further, neither Developer nor any member of the Architectural Review Board shall be liable for damages to any one submitting plans or specifications for approval under this Section, or to any Owner of property affected by this Declaration by reason of mistake in judgment, negligence, or non-feasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to either the Developer or the Architectural Review Board for approval agrees, by submission of such plans and specifications, and every Owner of any Lot agrees, that he will not bring any action or suit against Developer, or any member of the Architectural Review Board, to recover for any such damages. No approval of plans, location, or specifications shall be construed as representing or implying that such plans, location, specifications, or standards will, if followed, result in a "properly designed" residence. Such approval and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good, workmanlike manner. Neither the Declarant, the Association nor the ARB shall be responsible or liable for any defects in any plan or specification submitted, revised, or approved under these covenants nor for any defects in construction pursuant to such plans and specifications. The property owner shall have sole responsibility for compliance with approved plans and does hereby hold the ARB and the Declarant harmless for any failure thereof caused by the property owner's architect and/or builder. All legal requirements related to plans and house construction are sole responsibility of Lot Owner.

**Section 7.3 Objectives of the Architectural Review Board.** Architectural and design review shall be directed towards attaining the following objectives for the Property:

(1) Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms.

(2) Ensuring that the location and configuration of structures are visually harmonious with the terrain, with the vegetation of the residential lot and with surrounding residential lots and structures, and do not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape. It is Owners' responsibility to assure approved structure placement can be accomplished and conforms to restrictions.

(3) Ensuring that the architectural design of structures and

their materials and colors are visually harmonious with the Property's overall appearance, history, and cultural heritage, with surrounding development, with native vegetation, and with development plans approved by any governmental or public authority for the areas in which the structures are proposed to be located.

(4) Ensuring the plans for landscaping provide visually pleasing settings for structures on the same lot and on adjoining or nearby lots and blend harmoniously with the natural landscape.

(5) Ensuring that any development structure, building, or landscaping complies with the provisions of these covenants.

(6) Promoting building design and construction techniques that respond to energy consumption and environmental quality considerations such as heat loss, air emissions and run-off water quality.

**Section 7.4 Fences.** No fences whatsoever shall be erected or allowed to remain in the Subdivision without approval of the Developer or ARB. Said fences or patio fences shall be allowed only after obtaining prior written approval of the Developer or ARB which approval may be withheld in their sole discretion. No chain link fences shall be permitted. No fence shall project beyond the furthestmost projection of the front of the house. Fences shall be treated wood or stained or painted to match or blend with the colors of the siding on the principal house structure. No fences shall be permitted which materially obstruct the view of any marsh, creek, pond, or other body of water when viewed from inside any adjacent Lot. Such decisions shall be in the sole discretion of the Developer or Architectural Review Board

**Section 7.5 Residential Use of Lots.** All Lots shall be used for single-family residential purposes exclusively. No structures, except as hereinafter provided, shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single-family dwelling; provided, however, that nothing contained herein shall be construed to prevent the Developer from maintaining one or more model homes and/or sales offices in the Subdivision for the purposes of selling, leasing or managing Lots or other property in or near the Subdivision. Provided, however, that the Developer may construct attached storage compartments, screened-in rear porches and rear sun rooms as an integral part of the principal residence.

Provided, further, however, that an Owner, after application to and written approval by the Architectural Review Board, may construct attached storage compartments, screened-in rear porches and rear sun rooms as an integral part of the principal residence, if and only if such construction and improvement is consistent with the design of the principal residence and with the standards of construction prevailing in the Subdivision, all of same to be determined by Developer or the Architectural Review Board.

**Section 7.6 Prohibition Against Business Activity and "Time Sharing" Use.** No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, professional office or beauty/barber shop or the like or any trade of any kind whatsoever shall be carried on upon or in any Lot or structure unless so provided herein. Provided, however, that nothing contained herein shall be construed so as to prohibit home occupations (i.e., any occupation on a Lot and clearly incidental thereto, carried on by a member of the family who is a resident of the premises, so long as no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or household purposes, and there is no exterior indication that the building is being used for any purpose other than a dwelling and so long as no clientele visit the Lot for any business purpose), or the construction of houses to be sold on said Lots or the showing of said Lot for the purpose of selling or leasing a Lot in the Subdivision. Nothing herein shall be construed to prevent the Developer from erecting, placing, or maintaining signs, structures, and offices as it may deem necessary for its operation and sales or lease or management of Lots in the Subdivision. Provided, however, that nothing herein contained shall prevent the Developer from erecting and maintaining sales and marketing signs in Common Areas or on other property owned by the Developer.

No Lot or structure shall be "time shared", nor shall any Lot or structure be owned, used, or operated in violation of the statutory provisions regulating Vacation Time Sharing Plans, S.C. Code Ann. Sections 27-32-10 et seq. (1986 Supp.), as the same may be amended from time to time, nor shall any Lot or structure be owned, used, or operated so as to constitute such Lot or structure as a "time sharing unit" within the meaning of such statutory provisions.

**Section 7.7 Association Office.** Nothing in this Declaration shall be construed to prohibit the Association from constructing, operating, and maintaining a facility for use as its office and headquarters, for the benefit of the Association and its members, provided that such facility shall first be approved in all respects in writing by the Developer.

**Section 7.8 Temporary Structures.** No structure of a temporary character shall be placed upon any Lot at any time; provided, however, that this prohibition shall not apply to shelters approved by the Developer and used by the contractor during construction of a house, it being clearly understood that the latter temporary shelters may not, at any time, be used for residence or permitted to remain on the Lot after completion of construction. No trailer, mobile home, double-wide, trailer, motor home, tent, barn, camper, bus, tree house, cable dish, or other similar vehicle, out-building or structure shall be placed on any Lot or on any portion of the Common Areas at any time either temporarily or permanently. If approved by Developer or the ARB, permanent screening may be approved for boats or other vehicles to be stored on a Lot.



**Section 7.9 Mining and Drilling Prohibition.** No oil or natural gas drilling, refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, and no derrick or other structure designed for use in boring for oil or natural gas shall be stored, erected, maintained, or permitted in the Subdivision.

**Section 7.10 Setbacks and Building Lines.**

(a) Each dwelling which shall be erected on any Lot shall be situated on such Lot in accordance with the building and setback codes of the Town of Hanahan, South Carolina. However, in each case individual setbacks and sidelines shall also be approved by the Architectural Review Board for their aesthetic value and the Architectural Review Board may require a more stringent setback so long as the required setback does not lessen or violate the setback requirements of the Town of Hanahan, South Carolina. The Architectural Review Board shall have the power and authority to promulgate and publish setback requirements for each Lot including setbacks for detached garages and other outbuildings, if allowed. In certain cases, the Architectural Review Board may require an Owner to seek a variance from the Town of Hanahan, South Carolina if necessary to protect important trees, vistas or to preserve aesthetic value. The setbacks shall determine the building lines.

**Section 7.11. Timely Construction Progress.** Once construction of improvements on a residence is started on any Lot, the improvements must be substantially completed within nine (9) months from commencement of construction and all landscaping must be completed within ninety (90) days after completion of the improvements or residence. All construction sites must be maintained in an orderly fashion and all construction debris must be placed in a trash container or removed within forty-eight (48) hours.

**Section 7.12 Material Restriction.** All structures constructed or placed on any Lot shall be built of substantially new material and no used structures shall be relocated or placed on any such Lot.

**Section 7.13 Re-Building Requirement.** Any dwelling or out-building on any Lot which may be destroyed in whole or in part by fire, windstorm or from any other cause or act of God must be rebuilt or all debris removed and the Lot restored to a natural condition with reasonable promptness; provided, however, that in no event shall such debris remain longer than three (3) months. No dwelling may be transported from another location and moved to a site in the subdivision such as a previously constructed home.

**Section 7.14 Elevation and Drainage Changes.** No changes in the elevation, topography or drainage characteristics of the Subdivision shall be made on the premises without the prior written approval of the Developer or the Architectural Review Board nor shall any fill be used to extend any property beyond any boundary line of any waterfront property. Final grading of

improved Lots must direct runoff to normal draining areas and not to adjoining Lots or areas.

**Section 7.15 Vegetation Cutting Restrictions.** No tree with a diameter of nine(9) inches or larger at breast height (approximately 4 feet) shall be cut, removed or intentionally damaged on any Lot or Common Area, unless such vegetation interferes with the construction or safe maintenance of permitted improvements on such Lot or Common Area or unless such tree is diseased or dead. The Owner(s) of any Lot upon which a violation of this provision occurs agrees to promptly (within 30 days after notice) replace such vegetation with vegetation of comparable size and character.

**Section 7.16 Clothesline.** No clothesline or drying yards shall be located upon the premises so as to be visible from any Common Area or other Dwellings or adjoining yards.

**Section 7.17 Water Systems.** No individual water supply system shall be permitted upon any Lot with the exception of a shallow well to be used for irrigation purposes only, which shallow well shall be approved by Developer or the Architectural Review Board in writing in all respects, including the pump and the covering or screen thereof and method of operation by the Developer, its successors or assigns, prior to installation.

**Section 7.18 Sewer System.** No surface toilets or septic tanks are permitted in the Subdivision (other than those utilized for temporary construction or a designated model home by the Developer). A purchaser of a Dwelling assumes responsibility for attaching to public water and sewer systems including all fees associated therewith. All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to the central sewer system of the Subdivision.

**Section 7.19 Garbage Disposal.** No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage or trash on any Lot or within the Subdivision shall be permitted. Provided, however, that Owners shall be permitted to modify the requirements of this Section where necessary to comply with orders of governing bodies or their franchisees. Trash or garbage containers shall not be placed on the Street until morning of pick-up and are to be removed by 7:00 p.m. of the same day.

**Section 7.20 Sign Controls.** No signs of any character shall be erected on any Lot or displayed to the public on any Lot except "For Sale" signs or signs indicating the name of one contractor only (not subcontractors) during the period of sale or construction only; provided said signs (1) shall not exceed six (6') square feet in size, (2) shall only refer to the premises on which they are displayed, (3) shall be located within fifteen (15') feet of the main structure but not less than twenty-five (25) feet from the front street right-of-way, and (d) shall not exceed more than one per Lot. This restriction shall not apply to signs used to identify and advertise the Subdivision as a whole, nor to signs for selling Lots and/or houses during the

development and construction period.

**Section 7.21 Exclusion of Above Ground Utilities.** All electrical service, wires, pipes, lines, telephone, cable television (CATV) lines, and utility services of any type shall be placed in appropriate conduit underground and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of the Subdivision except those (including master facilities) approved by the Developer or the Architectural Review Board. Provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Development. Overhead utilities shall be permitted during house construction period and until utility companies can place them underground.

**Section 7.22 Communication System.** There shall not be permitted or maintained any type of radio or communications system antenna (other than normal receive-only radio antennae) or satellite disc on any exterior portion of a dwelling or on any Lot, nor shall any such antenna or satellite disc be maintained inside a dwelling without the written permission of the Developer or the Architectural Review Board.

**Section 7.23 Certain Vehicles Prohibited From Lots.** No travel trailers or mobile homes, campers or other habitable motor vehicles of any kind, whether self-propelled or not, school buses, motorcycles, trucks, or commercial vehicles, or boat trailers or boats shall be kept, stored or parked overnight, either on any Common Area, streets, guest parking areas, or on any Lot. (See also Section 7.8.).

**Section 7.24 Junk or Disabled Vehicles.** No stripped, partially wrecked, unlicensed or invalidly licensed, disabled or junk motor vehicle, or part thereof, shall be permitted to be parked or kept in the Subdivision at any time or place.

**Section 7.25 Motorcycles.** Motorcycles (except motor-scooters, motorbikes with less than 5 h.p.) are prohibited from all Lots, streets and Common Areas, except from any Common Storage Area so designated by the Developer or the Association.

**Section 7.26 Pets.** No animals, livestock, birds, or fowl shall be kept or maintained on any part of the Subdivision except dogs, cats, pet fish and birds which may be kept thereon in reasonable numbers (not to exceed three) as pets for the pleasure and use of the Lot Owner but not for any commercial use or purpose. All animals must be kept on a leash when they are outside the Owner's Dwellings on a Lot and must not become a nuisance to other residents by barking or other acts. Non-owners (e.g. invitees or lessees) may not keep any pets on any part of the Property, without prior written approval of the Owner, said approval to be filed with the Association.

**Section 7.27 Perimeter Access.** There shall be no access to any Lot on the perimeter of the Subdivision except from

designated roads within the Subdivision; provided, however, that Developer reserves the right to construct and operate temporary construction roads during the construction and development period.

**Section 7.28 Rental Period.** No Owner shall lease or rent any Lot more than three (3) times in any given twelve (12) month period.

**Section 7.29 Prohibition of Open Outdoor Storage.** No junk, debris, or materials of any kind shall be stored on a Lot other than in an enclosed structure approved by Developer or the Architectural Review Board, which shall be attached to the principal dwelling or in a manner that is visible from any other Lot, Common Area, street, easement or amenity area. Firewood and bicycles may be stored outside in side or rear yards only, provided they are not visible from any Common Area, easement, Street or amenity area.

**Section 7.30 Accessory Structures.** No dog houses, garages, carports, or any other accessory structure shall be constructed upon any Lot, except an attached storage compartment, porch, swimming pool, swing set and similar play structure which has been approved in writing by the Architectural Review Board prior to installation or construction. Detached garages require approval by Developer and/or Architectural Review Board. Unless otherwise approved by Developer or Architectural Review Board, garages are to face away from Street.

**Section 7.31 Nuisances.** No noxious, offensive, or unlawful activity shall be carried on upon or in any Dwelling, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood Lot owners. No trash, leaves, or rubbish may be burned on any Lot or within the Development nor shall there be maintained any plants, poultry, animals (other than household pets mentioned herein) device or thing of any sort, the normal activities or existence of which is in any way unlawful, noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the Subdivision by the Owner thereof.

**Section 7.32 Landscaping.** The Developer or the Association reserves the right to reasonably restrict the placement of landscaping, fences, or other impediments to the enjoyment of views from and of adjoining Common Areas or amenity areas. Landscaping may not be placed where deemed by Developer or the Association hazardous to roadway views or usage.

**Section 7.33 Special Hazards.** Each Owner accepts and assumes all the risks and hazards of ownership or occupancy of such Lot, including but not limited to its proximity to any recreational facility, Common Area, marsh, lagoon or body of water. Specifically, the Developer and the Association do hereby disclaim any and all liability for any property damage or personal injury resulting from erosion or other causes along the bank of the marsh, and/or along or within any and all ditches,

streams, lakes, creeks, lagoons or other bodies of water or watercourses located within and/or along the Subdivision.

**Section 7.34 Additional Restrictions for Lots Fronting Lagoons and Marshes.**

- (a) No foliage and/or vegetation along or on lagoons or marsh shall be removed or altered without written permission of the Developer or the Architectural Review Board.
  - (b) An Owner of a Lot along a lagoon or marsh shall maintain and mow the area between from the Lot line to the lagoon or marsh even though such area may be owned by the Association, the State of South Carolina, or others.
  - (c) No dock, pier, or wharf shall be constructed on any creek, marsh, or Common Area without the prior, written approval of either Developer, the Association, or the Architectural Review Board which may be denied in whole or in part. In order to obtain such approval, it will be necessary to submit plans specifying the location, color, height, size, finish and other details of such proposed facility. Developer also reserves the right to require uniformity of design and to prohibit some Lots from having a dock. The Architectural Review Board and Developer have the right to disapprove such plans on any grounds including aesthetic consideration.
- Any approved dock, pier, or wharf must be well maintained by the Owner, and if not maintained as required, enforcement of this requirement may be enforced as provided herein in cases of violations of these covenants including the right to require removal of same. All approvals must be submitted to and approved by all necessary government agencies before construction thereof.
- (d) The Association shall have the authority, subject to the approval of the Architectural Review Board to build bridges and walkways around the lagoons or on common property.
  - (e) No water vehicles shall be permitted in the lagoons without written approval of Developer or the Association obtained in advance.
  - (f) No waste, garbage, or waste water are to be discharged, dumped or otherwise placed in the lagoons or lakes at any time.
  - (g) Fishing, crabbing and shrimping will be allowed in accordance with such rules as may be established by the Association.
  - (h) No home shall be closer than 15 feet to bank line of lakes or lagoons unless so approved by the Association.
  - (i) The Association shall have the authority to establish fines and regulations governing the lagoons, ponds (including removal of sediment and regrading of Lots) marshes, pools, tennis courts, common docks, boat landing, and all other common areas or structures.

**Section 7.35 Traffic Regulations.** Traffic regulations on all roads and streets within the Subdivision will be enforced under the provisions of the South Carolina Uniform Act for regulating traffic to private roads. A speed limit of 25 MPH is established on all roads and streets except as may be changed by the Association. All traffic control signs, including but not limited to speed limit, stop, directional and no parking signs, will be enforced.

**Section 7.36 Encroachments.** No Owner or individual shall alter in any way any Common Areas except with the written permission of the Association provided that such activity is required for the benefit of the Association or the Subdivision as a whole.

**Section 7.37 Increased Size of Lots.** Any Lot or Lots may be subdivided provided the effect is to increase the size of the adjoining Lot or Lots. In such areas, the Developer may alter the building or set-back lines to so conform to such change and any easement herein reserved along the abandoned property line shall be deemed extinguished upon recordation of the plat of the new Subdivision so long as there does not exist any utility within such easement areas. Should the Owner or Owners of any Lots and/or portions of Lots which have been combined for a single building site subsequently wish to revert to the original plan of subdivision, or make any other combination which would not be in violation of this restriction, that may be done only if the written consent of the Developer is first had and obtained. In such instances, the adjoining Lot Owners, or other Owners in the Subdivision shall not have the right to pass on or interfere with such Lot rearrangement. Such rights shall be exclusively that of the Developer or any successors or assigns to whom the Developer may expressly have transferred such rights, but the purchaser of any other Lot in the Subdivision does not, by virtue of his status as a purchaser, become any such successor or assign.

**Section 7.38 Alteration of Building Lines in the Best Interest of Development.** Where because of size, natural terrain, or any other reason in the sole opinion of the Developer, it should be to the best interest of the Development of this Subdivision that the building lines of any Lot should be altered or changed, then Developer reserves unto itself, its successors and assigns, and no other, the right to change said lines to meet such conditions. The Developer specifically reserves the right to transfer and assign this right of change of building lines to the Architectural Review Board herein established.

**Section 7.39 Replatting of Lots.** No Lot shall be subdivided by an Owner, or its boundary lines changed, except as herein provided. However, the Developer hereby expressly reserves to itself, its successors and assigns, the right to replat any one or more Lots owned by the Developer shown on the plat of this Subdivision prior to delivery of the deed therefor in order to create a modified building Lot or Lots. The restrictions and covenants herein apply to each such building Lot so created or recreated.

**Section 7.40 Building Requirements.** The Living Space of the main structure on any Lot shall not be less than the following minimums. Living space excludes a room over garage on single story homes and requires second floor entry on two story homes to be classified as meeting minimum square footage standards.

Lots	Minimum Square Feet of Living Space
13-24 and 78	2,500 square feet
all other lots	2,000 square feet

Houses of less than the stated minimum Living Space may be approved by the Developer or the Architectural Review Board if in the opinion of the Developer or the Architectural Review Board the design and construction of the house would be in keeping with the adjoining properties and the lowering of the minimum Living space requirement for such Lot would not depreciate the value of adjoining properties subject to this Declaration; provided, however, the Architectural Review Board shall have no authority to permit the construction of any house of less than 1,800 square feet of Living Space.

**Section 7.41 Lakes and Lagoons.** The lakes, ponds, and lagoons within the Subdivision are not designed for boating, swimming or bathing purposes and the same are prohibited. No docks, landings or other structures may be located in or adjacent to any lake, pond, or lagoon without the prior written consent of the Architectural Review Board. Fishing shall be permitted within the lakes so long as all regulations of the South Carolina Wildlife and Marine Resources Department, as the same may be changed from time to time, are strictly observed. No water may be withdrawn from any lake, pond, or lagoon for any reason. All property Owners adjacent to the lakes and lagoons shall be prohibited from using insecticides, pesticides and other hazardous materials within twenty-five (25') feet of such lakes or lagoons. Every effort shall be made by Lot owners to prevent seepage of such materials into any body of water.

**Section 7.42 Mail boxes.** All mail boxes and supports shall be of same design, material and color as specified by Developer and/or Architectural Review Board. Other receptacles (newspaper boxes) are prohibited.

**Section 7.43 Gardens, Basketball Goals, Etc.** Grass, ornamental plants and shrubbery (and only the foregoing) may be planted in the front or side yard of any Lot, except that all other planting in these yards may be done only with the prior written approval of the Developer or Architectural Review Board or in accordance with guidelines previously established by the Board. No vegetable garden, hammocks, statuary or recreational equipment may be placed, erected, allowed or maintained upon the front or side yard of any Lot without the prior written consent of the Board or its designee. This provision shall not, however, apply to basketball goals. Basketball goals may

be installed after the type and location have been previously approved in writing by the Architectural Review Board.

**Section 7.44 Lighting.** The following exterior lighting may be installed without the necessity of obtaining the prior approval of the Board or its designee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards or a Lot; (c) illumination of a model home and entrance features constructed by the Developer; and (d) other lighting originally installed by the Developer. Plans for all other exterior lighting must be submitted and approved in accordance with Section 7.2.

**Section 7.45 Sight Distance at Intersections.** All Lots at street intersections shall be so landscaped as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain at the corner of a Lot where this would create a traffic or a sight problem.

**Section 7.46 Guns.** The use of firearms in the Subdivision is prohibited. The term "firearm" includes "B-B" guns, pellet guns and small firearms of all types.

**Section 7.47 Solar Devices.** No artificial or manmade device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed or maintained upon any portion of the Subdivision, including any Lot, without the prior written consent of the Board or its designee.

## ARTICLE VIII

### GENERAL PROVISIONS

**Section 8.1 Enforcement.** The Developer, the Association, or any Owner shall have the right to enforce, by any proceedings at law or in equity, all of the restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Developer, the Association, or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed as a waiver of right to do so thereafter. The Developer and the Association, as the case may be, shall have the right to establish, assess and collect reasonable fines and penalties for violations of this Declaration, which shall be liens against Dwellings as provided herein. Such fines shall not exceed \$50.00 per violation per day.

**Section 8.2 Severability.** Invalidation of any covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

**Section 8.3 Duration.** The Covenants and Restrictions of this Declaration shall run with and bind the property constituting the Subdivision, and shall inure to the benefit of and be enforceable by the Developer, the Association, or any Owner for a period of twenty (20) years from the date hereof and



thereafter shall continue automatically in effect for additional periods of twenty (20) years, unless otherwise agreed to in writing by the then Owners of at least seventy-five (75%) percent of the Lots.

**Section 8.4 Assignment.** The Developer shall have the right to assign to any one or more persons, firms, corporations, partnerships or associations any and all rights, powers, titles, easements and estates reserved or given to the Developer in this Declaration.

**Section 8.5 Amendment.**

(a) Amendments by Developer. For a period of twenty (20) years from the date of recording of this Declaration, Developer may amend this Declaration in any particular by an instrument in writing filed and recorded in the Office of the Register of Mesne Conveyances for Berkeley County, South Carolina, all without the approval of any Owner or Mortgagee; provided, however, that with the exception of the addition of any portion of the Additional Property to the terms of this Declaration: (1) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; or (2) in the event that such amendment would materially and adversely affect the security, title, and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto all such mortgagees so affected. Any amendment made pursuant to this Section 8.5(a) shall be certified by Developer as having been approved by Developer and by such Owners and Mortgagees if required and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section 8.5(a) and further agrees that, if requested to do so by Developer, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Subdivision, (A) if such amendment is necessary to bring any provision hereof or thereof into governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith, (B) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (C) if such amendment is required by an institutional or governmental lender, insurer or purchaser of mortgage loans, including for example, the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, or Federal Housing Administration, to enable such lender or purchaser to make or purchase mortgage loans on any Lot, or other improvements subject to this Declaration, or (D) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the Lots or other improvements subject to this Declaration.

(b) Amendments by Association. Amendments to this Declaration, other than those authorized by Section 8.5(a) above, shall be proposed and adopted in the following manner:

(1) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(2) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by members of the Association. Such amendment must be approved by Owners holding at least two-thirds (2/3) of the total votes in the Association; provided, however: (a) that any amendment which materially and adversely affects the security title and interest of any Mortgagee must be approved by such Mortgagee; and (b) during any period in which Developer owns a Lot primarily for the purpose of sale or has the option under this Declaration to add the Additional Property or any portion thereof to the Subdivision, such amendment must be approved by Developer.

(3) The agreement of the required percentage of the Owners and, where required, the Developer and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

**Section 8.6 No Dedication of Common Areas, Etc.** Every park, body of water, Common Area, recreational facility, and other amenity within the Subdivision is a private park facility or amenity and neither the Developer's recording of any plat with this instrument nor any other act of the Developer with respect to the Property is, or is intended to be, or shall be construed as a dedication to the public of any said parks, body of water, Common Areas, recreational facilities, and amenities other than as reflected therein.

**Section 8.7 Time is of the Essence.** It is agreed that time is of the essence with regard to these restrictions, covenants, limitations, and conditions.

**Section 8.8 Remedies for Violation of Restrictions.** In the event of a violation or breach of any of these restrictions by any Owner, or agent of such Owner, the Owners of Lots in the Subdivision, or any of them, jointly or severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach in any event. In addition to the foregoing, the Developer, its successors and assigns, shall have the right, whenever there shall have been built on any Lot in the Subdivision any structure which is in violation of these restrictions, to enter upon the Property where such violation exists, and summarily abate or remove the same at the expense of the Owner, if after thirty (30) days written notice of such violation, it shall not have been corrected by the Owner. The Developer and the Association are

hereby granted a perpetual easement across each Lot for the purposes of carrying out their responsibilities under this Section, and any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservation, restriction, or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the rights to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should Developer employ counsel to enforce any of the foregoing covenants, conditions, reservations, or restrictions, because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for Developer's counsel shall be paid by the Owner of such Lot or Lots in breach thereof.

IN WITNESS WHEREOF, the Grantors have caused these presents to be executed this 10<sup>th</sup> day of February, 2004.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

Century Development LLC

*Hester A. Graham*

By: *Marcus A. Copeland*  
Marcus A. Copeland, Member

*Qm.c*

By: *Neal I. Baker*  
Neal I. Baker, Member

\*\*\*\*\*

State of South Carolina )  
County of Charleston )

PROBATE

PERSONALLY APPEARED before me the undersigned witness and made oath that (s)he saw the within named Marcus A. Copeland and Neal I. Baker, as Members of Century Development LLC, sign, seal and as its act and deed, deliver the within named instrument, and that (s)he with the other witness above subscribed, witnessed the execution thereof.

*Hester A. Graham*

SWORN to before me this 10<sup>th</sup>  
day of February, 2004.

*Qm.c*  
Notary Public for South Carolina  
My Commission Expires: 10/10/13

EXHIBIT A

ALL those certain pieces, parcels, lots or tracts of land, situate, lying and being in the City of Hanahan, County of Berkeley, State of South Carolina, as shown on that certain "FINAL PLAT SHOWING TANNER PLANTATION, PHASE 7, TANNER HALL SUBDIVISION, A 47.254 ACRE TRACT OF LAND, PROPERTY OF CENTURY DEVELOPMENT, LLC., LOCATED IN THE CITY OF HANAHAN, BERKELEY COUNTY, SOUTH CAROLINA," dated December 1, 2003, prepared by Trico Engineering Consultants, Inc., and recorded in the RMC Office for Berkeley County on January 8, 2004 in Plat Cabinet Q at Pages 142-B, 143-A, 143-B, and 144-A. Said lots having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully and at large appear.

## EXHIBIT B

TRACT ONE

ALL that certain piece, parcel and tract of land, together with any improvements thereon, situate, lying and being in the City of Hanahan, Berkeley County, State of South Carolina, shown and designated as "TRACT 3C 2,161,006.12 S.F. 49.610 AC." on a plat by Trico Engineering Consultants, Inc. entitled "PLAT SHOWING TRACT 3C, A 49.610 ACRE TRACT OF LAND, PROPERTY OF RGT/CHARLESTON PARTNERS, LTD., ABOUT TO BE CONVEYED TO CENTURY DEVELOPMENT, LLC, LOCATED AT TANNER PLANTATION, IN THE CITY OF HANAHAN, BERKELEY COUNTY, SOUTH CAROLINA," which said plat is dated May 8, 2001, last revised May 16, 2001, and recorded May 29, 2001, in Plat Cabinet P at Page 27-B in the RMC/Register of Deeds Office for Berkeley County, South Carolina.

Said tract of land having such actual size, shape, dimensions, buttings and boundings as shown on said plat, reference to which is hereby made for a more complete description.

TRACT TWO

ALL that certain piece, parcel and tract of land, together with any improvements thereon, situate, lying and being in the City of Hanahan, Berkeley County, State of South Carolina, shown and designated as "TRACT 3M 821,272.74 S.F. 18.854 AC." on a plat by Trico Engineering Consultants, Inc., entitled, "CONVEYANCE PLAT SHOWING THE SUBDIVISION OF A PORTION OF TRACT 3, A 159.915 ACRE TRACT OF LAND INTO TRACT 3M, A 18.854 ACRE TRACT OF LAND, PROPERTY OF RGT/CHARLESTON PARTNERS, LTD, LOCATED AT TANNER PLANTATION, IN THE CITY OF HANAHAN, BERKELEY COUNTY, SOUTH CAROLINA," which said plat is dated May 24, 2002 and recorded June 17, 2002 in Plat Cabinet P at Page 225E in the RMC Office for Berkeley County, South Carolina. Said tract of land having such actual size, shape, dimensions, buttings and boundings as shown on said plat, reference to which is hereby made for a more complete description.