

THIS AMENDED AND RESTATED DECLARATION CONTAINS AN ARBITRATION AGREEMENT
SUBJECT TO THE SOUTH CAROLINA ARBITRATION ACT,
SECTION 15-48-10, et. seq., CODE OF LAWS OF SOUTH CAROLINA, 1976

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SUN CITY HILTON HEAD**

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TABLE OF CONTENTS

	Page
Article I: Definitions.....	1
1.1. "Area of Common Responsibility"	1
1.2. "Articles"	2
1.3. "Association"	2
1.4. "Base Assessment"	2
1.5. "Beaufort County Development Agreement"	2
1.6. "Benefitted Assessment"	2
1.7. "Board of Directors" or "Board"	2
1.8. "Business" and "Trade"	2
1.9. "By-Laws"	2
1.10. "Class "B" Control Period"	2
1.11. "Common Area"	2
1.12. "Common Expenses"	2
1.13. "Community-Wide Standard"	2
1.14. "Contiguous Property"	2
1.15. "Covenant to Share Costs"	3
1.16. "Declarant"	3
1.17. "Design Guidelines"	3
1.18. "Dwelling Unit"	3
1.19. "Exclusive Common Area"	3
1.20. "Golf Course"	3
1.21. "Home Owner"	3
1.22. "Jasper County Development Agreement"	3
1.23. "Lot"	3
1.24. "Master Plan"	3
1.25. "Member"	4
1.26. "Mortgage"	4
1.27. "Mortgagee"	4
1.28. "Neighborhood"	4
1.29. "Neighborhood Assessments"	4
1.30. "Neighborhood Association"	4
1.31. "Neighborhood Committee"	4
1.32. "Neighborhood Expenses"	4
1.33. "Neighborhood Representative"	4
1.34. "Owner"	4
1.35. "Person"	4
1.36. "Private Amenities"	4
1.37. "Properties"	5
1.38. "Register of Deeds"	5
1.39. "Special Assessment"	5
1.40. "Sun City Hilton Head"	5
1.41. "Supplemental Declaration"	5
1.42. "Use Restrictions"	5
Article II: Property Rights	5

2.1.	Common Area	5
2.2.	Age Restriction	6
2.3.	Exclusive Common Area	6
Article III: Association Function, Membership and Voting Rights		7
3.1.	Function of Association	7
3.2.	Membership	7
3.3.	Voting	7
3.4.	Neighborhoods/ Neighborhood Representatives	8
Article IV: Rights and Obligations of the Association		9
4.1.	Personal Property and Real Property for Common Use	9
4.2.	Enforcement	9
4.3.	Implied Rights; Board Authority	10
4.4.	Governmental Interests	10
4.5.	Dedication of Common Areas	10
4.6.	Disclaimer of Liability	10
4.7.	Security	11
4.8.	Powers of the Association Relating to Neighborhoods	12
4.9.	Provision of Services	13
4.10.	Change of Use of Common Areas	13
4.11.	View Impairment	13
4.12.	Relationship with Tax-Exempt Organizations	13
Article V: Maintenance.....		14
5.1.	Association's Responsibility	14
5.2.	Owner's Responsibility	15
5.3.	Neighborhood's Responsibility	15
5.4.	Standard of Performance	15
5.5.	Party Walls and Party Fences	16
Article VI: Insurance and Casualty Losses		16
6.1.	Association Insurance	16
6.2.	Association Policy Requirements	17
6.3.	Owner's Insurance	18
6.4.	Damage and Destruction	19
6.5.	Disbursement of Proceeds	19
6.6.	Repair and Reconstruction	19
Article VII: No Partition.....		20
Article VIII: Condemnation.....		20
Article IX: Annexation and Withdrawal of Property		20
9.1.	Annexation Without Approval of Membership	20
9.2.	Annexation With Approval of Membership	21
9.3.	Withdrawal of Property	21
9.4.	Additional Covenants and Easements	21
9.5.	Amendment	21
Article X: Assessments.....		21
10.1.	Creation of Assessments	21

10.2.	Declarant's Obligation for Assessments	22
10.3.	Computation of Base Assessment	22
10.4.	Computation of Neighborhood Assessments	23
10.5.	Reserve Budget and Capital Contribution	24
10.6.	Special Assessments	24
10.7.	Benefitted Assessments	24
10.8.	Date of Commencement of Assessments	25
10.9.	Lien for Assessments	25
10.10.	Failure to Assess	25
10.11.	Exempt Property	26
Article XI: Architectural and Design Standards		26
11.1.	General	26
11.2.	Architectural and Design Review	26
11.3.	Guidelines and Procedures	27
11.4.	Submission of Plans and Specifications	28
11.5.	No Waiver of Future Approvals	28
11.6.	Variance	28
11.7.	Limitation of Liability	29
11.8.	Enforcement	29
Article XII: Use Restrictions		29
12.1.	Plan of Development; Applicability; Effect	29
12.2.	Authority to Promulgate Use Restrictions and Rules	30
12.3.	Owners' Acknowledgment	30
12.4.	Rights of Owners	30
Article XIII: Easements		32
13.1.	Easements of Encroachment	32
13.2.	Easements for Utilities, Etc.	32
13.3.	Easements to Serve Additional Property	32
13.4.	Easements for Private Amenities	33
13.5.	Easements for Golf Courses	33
13.6.	Easements for Cross-Drainage	34
13.7.	Right of Entry	34
13.8.	Easements for Maintenance and Enforcement	35
13.9.	Rights to Stormwater Runoff, Effluent and Water Reclamation	35
13.10.	Easements for Lake and Pond Maintenance and Flood Water	35
Article XIV: Mortgage Provisions.....		36
14.1.	Notices of Action	36
14.2.	No Priority	36
14.3.	Notice to Association	36
Article XV: Declarant's Rights		36
Article XVI: Golf Courses and Private Amenities.....		38
16.1.	Right to Use	38
16.2.	Assumption of Risk and Indemnification	39
16.3.	View Impairment	39
16.4.	Architectural Control	39

16.5.	Limitations on Amendments	40
16.6.	Jurisdiction and Cooperation	40
Article XVII:	Dispute Resolution and Limitation on Litigation	40
17.1.	Agreement to Avoid Litigation	40
17.2.	Claims	40
17.3.	Mandatory Procedures	41
17.4.	Allocation of Costs of Resolving Claims	42
17.5.	Enforcement of Resolution	42
Article XVIII:	Compliance with County Requirements	42
18.1.	General	42
18.2.	Beaufort County Development Agreement	43
18.3.	Jasper County Development Agreement	44
Article XIX:	General Provisions.....	44
19.1.	Term	44
19.2.	Amendment	44
19.3.	Litigation	45
19.4.	Severability	45
19.5.	Perpetuities	45
19.6.	Cumulative Effect; Conflict	45
19.7.	Use of the Words "Sun City Hilton Head"	45
19.8.	Del Webb Marks	46
19.9.	Compliance	46
19.10.	Notice of Sale or Transfer of Title	46
19.11.	Attorneys' Fees	46

TABLE OF EXHIBITS

Page First
Appearing

Exhibit "A" - Land Initially Submittedi
Exhibit "B" - Land Subject to Annexation..... ii
Exhibit "C" - Initial Use Restrictions..... iii
Exhibit "D" - Rules of Arbitrationvii
Exhibit "E" - By-Lawsix

AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SUN CITY HILTON HEAD

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SUN CITY HILTON HEAD ("Declaration") is made this ___ day of May, 2002, by Del Webb Communities, Inc., an Arizona corporation (herein referred to as the "Declarant").

WHEREAS, Declarant is the owner of the real property described in Exhibit "A," which is attached hereto and incorporated herein by this reference. This Declaration imposes upon the Properties (as defined in Article I) mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties; and,

WHEREAS, Declarant hereby declares that all of the property described in Exhibit "A" and any additional property subjected to this Declaration by Supplemental Declaration (as defined in Article I) shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the desirability of and which shall run with the real property subjected to this Declaration. This Declaration shall be binding on and shall inure to the benefit of all parties having any right, title, or interest in the Properties or any part thereof, their heirs, successors, successors-in-title, and assigns.

WHEREAS, Del Webb Communities, Inc., an Arizona Corporation authorized to do business in South Carolina, established and adopted a Declaration of Covenants, Conditions and Restrictions for Sun City Hilton Head, dated the 8th day of September, 1994, (Declaration), and caused said declaration to be duly indexed and recorded at Book 729, Page 1497, in the offices of the Register of Deeds for Beaufort County; and,

WHEREAS, beginning on or about July 14, 1997, Declarant executed, and therefore duly indexed and recorded in the offices of the Register of Deeds for Beaufort County, South Carolina, as follows:

First Amendment, July 14, 1997, in Deed Book 958 at Page 2595

Second Amendment, August 3, 1999, in Deed Book 1199 at Page 2524

Third Amendment, May 31, 2000, in Deed Book 1296 at Page 2561; and,

WHEREAS, by affirmative vote of the Voting Delegates on December 13, 2001, and with the consent of the Declarant, all pursuant to the provisions of Section 19.2 (b) of Article XIX General Provisions, this Declaration is hereby amended;

NOW, THEREFORE, Declarant, in accordance with Article XIX, Section 19.2 (c) of the Declaration, hereby issues and records this Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Sun City Hilton Head:

Article I: Definitions

The terms used in this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

- 1.1. "Area of Common Responsibility": The Common Area, together with those areas, if any, which by the terms of this Declaration, any Supplemental Declaration or other applicable covenants, or

by contract become the responsibility of the Association, including by way of illustration but not limitation, public rights-of-way and perimeter walls as provided in Section 5.1.

1.2. "Articles": The Articles of Incorporation of Sun City Hilton Head Community Association, Inc., as filed with the South Carolina Secretary of State and the Register of Deeds of Beaufort County and Jasper County, South Carolina.

1.3. "Association": Sun City Hilton Head Community Association, Inc., a South Carolina nonprofit corporation, its successors and assigns.

1.4. "Base Assessment": Assessments levied on all Lots subject to assessment under Section 10.8 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 10.1 and 10.3.

1.5. "Beaufort County Development Agreement": The Development Agreement between Del Webb Communities, Inc., and the County of Beaufort, South Carolina, dated December 16, 1993, and recorded at Deed Book 683, Page 967, et seq., Register of Deeds of Beaufort County, South Carolina and by this reference incorporated herein, as it may be amended. (The Beaufort County Development Agreement and the Jasper County Development Agreement may be referred to herein jointly as the "Development Agreements").

1.6. "Benefitted Assessment": Assessments levied under Section 10.7.

1.7. "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws.

1.8. "Business" and "Trade": Shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to Persons other than the family of the producer of such goods or services and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether: (a) such activity is engaged in full or part-time, (b) such activity is intended to or does generate a profit, or (c) a license is required.

1.9. "By-Laws": The By-Laws of Sun City Hilton Head Community Association, Inc. attached as Exhibit "E" and incorporated by reference, as they may be amended from time to time.

1.10. "Class "B" Control Period": The period during which the Class "B" Member is entitled to appoint a majority of the Board members as provided in Section 3.3 of the By-Laws.

1.11. "Common Area": All real and personal property which the Association now or hereafter owns, leases or otherwise holds possessory or use rights in for the common use and enjoyment of the Owners, including easements held by the Association for those purposes. The term shall include the Exclusive Common Area, as defined below, and may include entry features, landscape medians, cul de sacs, lakes, ponds, rivers, streams, wetlands, preservation areas, and Golf Courses, if any.

1.12. "Common Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the general benefit of all Lots, including any reasonable reserve, as the Board may find necessary and appropriate pursuant to this Declaration, the By-Laws, and the Articles.

1.13. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard may be more specifically determined by the Board of Directors and the Architectural Review Committee.

1.14. "Contiguous Property": Any property of which a portion adjoins or borders Sun City Hilton Head or which is separated from Sun City Hilton Head only by roads, rights-of-way, waterways, or natural boundaries.

1.15. "Covenant to Share Costs": Any declaration of easements and covenant to share costs executed by Declarant and recorded in the Register of Deeds which creates easements for the benefit of the Association and the present and future owners of the real property subject thereto and which obligates the Association and such owners to share the costs of maintaining certain property described therein.

1.16. "Declarant": Del Webb Communities, Inc., an Arizona corporation, or any successor, successor-in-title, or assign of Del Webb Communities, Inc., who has or takes title to any Contiguous Property or to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or resale in the ordinary course of business and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant.

1.17. "Design Guidelines": The architectural, design, development, and other guidelines, standards, controls, and procedures including but not limited to, application and review procedures, adopted pursuant to Article XI and applicable to the Properties.

1.18. "Dwelling Unit": Any building or structure or portion of a building or structure situated upon a Lot which is intended for use and occupancy as an attached or detached residence for a single family, including by way of illustration but not limitation, condominium units, patio or zero lot line homes, and single family detached houses.

1.19. "Exclusive Common Area": A portion of the Common Area intended for the exclusive use or primary benefit of one or more, but less than all, Neighborhoods, as more particularly described in Article II.

1.20. "Golf Course": Any parcel of land adjacent to or within the Properties developed by the Declarant or any affiliate or designee of the Declarant (a) which is owned by the Association or which is a Private Amenity, and (b) which is operated as a golf course, and all related and supporting facilities and improvements operated and/or maintained in connection with or incidental to such golf course.

1.21. "Home Owner": An Owner other than the Declarant.

1.22. "Jasper County Development Agreement": The Development Agreement between Del Webb Communities, Inc., and the County of Jasper, South Carolina, dated July 28, 1994, and recorded at Deed Book 136, Page 107, et seq., Register of Deeds of Jasper County, South Carolina and by this reference incorporated herein, as may be amended.

1.23. "Lot": A contiguous portion of the Properties, whether improved or unimproved, other than Common Area, common property of any Neighborhood Association, and property dedicated to the public, which may be independently owned and conveyed and which is intended to be developed, used, and occupied with an attached or detached residence for a single family. The term shall refer to the land, if any, which is part of the Lot as well as any improvements, including any Dwelling Unit, thereon. The term shall include, by way of illustration but not limitation, condominium units, cluster homes, patio or zero lot line homes, and single-family detached houses on separately platted lots, as well as vacant land intended for development as such. In the case of any structure containing multiple Dwelling Units, each Dwelling Unit shall be deemed to be a separate Lot.

Prior to recordation of a subdivision plat, a parcel of vacant land or land on which improvements are under construction shall be deemed to contain the number of Lots designated for residential use for such parcel

on the applicable preliminary plat or site plan approved by Declarant, whichever is more current. Until a preliminary plat or site plan has been approved, such parcel shall contain the number of Lots set by Declarant in conformance with the Master Plan.

1.24. "Master Plan": The master plan for the development of Sun City Hilton Head filed with Beaufort County and Jasper County, South Carolina, as it may be amended, updated, or supplemented from time to time, which plan includes the property described on Exhibit "A" and a portion of the property described on Exhibit "B" which Declarant may from time to time anticipate subjecting to this Declaration. The Master Plan may also include subsequent plans approved by Beaufort County or Jasper County, South Carolina for the development of all or a portion of the property described on Exhibit "B" and/or any Contiguous Property which Declarant may from time to time anticipate subjecting to this Declaration. Inclusion of property on the Master Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration nor shall the exclusion of property from the Master Plan bar its later annexation in accordance with Article IX.

1.25. "Member": A Person entitled to membership in the Association.

1.26. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security deed.

1.27. "Mortgagee": A beneficiary or holder of a Mortgage.

1.28. "Neighborhood": Each separately designated residential area within the Properties, whether or not governed by a Neighborhood Association, as more particularly described in Section 3.4. By way of illustration and not limitation, a townhome development, cluster home development, or single-family detached housing development might each be designated as a separate Neighborhood, or a Neighborhood may be comprised of more than one housing type with other features in common. In addition, each parcel of land intended for development as any of the above may constitute a Neighborhood, subject to division into more than one Neighborhood upon development.

1.29. "Neighborhood Assessments": Assessments levied against the Lots in a particular Neighborhood or Neighborhoods to fund Neighborhood Expenses, as described in Sections 10.1 and 10.4.

1.30. "Neighborhood Association": Any owners' association having concurrent jurisdiction with the Association over any Neighborhood.

1.31. "Neighborhood Committee": Any committee established by the Board for a Neighborhood which has no formal organizational structure or association. The Chairman of this Committee is the Neighborhood Representative.

1.32. "Neighborhood Expenses": The actual and estimated expenses incurred or anticipated to be incurred by the Association for the benefit of the Owners of Lots within a particular Neighborhood or Neighborhoods, which may include a reasonable reserve contribution, as the Board may specifically authorize and as may be authorized herein or in a Supplemental Declaration applicable to a Neighborhood.

1.33. "Neighborhood Representative": The representative selected by the Owners within each Neighborhood responsible for chairing the Neighborhood Committee and for casting the votes attributable to Lots in the Neighborhood on matters not requiring a vote of the Owners. The term Neighborhood Representative shall include alternate Neighborhood Representatives acting in the absence of the Neighborhood Representative.

1.34. "Owner": One or more Persons who hold the record title to any Lot, except Persons holding an

interest merely as security for the performance of an obligation in which case the equitable owner will be considered the Owner.

- 1.35. "Person": A natural person, a corporation, a partnership, a trustee, or any other legal entity.
- 1.36. "Private Amenities": Real property and any improvements and facilities thereon located adjacent to, in the vicinity of, or within the Properties, developed by the Declarant or any affiliate or designee of the Declarant, which are privately owned and operated by Persons other than the Association for recreational and related purposes, on a club membership basis, use fee basis, or otherwise. For example, any Golf Course owned and operated by Persons other than the Association shall be a Private Amenity.
- 1.37. "Properties": The real property described in Exhibit "A," together with such additional property as is subjected to this Declaration in accordance with Article IX.
- 1.38. "Register of Deeds": The Register of Deeds of Beaufort County or Jasper County, South Carolina, as applicable.
- 1.39. "Special Assessment": Assessments levied under Section 10.6.
- 1.40. "Sun City Hilton Head": The Properties as described in Section 1.37.
- 1.41. "Supplemental Declaration": An amendment or supplement to this Declaration filed pursuant to Article IX which subjects additional property to this Declaration and identifies the Common Area within the additional property, if any, and/or imposes, expressly or by reference, additional restrictions and obligations on the land described therein.
- 1.42. "Use Restrictions": The rules and use restrictions attached as Exhibit "C" and incorporated by reference, as they may be modified, cancelled, limited or expanded under Article XII.

Article II: Property Rights

- 2.1. Common Area. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area, subject to:
 - (a) This Declaration, the By-Laws and any other applicable covenants;
 - (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
 - (c) The right of the Board to adopt rules, regulations or policies regulating the use and enjoyment of the Common Area, including rules restricting use of recreational facilities within the Common Area to occupants of Dwelling Units and their guests, rules limiting the number of occupants and guests who may use the Common Area, and rules designating certain portions of the Common Area as gardening plots for Owners and occupants and regulating the use thereof;
 - (d) The right of the Board to suspend the right of an Owner to use recreational facilities within the Common Area pursuant to Section 4.2;

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to governmental entities pursuant to Section 4.5;

(f) The right of the Board to impose reasonable membership requirements and charge reasonable membership, admission, or other fees for the use of any recreational facility situated upon the Common Area;

(g) The right of the Board to permit use of any recreational facilities situated on the Common Area by persons other than Owners, their families, lessees and guests upon payment of use fees established by the Board;

(h) The right of the Board to create, enter agreements with, grant easements to and transfer portions of the Common Area to tax-exempt organizations under Section 4.12;

(i) The right of the Association to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(j) The rights of certain Owners to the exclusive use of those portions of the Common Area designated as Exclusive Common Areas, as more particularly described in Section 2.3; and

(k) The right of the Association to rent or lease any portion of any clubhouse and other recreational facilities within the Common Area on a short-term basis to any Owner for the exclusive use of such Owner and such Owner's family and guests.

Ownership of each Lot shall entitle the Owner thereof to receive a maximum of two activity or use privilege cards. The cards for each Lot shall be renewed by the Association on an annual basis without charge, provided that all assessments and other charges due to the Association have been paid for such Lot. The Board may establish policies, limits and charges with regard to the issuance of additional cards and guest privilege cards.

Subject to reasonable Board resolution, any Owner may assign his or her right to receive activity or use privilege cards to residents of his or her Dwelling Unit; provided such residents are occupying such Dwelling Unit in compliance with Section 2.2. An Owner who leases his or her Lot shall be deemed to have assigned such rights to the lessee of such Lot, unless the Board adopts a resolution permitting Owners to reserve such rights and such Owner provides the Board with written notice of such reservation.

Any Owner may reassign the right to receive activity or use privilege cards by providing the Association with written notice of such reassignment and surrendering previously issued cards.

2.2. Age Restriction. Sun City Hilton Head is intended to provide housing primarily for persons 55 years of age or older. The Properties shall be operated as an age restricted community in compliance with all applicable State and Federal laws. No person under 19 years of age shall reside in any Dwelling Unit for more than 90 days in any calendar year. Subject to the rights of declarant with respect to designated Lots as described below, each Dwelling Unit, if occupied, shall be occupied by at least one Person 55 years of age or older ("qualifying occupant").

Notwithstanding the above, Declarant, and only Declarant, may sell or lease Lots in Neighborhoods it designates to Persons between the ages of 50 and 55, inclusive, and such Lots may be occupied by such Persons as qualifying occupants. Declarant's rights under this paragraph are limited by the requirement that, at all times, at least 80% of the Dwelling Units within the Properties shall be occupied by at least one Person 55 years of age or older, it being Declarant's intention that Sun City Hilton Head comply with all applicable State and Federal Laws permitting the Properties to be developed and operated as an age-restricted community. Declarant shall

designate those Neighborhoods within which the rights described in this paragraph exist in the Supplemental Declaration, or an amendment thereto, submitting such Property to the Declaration prior to the sale of any Lot in the Neighborhood to a Home Owner.

2.3. Exclusive Common Area. Certain portions of the Common Area may be designated as Exclusive Common Area and reserved for the exclusive use or primary benefit of Owners, occupants and invitees of Lots within a particular Neighborhood or Neighborhoods. By way of illustration and not limitation, Exclusive Common Areas may include entry features, recreational facilities, landscaped medians and cul-de-sacs, lakes, ponds, and other portions of the Common Area within a particular Neighborhood or Neighborhoods. All costs associated with maintenance, repair, replacement, and insurance of Exclusive Common Areas shall be assessed as a Neighborhood Assessment against the Owners of Lots in those Neighborhoods to which the Exclusive Common Area is assigned.

Exclusive Common Area shall be designated and the exclusive use thereof assigned in the deed conveying the Common Area to the Association or on the plat of survey relating to such Common Area. No such assignment shall preclude the Declarant from later assigning use of the same Exclusive Common Area to additional Lots and/or Neighborhoods, so long as the Declarant has a right to subject additional property to this Declaration pursuant to Section 9.1. Thereafter, a portion of the Common Area may be assigned as Exclusive Common Area of a particular Neighborhood or Neighborhoods and Exclusive Common Area may be reassigned upon the vote of Neighborhood Representatives representing a majority of the total Class "A" votes in the Association. As long as the Declarant owns any portion of the Properties or has the right to subject additional property pursuant to Section 9.1, any such assignment or reassignment shall also require the Declarant's consent.

The Association may, upon approval of a majority of the members of the neighborhood or board of directors of the Neighborhood Association for the Neighborhood(s) to which certain Exclusive Common Areas are assigned or upon approval by a majority vote of the Owners within such Neighborhood(s), permit Owners of Lots in other Neighborhoods to use all or a portion of such Exclusive Common Areas upon payment of reasonable user fees, which fees shall be used to offset the Neighborhood Expenses attributable to such Exclusive Common Areas.

Article III: Association Function, Membership and Voting Rights

3.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt. The Association shall also be responsible for administering and enforcing the Design Guidelines. The Association shall perform its functions in accordance with this Declaration, the By-Laws, the Articles, and South Carolina law.

3.2. Membership. Every Owner shall be a Member of the Association. There shall be only one membership per Lot. If a Lot is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation, such reasonable fees as may be established under Section 2.1, and the restrictions on voting set forth in Section 3.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner which is a corporation, partnership or other legal entity may be exercised by any officer, director, partner, or trustee, or by any other individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

3.3. Voting. The Association shall have two classes of membership, Class "A" and Class "B."

(a) Class "A." Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Lot in which they hold the interest required for membership under Section 3.2; there shall be only one vote per Lot.

(b) Class "B." The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to disapprove actions of the Board and committees, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" membership shall cease and be converted to Class "A" membership upon the earlier of the following:

- (i) two years after the expiration of the Class "B" Control Period; or
- (ii) when, in its discretion, the Declarant so determines.

From and after the happening of these events, whichever occurs first, the Class "B" Member shall be deemed to be a Class "A" Member entitled to one vote for each Lot it owns.

(c) Exercise of Voting Rights. Except as otherwise specified in this Declaration or the By-Laws or as required by law, the vote for each Lot owned by a Class "A" Member shall be exercised by the Owner. In any situation in which there is more than one Owner of a particular Lot, the vote for such Lot shall be exercised as such co-Owners determine among themselves and advise the Secretary of the Association in writing prior to any meeting. Absent such notice to the Association, the Lot's vote shall be suspended if more than one Person seeks to exercise it.

The Neighborhood Representative or alternate elected from each Neighborhood shall exercise the voting rights set forth in Sections 2.3, 4.10, 6.4 Article VIII, Sections 9.2, 10.3, 12.2.

3.4. Neighborhoods, Neighborhood Representatives.

(a) Neighborhoods. Every Lot shall be located within a Neighborhood. The Lots within a particular Neighborhood may be subject to additional covenants and/or the Lot Owners may also be members of a Neighborhood Association. However, a Neighborhood Association shall not be required except as otherwise required by law. The Owners of Lots within any Neighborhood which does not have a Neighborhood Association may elect a Neighborhood Committee, as described in Section 5.3 of the By-Laws, to represent the interests of such Owners.

Any Neighborhood may, upon the affirmative vote, written consent, or a combination thereof, of Owners of a majority of Lots within the Neighborhood, request the Association to provide an increased level of service or special services for the benefit of Lots in such Neighborhood, the costs of which shall be assessed against the Lots within such Neighborhood as a Neighborhood Assessment pursuant to Article X.

Exhibit "A" to this Declaration, and each Supplemental Declaration filed to subject additional property to this Declaration, shall initially assign the property described therein to an existing or newly created Neighborhood by name. So long as it has the right to subject additional property to this Declaration pursuant to Section 9.1, Declarant may unilaterally amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries or combine two or more existing Neighborhoods. Thereafter, the Association may amend this Declaration or any Supplemental Declaration to redesignate Neighborhood boundaries; provided the Association may not combine two or more Neighborhoods without the consent of Owners of a majority of the Lots in the affected Neighborhoods.

(b) Neighborhood Representative. One Neighborhood Representative and one alternate Neighborhood Representative shall be elected from each neighborhood by a majority of the Class "A" votes

attributable to the lots in the Neighborhood. The election of Neighborhood Representative shall be conducted for each Neighborhood, and may be conducted at a meeting or by mail, as determined by the Board; provided, however, that upon written petition of Members holding at least 10% of the votes attributable to Lots within any Neighborhood, the election for such Neighborhood shall be held at a meeting. The presence, in person or by proxy, of Members representing at least a majority of the total Class "A" votes attributable to Lots in the Neighborhood shall constitute a quorum at any Neighborhood meeting.

Elections shall be held within 30 days of the same date every two years such that each Neighborhood Representative shall be elected to serve a term of two years. Each Class "A" member shall be entitled to cast one equal vote for each Lot which it owns in the Neighborhood for each position. The candidate for each position who receives the greatest number of votes shall be the Neighborhood Representative and shall be elected to serve a term of two years. The Neighborhood Representative receiving the second largest number of votes shall serve as the alternate Neighborhood Representative and shall be elected for two years. The Board shall establish procedures for nomination of Neighborhood Representative and all nominees shall complete such training and committee or other service requirements as established by the Board.

Any Neighborhood Representative may be removed, with or without cause, upon the vote or written petition of members holding at least a majority of the Class "A" votes attributable to Lots in the Neighborhood which such Neighborhood Representative represents.

Except as otherwise specifically provided in the By-Laws, Articles of Incorporation or this Declaration, each Neighborhood Representative shall chair the Neighborhood Committee and cast all votes which it represents as it, in its discretion, deems appropriate; provided, however, if a Neighborhood Representative represents a Neighborhood in which the Declarant owns one or more Lots, the Declarant may direct in writing to such Neighborhood Representative the manner in which its votes for such Lots are to be cast by the Neighborhood Representative. All other votes may be cast as the Neighborhood Representative deems appropriate in its sole discretion. The Board may adopt resolutions establishing procedures for Neighborhood meetings, electing Neighborhood Representatives, and polling members.

An alternate Neighborhood Representative shall act in the absence of the Neighborhood Representative for which it is the designated alternate. Alternate Neighborhood Representatives may attend meetings of the Neighborhood Representatives, but shall not be entitled to vote except in the absence of the Neighborhood Representative for which it is the designated alternate.

Article IV: Rights and Obligations of the Association

4.1. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. Declarant may convey to the Association improved or unimproved real estate located within the Properties, personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained as Common Area by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed, including but not limited to restrictions governing the use of such property.

4.2. Enforcement. The Board, the Covenants Committee, or such other Association agent with the Board's approval, may impose sanctions for violation of this Declaration, the By-Laws, or any rule or regulation, after notice and a hearing in accordance with the procedures set forth in Section 3.24 of the By-Laws. Such sanctions may include, without limitation:

- (a) imposing reasonable monetary fines which shall constitute a lien upon the Lot of the violator

(In the event that any occupant, guest or invitee of a Lot violates the Declaration, the By-Laws or any rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) suspending an Owner's right to vote;

(c) suspending any Person's right to use any recreational facilities within the Common Area; provided, however, nothing herein shall authorize the Board to limit ingress or egress to or from a Lot;

(d) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association; and

(e) levying Benefitted Assessments to cover costs incurred in bringing a Lot into compliance in accordance with Section 10.7(b).

In addition, the Board, the covenants committee, or such other Association agent with the Board's approval, may elect to enforce any provision of this Declaration, the By-Laws, or the rules and regulations of the Association by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations in accordance with any applicable ordinance(s) of Jasper County or Beaufort County, South Carolina) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in Article XVII or in the By-Laws.

All remedies set forth in this Declaration and the By-Laws shall be cumulative of any remedies available at law or in equity. In any action to enforce the provisions of this Declaration, the By-Laws, or any rule or regulation, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with the applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under other circumstances or stop the Association from enforcing any other covenant, restriction or rule.

4.3. Implied Rights; Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws or which may be reasonably implied from, or reasonably necessary to effectuate, any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.4. Governmental Interests. So long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1, the Declarant may designate sites within the Properties for fire, police and utility facilities, and parks, and other public facilities in accordance with the Master Plan and applicable laws. The sites may include Common Areas if otherwise permitted by the Master Plan.

4.5. Dedication of Common Areas. The Association may dedicate or grant easements over portions of the Common Areas to any local, state, or federal governmental entity.

4.6. Disclaimer of Liability. The Association may, but shall not be obligated to, maintain or support

certain activities within the Properties designed to promote the health, safety and welfare of Owners and occupants of any Lot.

(a) Notwithstanding anything contained herein or in the Articles, By-Laws, or any rules or regulations of the Association or any other document governing or binding the Association (collectively referred to in this Section as the "Governing Documents"), neither the Association, the Board, the management company of the Association, the Declarant nor any successor Declarant shall be liable or responsible for, or in any manner a guarantor or insurer of, the health, safety or welfare of any Owner or occupant of any Lot or any tenant, guest or invitee of any Owner or occupant or for any property of any such Persons. Each Owner and occupant of a Lot and each tenant, guest and invitee of any Owner or occupant shall assume all risks associated with the use and enjoyment of the Properties, including all recreational facilities, if any.

(b) Neither the Association, the Board, the management company of the Association, the Declarant, nor any successor Declarant shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence or malfunction of utility lines or utility sub-stations adjacent to, near, over, or on the Properties. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of utility lines or utility sub-stations and further acknowledges that the Association, the Board, the management company of the Association, the Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the condition or impact of utility lines or utility sub-stations.

(c) Each Owner and occupant, and each tenant, guest and invitee of any Owner or occupant acknowledges that the Properties are located in the vicinity of wetland and swamp areas and that such areas may contain an abundance of wildlife, including deer, skunks, opossums, snakes, alligators, reptiles, rodents and pests. Neither the Association, the Board, the management company of the Association, the Declarant, nor any successor Declarant shall be liable or responsible for any personal injury, illness or any other loss or damage caused by the presence of such wildlife on the Properties. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife and further acknowledges that the Association, the Board, the management company of the Association, the Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the presence of such wildlife.

(d) No provision of the Governing Documents shall be interpreted as creating a duty of the Association, the Board, the management company of the Association, the Declarant nor any successor Declarant to protect or further the health, safety or welfare of any Person(s), even if the funds of the Association are used for any such purpose.

Each Owner (by virtue of his or her acceptance of title to his or her Lot) and each other Person having an interest in or lien upon, or making any use of, any portion of the Properties (by virtue of accepting such interest or lien or making such use) shall be bound by this Section and shall be deemed to have waived any and all rights, claims, demands and causes of action against the Association, the management company of the Association, the Declarant and any successor Declarant, their directors, officers, committee and Board members, employees, agents, contractors, subcontractors, successors and assigns arising from or connected with any matter for which the liability has been disclaimed.

4.7. Security. The Association may maintain or support certain activities within the Properties

designed to make the Properties safer than they otherwise might be; provided, however, that the Association shall not be obligated to maintain or support such activities except as provided in Section 4.10.

Neither the Association, the management company of the Association, the Declarant, nor any successor declarant shall in any way be considered insurers or guarantors of security within the Properties. Neither the Association, the management company of the Association, the Declarant, nor any successor declarant shall be held liable for any loss or damage for failure to provide adequate security or ineffectiveness of security measures undertaken.

All Owners and occupants of any Lot, and all tenants, guests, and invitees of any Owner, acknowledge that the Association, its Board of Directors, the management company of the Association, the Declarant, any successor declarant, and the Architectural Review Committee and the Modifications Committee do not represent or warrant that any entry gate, patrolling of the Properties, neighborhood watch group or volunteer security patrol, or any security system designated by or installed according to guidelines established by the Declarant or the Architectural Review Committee or the Modifications Committee may not be compromised or circumvented; nor that any entry gate, patrolling of the Properties, neighborhood watch group or volunteer security patrol, or any security systems will prevent loss by burglary, theft, hold-up, or otherwise; nor that entry gate, patrolling of the Properties, neighborhood watch group or volunteer security patrol, or any security systems will in all cases provide the detection or protection for which the system is designed or intended.

All Owners and occupants of any Lot, and all tenants, guests, and invitees of any Owner, acknowledge and understand that the Association, its Board and committees, the management company of the Association, the Declarant, or any successor declarant are not insurers.

All Owners and occupants of any Lot and all tenants, guests, and invitees of any Owner assume all risks for loss or damage to Persons, to Lots, and to the contents of Lots and further acknowledge that the Association, its Board and committees, the management company of the Association, the Declarant, or any successor declarant have made no representations or warranties, nor has any Owner, occupant, or any tenant, guest, or invitee of any Owner relied upon any representations or warranties, expressed or implied, relative to any entry gate, patrolling of the Properties, neighborhood watch group or volunteer security patrol, or any security systems recommended or installed or any security measures undertaken within the Properties.

4.8. Powers of the Association Relating to Neighborhoods. Since a Neighborhood Committee is a committee of the Association, the Board shall have all of the power and control over any Neighborhood Committee that it has under applicable law over other committees of the Association.

No action of any Neighborhood Association shall become effective or be implemented until and unless the Association shall have been given written notice of such proposed action and the opportunity to disapprove the proposed action or unless such action is in strict compliance with guidelines set by the Board. The Association shall have ten days from receipt of the notice to disapprove any proposed action. The Association may disapprove any action taken or contemplated by any Neighborhood Association which the Board reasonably determines to be adverse to the interests of the Association or its Members or inconsistent with the Community-Wide Standard.

The Association also may require specific action to be taken by any Neighborhood Association to fulfill its obligations and responsibilities under this Declaration or any other applicable covenants. Without limiting the generality of the foregoing, the Association may (a) require specific maintenance or repairs or aesthetic changes to be effectuated by the Neighborhood Association, and (b) require that a proposed Neighborhood budget include

the cost of such work.

Any action specified by the Association in a written notice pursuant to the foregoing paragraph to be taken by a Neighborhood Association shall be taken within the reasonable time frame set by the Association in such written notice. If the Neighborhood Association fails to comply with the requirements set forth in such written notice, the Association shall have the right to effect such action on behalf of the Neighborhood Association.

To cover the Association's administrative expenses in connection with the foregoing and to discourage failure to comply with the requirements of the Association, the Association shall assess the Lots in such Neighborhood for their pro rata share of any expenses incurred by the Association in taking such action in the manner provided in Section 10.7. Such assessments may be collected as a Benefitted Assessment hereunder and shall be subject to all lien rights provided for herein.

4.9. Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge additional use and consumption fees for services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, pest control service, cable television service, security, caretaker, fire protection, utilities, and similar services and facilities. Except as provided in Section 4.10, the Board, without the consent of the Class "A" Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to what services and facilities, if any, will be provided by the Association.

4.10. Change of Use of Common Areas. During the Class "B" Control Period without the approval or consent of any Member or other Person, and after the Class "B" Control Period upon (a) adoption of a resolution by the Board stating that, in the Board's opinion, a service provided by the Association pursuant to Section 4.7 or the then present use of a designated part of the Common Areas is no longer in the best interest of the Owners or is no longer necessary or appropriate for the purposes intended, and (b) the approval of such resolution by Neighborhood Representatives representing a majority of the Class "A" votes cast at a meeting duly called for such purpose, and (c) the consent of Declarant (so long as Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1), the Board shall have the power and right to terminate such service or to sell, exchange, convey or abandon such Common Area or change the use thereof (and, in connection therewith, construct, reconstruct, alter or change the buildings, structures and improvements thereon in any manner deemed necessary by the Board to accommodate the new use), provided that any such new use (i) shall be for the benefit of the Owners, (ii) shall be consistent with any deed restrictions and zoning regulations restricting or limiting the use of the Common Areas, and (iii) shall be consistent with the then effective Master Plan.

Regardless of the above, if the Board determines, and the resolution of the Board recites, that any transaction involving the disposition or exchange of Common Area will not have an adverse effect on the Association and the Owners, the Board may, in lieu of calling a meeting pursuant to (b) above, give notice to all Owners of the proposed transaction and of any right to object thereto which might be available hereunder and, if Neighborhood Representatives representing less than 10% of the Class "A" votes object in writing to the Association within 30 days after the giving of such notice, the transaction shall be deemed approved by the Neighborhood Representatives and the meeting of the Neighborhood Representatives shall not be necessary.

4.11. View Impairment. Neither the Declarant nor the Association guarantees or represents that any view over and across any property, including any Lot, from adjacent Lots will be preserved without impairment. Neither the Declarant nor the Association shall have the obligation to prune or thin trees or other landscaping except

as set forth in Article V. Any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

4.12. Relationship with Tax-Exempt Organizations. The Association may create, enter into agreements or contracts with, grant exclusive and/or non-exclusive easements over the Common Area to, or transfer portions of the Common Area to non-profit, tax-exempt organizations, including but not limited to organizations that provide facilities or services designed to meet the physical or social needs of older persons, for the benefit of the Properties, the Association, its Members and residents. The Association may contribute money, real or personal property or services to any such entity. Any such contribution shall be a Common Expense of the Association and included as a line item in the Association's annual budget. For the purposes of this Section, a "tax-exempt organization" shall mean an entity which is exempt from federal income taxes under the Internal Revenue Code ("Code"), such as but not limited to entities which are exempt from federal income taxes under Sections 501(c)(3) or 501(c)(4), as the Code may be amended from time to time.

Article V: Maintenance

5.1. Association's Responsibility. The Association shall maintain and keep in good repair the Area of Common Responsibility, which shall include, but need not be limited to:

- (a) all Common Area;
- (b) all landscaping and other flora, parks, signage, structures, and improvements, including any bike, pedestrian and equestrian pathways and trails, situated upon the Common Area;
- (c) all private streets, including any asphalt repairs thereto, situated upon the Common Area;
- (d) all walls and fences constructed by Declarant on any Lots which serve as perimeter walls for the Properties or which separate any Lot from Common Area or a Private Amenity (allocation of responsibility for the maintenance and repair of party walls and party fences is set forth in Section 5.5);
- (e) landscaping, sidewalks, street lights, irrigation systems, and signage within public rights-of-way abutting the Properties, including but not limited to Highways 170 and 278;
- (f) landscaping and other flora within any public utility easements and scenic easements within the Common Areas (subject to the terms of any easement agreement relating thereto);
- (g) any additional property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Covenant to Share Costs, any plat of any portion of the Properties, or any contract or agreement for maintenance thereof entered into by the Association; and
- (h) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members and identified by written notice from the Declarant to the Association until Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association shall also have the right and power, but not the obligation, to take such actions, in accordance with appropriate law, and adopt such rules as may be necessary for control, relocation, management, and extermination of wildlife, including but not limited to, deer, skunks, opossums, snakes, alligators, reptiles, rodents, and pests, within the Area of Common Responsibility.

All areas designated on a recorded plat as "wetlands" shall be generally left in a natural state, and any proposed alteration of the wetlands must be in accordance with any restrictions or covenants recorded against such property and be approved by all appropriate regulatory bodies. If approved, the Association may maintain boardwalks, fishing docks, and crab docks over, around, and in such wetlands. Notwithstanding anything contained in this paragraph, the Declarant, its successors, assigns, affiliates and designees may conduct such activities as have been or may be permitted by the U.S. Army Corps of Engineers or any successor thereof responsible for the regulation of wetlands.

The Association may assume maintenance responsibility for property within any Neighborhood, in addition to any property which the Association is obligated to maintain by this Declaration or any Supplemental Declaration, either by agreement with the Neighborhood Association or because, in the opinion of the Board, the level and quality of service then being provided is not consistent with the Community-Wide Standard. All costs of such maintenance shall be assessed as a Neighborhood Assessment against the Lots within the Neighborhood to which the services are provided. The provision of services in accordance with this Section shall not constitute discrimination within a class.

The Association may also maintain and improve other property which it does not own, including, without limitation, property dedicated to public use, if the Board determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard and if otherwise permitted by applicable law.

Except as otherwise specifically provided herein, all costs for maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense allocated among all Lots as part of the Base Assessment, without prejudice to the right of the Association to seek reimbursement from the Persons responsible for such work pursuant to this Declaration, other recorded covenants, or agreements with such Persons. All costs associated with maintenance, repair and replacement of Exclusive Common Areas shall be a Neighborhood Expense assessed as a Neighborhood Assessment against the Lots within the Neighborhood(s) to which the Exclusive Common Areas are assigned.

5.2. Owner's Responsibility. Each Owner shall maintain his or her Lot, and Dwelling Unit, and all other structures, parking areas, landscaping, and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants, unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Neighborhood pursuant to any Supplemental Declaration or other declaration of covenants applicable to such Lot.

In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 10.7. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation.

5.3. Neighborhood's Responsibility. Upon Board resolution, the Owners of Lots within each Neighborhood shall be responsible for paying, through Neighborhood Assessments, the costs of operating, maintaining and insuring certain portions of the Area of Common Responsibility within or adjacent to such Neighborhood. This may include, without limitation, the costs of maintaining any signage, entry features, right-of-way and open space between the Lots within the Neighborhood and adjacent public roads and private streets within the Neighborhood, regardless of ownership and regardless of the fact that such maintenance may be performed by the Association; provided, however, all Neighborhoods which are similarly situated shall be treated the same. As an alternative, the Board may resolve that such maintenance shall be performed by the applicable Neighborhood Association.

All maintenance required of a Neighborhood Association under this Declaration or any additional covenants or agreements shall be performed consistent with the Community-Wide Standard. If any Neighborhood Association fails to perform such maintenance, the Association may perform it and assess the costs against all Lots within such Neighborhood as provided in Section 10.7.

5.4. Standard of Performance. Maintenance, as used in this Article, shall include, without limitation, repair and replacement as needed, as well as such other duties, which may include irrigation, as the Board may determine necessary or appropriate to satisfy the Community-Wide Standard. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all applicable covenants, as determined by the Board.

Portions of the Properties are environmentally sensitive and/or may provide greater aesthetic value than other portions of the Properties. The Board may establish a higher Community-Wide Standard for such areas and require additional maintenance for such areas to reflect the nature of such property.

Notwithstanding anything to the contrary contained herein, neither the Association, nor any Owner nor any Neighborhood Association shall be liable for property damage or personal injury occurring on, or arising out of the condition of, property which it does not own unless and only to the extent that it has been negligent in the performance of its maintenance responsibilities.

5.5. Party Walls and Party Fences.

Each wall and fence built as a part of the original construction on the Lots:

- (a) any part of which is built upon or straddling the boundary line between two adjoining Lots; or
- (b) which is constructed within four feet of the boundary line between adjoining Lots, has no windows or doors, and is intended to serve as a privacy wall for the benefit of the adjoining Lot; or
- (c) which, in the reasonable determination of the Board, otherwise serves and/or separates two adjoining Lots, regardless of whether constructed wholly within the boundaries of one Lot;

shall constitute a party wall or party fence (herein referred to as "party structures"). The owners of the property served by a party structure (the "Adjoining Owners") shall own that portion of the party structure lying within the boundaries of their respective properties and shall have an easement for use and enjoyment and, if needed, for support, in that portion, if any, of the party structure lying within the boundaries of the adjoining property. Each Adjoining Owner shall be responsible for maintaining a property insurance policy on that portion of any party structure lying within the boundaries of such Owner's Lot, as more particularly provided in Section 6.3, and shall be entitled to all insurance proceeds paid under such policy on account of any insured loss.

The responsibility for the repair and maintenance of party structures and the reasonable cost thereof shall be shared equally by the Adjoining Owners. To the extent damage to a party structure from fire, water, soil settlement, or other casualty is not repaired out of the proceeds of insurance, any Adjoining Owner may restore it. If other Adjoining Owners thereafter use the party structure, they shall contribute to the restoration cost in equal shares without prejudice to any Owners' right to larger contributions from other users under any rule of law. Any Owner's right to contribution from another Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors-in-title.

Article VI: Insurance and Casualty Losses

6.1. Association Insurance. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect if reasonably available the following types of insurance:

(a) Blanket property insurance covering risks of physical loss on an "all-risk" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area and on other portions of the Area of Common Responsibility to the extent that it has assumed responsibility for maintenance, repair and/or replacement in the event of a casualty. If such coverage is not generally available at a reasonable cost, then "broad form named perils" coverage may be substituted. In addition, the Association may, upon request of a Neighborhood Association, and shall, if so specified in a Supplemental Declaration applicable to the Neighborhood Association, obtain and continue in effect property insurance covering risks of physical loss on an "all risk" basis for all insurable improvements in the Neighborhood. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full insurable replacement cost of the insured property. Costs of property insurance obtained by the Association on the behalf of a Neighborhood shall be charged to the Owners of Lots within the benefitted Neighborhood as a Neighborhood Assessment;

(b) Commercial general liability insurance on the Area of Common Responsibility, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf and including coverage for non-owned automobile liability. If generally available at reasonable cost, the commercial general liability insurance shall have a limit of at least \$1,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage;

(c) Workers compensation insurance and employers liability insurance if and to the extent required by law;

(d) Directors and officers liability insurance or equivalent association liability insurance;

(e) Commercial crime insurance, including employee fidelity insurance, in an amount determined by its best business judgment which shall not be less than one-sixth of the annual Base Assessments on all Lots plus reserves on hand for employee fidelity insurance. Such commercial crime insurance shall cover funds held by the Association's management company, unless such management company's insurance insures the Association against crimes committed by or against such management company. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation; and

(f) Such additional insurance, including but not limited to flood, earthquake and hurricane insurance, as the Board in its best business judgment determines advisable.

The Association shall have no insurance responsibility for any portion of any Private Amenity.

6.2. Association Policy Requirements. Prior to the renewal of any insurance policy and at least annually, the Association shall arrange for a review of the sufficiency of insurance coverage by one or more qualified persons, at least one of whom must be familiar with insurable replacement costs in the Beaufort and Jasper Counties, South Carolina, area.

Except as otherwise provided in Section 6.1 with respect to property within a Neighborhood, premiums for all insurance on the Area of Common Responsibility shall be Common Expenses and shall be included in the Base Assessment. However, premiums for insurance on Exclusive Common Areas may be included in the Neighborhood Assessment of the Neighborhood(s) benefitted unless the Board reasonably determines that other treatment of the premiums is more appropriate.

The policies may contain a reasonable deductible as determined by the Board and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the coverage required hereunder. In the event of an insured loss, the deductible shall be treated as a Common Expense or a Neighborhood Expense in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with Section 3.24 of the By-Laws, that the loss is the result of the negligence or willful conduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Lots in accordance with Section 10.7.

(a) All insurance coverage obtained by the Board shall:

(i) Be written with a company authorized to do business in the State of South Carolina which satisfies the requirements of the Federal National Mortgage Association or such other secondary mortgage market agencies or federal agencies as the Board requires;

(ii) Be written in the name of the Association as trustee for the benefitted parties. Policies on the Common Area shall be for the benefit of the Association and its Members. Insurance coverage secured on behalf of a Neighborhood shall be for the benefit of the Neighborhood Association, if any, the Owners of Lots within the Neighborhood, and their Mortgagees, as their interests may appear;

(iii) Not be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees;

(iv) Include an agreed amount endorsement if the policy contains a co-insurance clause; and

(v) Contain replacement cost coverage.

(b) In addition, the Board shall secure, if reasonably available and as applicable, insurance policies providing the following:

(i) A waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager and the Owners;

(ii) A waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(iii) An endorsement preventing the Association's insurance carrier from invoking its "other insurance" clause to obtain any contribution from any insurance maintained by individual Owners;

(iv) An endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(v) A cross liability provision;

(vi) A provision vesting the Board with exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss; and

(vii) A provision listing the Lot Owners as additional insureds under the policy.

6.3. Owner's Insurance. By virtue of taking title to a Lot, each Owner covenants and agrees with all

other Owners and with the Association to carry property insurance for the full insurable replacement cost on its Lot(s), less a reasonable deductible, unless either the Neighborhood in which the Lot is located or the Association carries such insurance (which they are not obligated to do hereunder). Such property insurance shall include windstorm and hail coverage, and, if full insurable replacement cost is not reasonably available for such coverage, actual cash value may be substituted.

Each Owner further covenants and agrees that in the event of damage to or destruction of the Dwelling Unit or any other structures on or comprising his or her Lot, he or she shall proceed promptly to repair or to reconstruct in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article XI of this Declaration. Alternatively, the Owner shall clear the Lot of all debris and ruins and maintain the Lot in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs which are not covered by insurance proceeds.

Additional recorded covenants applicable to any Neighborhood may establish more stringent requirements regarding the standards for rebuilding or reconstructing structures on the Lots within such Neighborhood and the standards for clearing and maintaining the Lots in the event the structures are not rebuilt or reconstructed.

6.4. Damage and Destruction.

(a) Immediately after damage or destruction to all or any part of the Properties covered by insurance written in the name of the Association, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repair or reconstruction. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

(b) Any damage to or destruction of the Common Area shall be repaired or reconstructed unless the Neighborhood Representatives representing at least 75% of the total Class "A" votes and the Declarant, as long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1, decide within 60 days after the loss not to repair or reconstruct.

Any damage to or destruction of the common property of any Neighborhood Association shall be repaired or reconstructed unless the Owners representing at least 75% of the total vote of the Neighborhood Association decide within 60 days after the damage or destruction not to repair or reconstruct. If the Neighborhood Association's covenants, if any, require a greater percentage of Owners within the Neighborhood to approve, then such provision shall control.

If either the insurance proceeds or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not available to the Association within such 60 day period, then the period shall be extended for not more than 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area or common property of a Neighborhood Association shall be repaired or reconstructed.

(c) If determined in the manner described above that the damage or destruction to the Common Area or to the common property of any Neighborhood Association shall not be repaired or reconstructed and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and maintained by the Association or the Neighborhood Association, as applicable, in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

6.5. Disbursement of Proceeds. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by and for the benefit of the Association or the Neighborhood Association, as appropriate, and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot.

6.6. Repair and Reconstruction. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may levy Benefitted Assessments against those Owners responsible for the premiums for the applicable insurance coverage under Section 6.1.

Article VII: No Partition

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action for partition of the whole or any part thereof without the written consent of all Owners and Mortgagees.

Article VIII: Condemnation

Whenever any part of the Common Area shall be taken or conveyed under threat of condemnation by any authority having the power of eminent domain, each Owner shall be entitled to notice thereof. The Board may convey Common Area under threat of condemnation only if approved in writing by Neighborhood Representatives representing at least 67% of the total Class "A" votes in the Association and Declarant, as long as Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1.

The award made for such taking shall be payable to the Association as trustee for all Owners to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent practicable, unless within 60 days after such taking the Declarant, so long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1, and Neighborhood Representatives representing at least 67% of the total Class "A" votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Sections 6.5 and 6.6 regarding funds for the repair of damage or destruction shall apply.

If the taking does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board shall determine.

Article IX: Annexation and Withdrawal of Property

9.1. Annexation Without Approval of Membership.

(a) Until all property described in Exhibit "B" has been subjected to this Declaration or 30 years after recordation of this Declaration, whichever is earlier, Declarant may unilaterally subject to the provisions of this Declaration all or portions of the real property described in Exhibit "B".

(b) In addition, until 40 years after recordation of this Declaration, Declarant may unilaterally subject any Contiguous Property to the provisions of this Declaration.

(c) Declarant may transfer or assign this right to annex property, provided that the transferee or assignee is the developer of at least a portion of the real property described in Exhibits "A" or "B" or any Contiguous Property and that such transfer is memorialized in a written, recorded instrument executed by Declarant. Nothing in this Declaration shall be construed to require the Declarant or any successor to annex or develop any of the property set forth in Exhibit "B" or any Contiguous Property in any manner whatsoever.

(d) Such annexation shall be accomplished by filing a Supplemental Declaration in the Register of Deeds describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Such Supplemental Declaration shall require the consent of the owner of such property, if other than Declarant. Any such annexation shall be effective upon the filing for record of such Supplemental Declaration unless otherwise provided therein.

9.2. Annexation With Approval of Membership. The Association or the Declarant may subject any real property to the provisions of this Declaration with the consent of the owner of such property, the affirmative vote of Neighborhood Representatives representing 67% of the Class "A" votes of the Association represented at a meeting duly called for such purpose, and the consent of the Declarant so long as Declarant owns property subject to this Declaration or has the right to annex property pursuant to Section 9.1.

Such annexation shall be accomplished by filing a Supplemental Declaration in the Register of Deeds describing the property to be annexed and specifically subjecting it to the terms of this Declaration. Any such Supplemental Declaration shall be signed by the President and the Secretary of the Association, and by the owner of the annexed property. Any such annexation shall be effective upon filing unless otherwise provided therein.

9.3. Withdrawal of Property. The Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article, without prior notice and without the consent of any Person, for the purpose of removing property then owned by the Declarant, its affiliates, or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes in the Declarant's plans for the Properties, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Properties.

9.4. Additional Covenants and Easements. The Declarant may unilaterally subject any portion of the property submitted to this Declaration initially or by Supplemental Declaration to additional covenants and easements, including covenants obligating the Association to maintain and insure such property on behalf of the Owners and obligating such Owners to pay the costs incurred by the Association through Neighborhood Assessments. Such additional covenants and easements shall be set forth in a Supplemental Declaration filed either concurrent with or after the annexation of the subject property and shall require the written consent of the owner(s) of such property, if other than the Declarant.

9.5. Amendment. This Article shall not be amended without the prior written consent of Declarant so long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1.

Article X: Assessments

10.1. Creation of Assessments. The Association may levy assessments against each Lot for Association expenses as the Board may specifically authorize from time to time. There shall be four types of assessments for Association expenses: (a) Base Assessments to fund Common Expenses for the general benefit of all Lots; (b) Neighborhood Assessments for Neighborhood Expenses benefitting only Lots within a particular Neighborhood

or Neighborhoods; (c) Special Assessments as described in Section 10.6; and (d) Benefitted Assessments as described in Section 10.7. Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties is deemed to covenant and agree to pay these assessments.

All assessments, together with interest from the due date of such assessment at a rate determined by the Association (not to exceed the highest rate allowed by South Carolina law), late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, shall be a charge and continuing lien upon each Lot against which the assessment is levied until paid, as more particularly provided in Section 10.9. Each such assessment, together with interest, late charges, costs, including lien fees and administrative costs, and reasonable attorneys' fees, also shall be the personal obligation of the Person who was the Owner of such Lot at the time the assessment arose. Upon a transfer of title to a Lot, the grantee shall be jointly and severally liable with the grantor for any assessments and other charges due at the time of conveyance. No first Mortgagee who obtains title to a Lot by exercising the remedies provided in its Mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and by such dates as the Board may establish. Unless the Board otherwise provides, the Base Assessment and any Neighborhood Assessment for each Lot shall be due and payable in advance each year on the anniversary of the date that the Owner of such Lot first obtained title to the Lot. If a Lot is owned by more than one Person and such Persons did not obtain title to the Lot on the same date, the Board, in its sole discretion, shall set the due date for the payment of assessments for such Lot. If any Owner is delinquent in paying any assessments or other charges levied on his or her Lot, the Board may require any unpaid installments of all outstanding assessments to be paid in full immediately.

The Association shall, upon request by an Owner, furnish to any Owner a certificate in writing signed by an officer of the Association setting forth whether assessments for such Owner's Lot have been paid and any delinquent amount. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

No Owner may exempt himself or herself from liability for assessments, by nonuse of Common Area, abandonment of his or her Lot or Dwelling Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it or for inconvenience or discomfort arising from repairs or improvements or other action taken by it.

10.2. Declarant's Obligation for Assessments. During the Class "B" Control Period, Declarant may annually elect either to pay assessments on all of its unsold Lots or to pay the shortage for such fiscal year. The "shortage" shall be the difference between

(a) the amount of all income and revenue of any kind received by the Association, including but not limited to, assessments collected on all other Lots, use fees, advances made by Declarant, and income from all other sources, and

(b) the amount of all actual expenditures incurred by the Association during the fiscal year, including any reserve contributions for such year, but excluding all non-cash expenses such as depreciation or amortization, all expenditures and reserve contributions for making additional capital improvements or purchasing additional capital assets, and all expenditures made from reserve funds. Calculation of the shortage shall be performed on a cash basis of accounting. Unless the Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year.

The Association is specifically authorized to enter into subsidy contracts or contracts for "in kind" contribution of services, materials, or a combination of services and materials with the Declarant or other entities for payment of Common Expenses. After termination of the Class "B" Control Period, the Declarant shall pay assessments on its unsold Lots in the same manner as any other Owner.

10.3. Computation of Base Assessment. Not less than 30 days before the beginning of each fiscal year, the Board shall prepare a budget covering the Common Expenses estimated to be incurred during the coming year. The budget shall include a capital contribution to establish a reserve fund in accordance with a budget separately prepared as provided in Section 10.5, but shall not include expenses incurred during the Class "B" Control Period for initial development, original construction, installation of infrastructure, original capital improvements, or other original construction costs unless approved by Neighborhood Representatives representing a majority of the total Class "A" vote of the Association.

The Base Assessment shall be levied equally against all Lots subject to assessment and shall be set at a level which is reasonably expected to produce total income for the Association equal to the total budgeted Common Expenses, including contributions to reserves. In determining the level of assessments, the Board, in its discretion, may consider other sources of funds available to the Association. In addition, the Board shall take into account the number of Lots subject to assessment under Section 10.8 on the first day of the fiscal year for which the budget is prepared and the number of Lots reasonably anticipated to become subject to assessment during the fiscal year.

The budget shall become effective unless disapproved at a meeting of the Neighborhood Representatives representing at least a majority of the total Association vote and by the Declarant as long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1. There shall be no obligation to call a meeting for the purpose of considering the budget except on petition of the Neighborhood Representatives as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 30 days after notice of the assessments. Notice of assessments shall be posted in a prominent place within the Properties and included in the Association's newsletter, if any. If the proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the immediately preceding year shall continue for the current year.

Notwithstanding any provision to the contrary, the Board may not impose a Base Assessment that is more than 20% greater than the Base Assessment for the immediately preceding fiscal year without a majority vote of a quorum of Neighborhood Representatives at a meeting of the Association. This limitation shall not apply to Neighborhood Assessments, Special Assessments, Benefitted Assessments, or any user or membership fees imposed by the Association.

The Declarant may, but shall not be obligated to, reduce the Base Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by Declarant under Section 10.2), which may be either a contribution, an advance against future assessments due from the Declarant, or a loan, in the Declarant's discretion. Any such subsidy shall be disclosed as a line item in the Common Expense budget. The payment of such subsidy in any year shall not obligate the Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and the Declarant.

10.4. Computation of Neighborhood Assessments. At least 30 days before the beginning of each fiscal year, the Board shall prepare a separate budget for each Neighborhood covering the estimated Neighborhood Expenses, if any, expected to be incurred on behalf of such Neighborhood during the coming year. The Board shall be entitled to set such budget only to the extent that (a) this Declaration, any Supplemental Declaration, or the

By-Laws specifically authorizes the Board to assess certain costs as a Neighborhood Assessment, or (b) the Association expects to incur expenses to provide additional services for a Neighborhood. Any Neighborhood may request that additional services or an increased level of services be provided by the Association, and in such case, any additional costs shall be added to such budget. Such budget shall include a reserve contribution establishing a fund for repair and replacement of items maintained as a Neighborhood Expense, if any, within the Neighborhood.

Neighborhood Expenses shall be levied as a Neighborhood Assessment against all Lots within the benefitted Neighborhood and shall be allocated equally among those Lots. If specified in the Supplemental Declaration applicable to such Neighborhood or if directed by petition signed by a majority of the Owners within the Neighborhood, any portion of the assessment intended for exterior maintenance of Dwelling Units or other structures, insurance on Dwelling Units or other structures, or replacement reserves which pertain to particular structures shall be levied on each of the benefitted Lots in proportion to the benefit received. Such proportion shall be specified in the Supplemental Declaration applicable to such Neighborhood, or if not so specified, shall be approved by a majority of the Owners within the Neighborhood, and Declarant, as long as Declarant owns any property within such Neighborhood.

Neighborhood budgets shall become effective unless disapproved by a majority vote of the Owners of Lots in the Neighborhood for which the Neighborhood budget applies. There shall be no obligation to call a meeting for the purpose of considering the Neighborhood budget except on petition of Owners representing at least 10% of votes in such Neighborhood, which petition must be presented to the Board within 30 days after notice of the Neighborhood Assessments. Notice of Neighborhood Assessment shall be provided as set forth in Section 10.3; and provided, further, the right to disapprove shall apply only to those line items in the Neighborhood budget which are attributable to services requested by the Neighborhood. In the event the Owners within any Neighborhood disapprove any line item of a Neighborhood budget, the Association shall not be obligated to provide the services anticipated to be funded by such line item of the budget. If the Board fails for any reason to determine the Neighborhood budget for any year, then and until such time as such budget shall have been determined as provided herein, the Neighborhood budget in effect for the immediately preceding year shall continue for the current year.

10.5. Reserve Budget and Capital Contribution. The Board shall prepare, on an annual basis, reserve budgets for both general and Neighborhood purposes which take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost of each asset. Such reserve budgets may also anticipate making additional capital improvements and purchasing additional capital assets. The Board shall include in the Base Assessments and Neighborhood Assessments reserve contributions in amounts sufficient to meet these projected needs, if any.

The Board may adopt resolutions regarding the expenditure of reserve funds, including policies designating the nature of assets for which reserve funds may be expended. Such policies may differ for general Association purposes and for each Neighborhood. So long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1, neither the Association nor the Board shall adopt, modify, limit or expand such policies without the Declarant's prior written consent.

10.6. Special Assessments. In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted. Such Special Assessment may be levied against the entire membership, if for Common Expenses, or against the Lots within any Neighborhood, if for Neighborhood Expenses. Such Special Assessments shall become effective unless (a) disapproved at a meeting of the Owners representing at least a majority of the total votes allocated to Lots which will be subject to such Special Assessment, or (b) disapproved by the Declarant, as long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1. There shall be no obligation to call a meeting for the purpose of considering Special Assessments except on petition of the Neighborhood

Representatives as provided for special meetings in Section 2.4 of the By-Laws, which petition must be presented to the Board within 30 days after notice of the Special Assessment. Notice of Special Assessment shall be provided as set forth in Section 10.3. Special Assessments shall be payable in such manner and at such times as determined by the Board and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

10.7. Benefitted Assessments. The Board may levy Benefitted Assessments against particular Lots for expenses incurred or to be incurred by the Association, as follows:

(a) to cover the costs, including overhead and administrative costs, of providing benefits, items, or services to the Lot or occupants thereof upon request of the Owner pursuant to a menu of special services which the Board may from time to time authorize to be offered to Owners (which might include, without limitation, landscape maintenance, caretaker service, etc.), which assessments may be levied in advance of the provision of the requested benefit, item or service as a deposit against charges to be incurred by the Owner; and

(b) to cover costs incurred in bringing the Lot into compliance with the terms of this Declaration, any applicable Supplemental Declaration, the By-Laws, the Design Guidelines, or rules of the Association, or costs incurred as a consequence of the conduct of the Owner or occupants of the Lot, their licensees, invitees, or guests; provided, the Board shall give the Lot Owner prior written notice and an opportunity for a hearing before levying a Benefitted Assessment under this subsection (b).

The Association may also levy a Benefitted Assessment against the Lots within a Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Declaration, any applicable Supplemental Declaration, the Articles, the By-Laws, the Design Guidelines, and rules of the Association, provided the Board gives the Neighborhood Representative from such Neighborhood prior written notice and an opportunity to be heard before levying any such assessment.

10.8. Date of Commencement of Assessments. The obligation to pay assessments shall commence as to each Lot on the first day of the month following: (a) the date the Lot is made subject to this Declaration, or (b) the date the Board first determines a budget and levies assessments pursuant to this Article, whichever is later. The first annual Base and Neighborhood Assessments against each Lot shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Lot.

10.9. Lien for Assessments. All assessments authorized in this Article shall constitute a lien against the Lot against which they are levied until paid unless otherwise specifically precluded in this Declaration. The lien shall also secure payment of interest (subject to the limitations of South Carolina law), late charges, and costs of collection (including attorneys' fees, lien fees and administrative costs). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value. The Association may enforce such lien, when any assessment or other charge is delinquent, by suit, judgment, and foreclosure.

The Association may bid for the Lot at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot. While a Lot is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association. The Association may sue for unpaid Common Expenses and costs without foreclosing or waiving the lien securing the same.

The sale or transfer of any Lot shall not affect the assessment lien or relieve such Lot from the lien for any subsequent assessments. However, a Mortgagee holding a first Mortgage of record or other purchaser of a

Lot who obtains title pursuant to foreclosure of the Mortgage shall not be personally liable for assessments on such Lot due prior to such acquisition of title. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Lots subject to assessment under Section 10.8, including such acquirer, its successors and assigns.

10.10. Failure to Assess. Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

10.11. Exempt Property. The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

- (a) all Common Area;
 - (b) all property dedicated to and accepted by any governmental authority or public utility;
- and
- (c) all property owned by a Neighborhood Association for the common use and enjoyment of its members, or owned by the members of a Neighborhood Association as tenants-in-common.

In addition, the Declarant and/or the Association shall have the right, but not the obligation, to grant exemptions to certain Persons qualifying for Section 501(c) status under the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

Article XI: Architectural and Design Standards

11.1. General. No improvements (including staking, clearing, excavation, grading and other site work), exterior alteration of existing improvements (including painting), placement or posting of any object or thing on the exterior of any Lot, Dwelling Unit, other structure or the Common Area (e.g., signs, antennae, clotheslines, playground equipment, pools, propane tanks, lighting, temporary structures, and artificial vegetation), planting or removal of landscaping materials, or installation or removal of an irrigation system shall take place except in compliance with this Article, this Declaration, including the Use Restrictions, and the Design Guidelines and with the approval of the appropriate committee under Section 11.2.

Any Owner may remodel, paint or redecorate the interior of structures, including the Dwelling Unit, on his or her Lot without approval. However, modifications to the interior of screened porches, patios, and similar portions of a Lot visible from outside the structures on the Lot shall be subject to this Article and approval as set forth below. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications.

This Article shall not apply to the activities of the Declarant nor to improvements to the Common Area by or on behalf of the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any Private Amenity or any land subject to this Declaration or subject to annexation to this Declaration.

11.2. Architectural and Design Review.

(a) New Construction. Until 100% of the Properties have been developed and conveyed to Home Owners, the Declarant shall have exclusive authority to administer and enforce architectural controls under this Article and to review and act upon all applications for original construction within the Properties. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by Declarant. Upon the expiration or surrender of such right, the Board may, at its option, either create and appoint an Architectural Review Committee ("ARC") or assign such duties to the MC (as defined below). The ARC, if established, shall consist of at least three, but not more than five, persons who shall serve and may be removed in the Board's discretion. The ARC shall have no rights or authority until the Declarant's authority under this Article expires or is surrendered.

(b) Modifications. The Board shall establish a Modifications Committee ("MC") which shall consist of at least three, but not more than nine, persons who shall be appointed and shall serve at the discretion of the Board. The MC shall have exclusive jurisdiction over modifications, additions, or alterations made on or to existing structures on Lots or containing Dwelling Units and the adjacent open space. The Declarant shall have the right to veto any action taken by the MC which the Declarant determines, in its sole discretion, to be inconsistent with the Design Guidelines. (For purposes of this Article, "Reviewing Body" shall refer to either the Declarant, the MC, or the ARC, as appropriate under the circumstances.)

The Reviewing Body may establish and charge reasonable fees for review of applications hereunder and may require such fees to be paid in full prior to review of any application. Such fees may include the reasonable costs incurred in having any application reviewed by architects, engineers or other professionals. The Declarant and the Association may employ architects, engineers, or other persons as deemed necessary to perform the review. The Board may include the compensation of such persons in the Association's annual operating budget as a Common Expense.

11.3. Guidelines and Procedures. The Declarant shall prepare Design Guidelines which shall apply to all construction activities within the Properties, except as provided in Section 11.1. The Declarant shall have sole and full authority to amend the Design Guidelines as long as it owns any portion of the Properties or has a right to annex any property pursuant to Section 9.1. Thereafter, the ARC, or if the ARC is not established, the MC, shall have the authority to amend the Design Guidelines. The Design Guidelines may contain general provisions applicable to all of the Properties, as well as specific provisions which vary from one portion of the Properties to another depending upon the location, unique characteristics, intended use, the Master Plan, and any other applicable zoning ordinances. The Design Guidelines are intended to provide guidance to Owners regarding matters of particular concern in considering applications hereunder. The Design Guidelines are not the exclusive basis for decisions of the Reviewing Body and compliance with the Design Guidelines does not guarantee approval of any application.

Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Design Guidelines; the Declarant or, upon its formation, the ARC, or the MC, is expressly authorized to amend the Design Guidelines to remove requirements previously imposed or otherwise to make the Design Guidelines less restrictive.

The Association shall make the Design Guidelines available to Owners and builders who seek to engage in development or construction within the Properties and all such Persons shall conduct their activities in accordance with such Design Guidelines. In the Declarant's discretion, such Design Guidelines may be recorded in the Register of Deeds, in which event the recorded version, as it may unilaterally be amended from time to time, shall control in the event of any dispute as to which version of the Design Guidelines was in effect at any particular time.

All structures and improvements constructed upon a Lot shall be constructed in strict compliance with the Design Guidelines in effect at the time the plans for such improvements are submitted to and approved by the Reviewing Body, unless the Reviewing Body has granted a variance in writing pursuant to Section 11.6. So long as the Reviewing Body has acted in good faith, its findings and conclusions with respect to appropriateness of, applicability of or compliance with the Design Guidelines and this Declaration shall be final.

11.4. Submission of Plans and Specifications.

(a) No activities within the scope of Section 11.1 shall commence on any Lot until an application for approval of the proposed work has been submitted to and approved by the Reviewing Body. Such application shall be in the form required by the Reviewing Body and shall include plans and specifications ("Plans") showing site layout, structural design, exterior elevations, exterior materials and colors, signs, landscaping, drainage, lighting, irrigation, utility facilities layout and screening therefor and other features of proposed construction, as applicable. The Design Guidelines shall set forth the procedure and any additional information for submission of the Plans.

(b) In reviewing each submission, the Reviewing Body may consider quality of workmanship and design, visual and environmental impact, ecological compatibility, natural platforms and finish grade elevation, harmony of external design with surrounding structures and environment, and location in relation to surrounding structures and plant life. The Reviewing Body may require relocation of native plants within the construction site or the installation of an irrigation system for the landscaping including the natural plant life on the Lot as a condition of approval of any submission.

The Reviewing Body shall, within the period specified in the Design Guidelines, advise the party submitting the same, in writing, at an address specified by such party at the time of submission, of (i) the approval of Plans, or (ii) the segments or features of the Plans which are deemed by such committee to be inconsistent or not in conformity with this Declaration and/or the Design Guidelines, the reasons for such finding, and suggestions for the curing of such objections. In the event the Reviewing Body fails to advise the submitting party by written notice within the period specified in the Design Guidelines of either the approval or disapproval and suggestions for curing the objections of the committee of the Plans, approval shall be deemed to have been given. Notice shall be deemed to have been given at the time the envelope containing such notice, properly addressed, and postage prepaid, is deposited with the U.S. Postal Service, registered or certified mail, return receipt requested. Personal delivery of such written notice shall, however, be sufficient and shall be deemed to have been given at the time of delivery to the submitting party.

(c) If construction does not commence on a project for which Plans have been approved within 120 days of such approval, such approval shall be deemed withdrawn, and it shall be necessary for the Owner to resubmit the Plans to the Reviewing Body for reconsideration. If construction is not completed on a project for which plans have been approved within the period set forth in the Design Guidelines or in the approval, such approval shall be deemed withdrawn, and such incomplete construction shall be deemed to be in violation of this Article.

11.5. No Waiver of Future Approvals. Each Owner acknowledges that the members of the ARC and the MC will change from time to time and that interpretation, application and enforcement of the Design Guidelines may vary accordingly. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

11.6. Variance. The Reviewing Body may authorize variances in writing from its guidelines and procedures, but only: (a) in accordance with duly adopted rules and regulations, (b) when unique circumstances dictate such as unusual topography, natural obstructions, hardship or aesthetic or environmental considerations require, and (c) when construction in accordance with the variance would be consistent with the purposes of the Declaration and compatible with existing and anticipated uses of adjoining properties. Inability to obtain, or the terms of, any governmental approval, or the terms of any financing shall not be considered a hardship warranting a variance. Notwithstanding the above, the MC may not authorize variances without the written consent of the Declarant, as long as it owns any portion of the Properties or has a right to annex any property pursuant to Section 9.1, or the ARC, if established.

11.7. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and neither the Declarant, the Association, the Board, the ARC or the MC shall bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the Association, the Board, the ARC or the MC, or member of any of the foregoing shall be held liable for any injury, damages, or loss arising out of the manner or quality of approved construction or modifications to any Lot. In all matters, the ARC and the MC and their members shall be defended and indemnified by the Association as provided in the By-Laws.

11.8. Enforcement. Any construction, alteration or other work done in violation of this Article or the Design Guidelines shall be deemed to be nonconforming. Upon written request from the Declarant, the ARC, the MC, or the Board, Owners shall, at their own cost and expense and within such reasonable time frame as set forth in such written notice, cure such nonconformance to the satisfaction of the requester or restore the property, Lot and/or Dwelling Unit to substantially the same condition as existed prior to the nonconforming work. Should an Owner fail to remove and restore as required, the Declarant, the Association or its designees shall have the right to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed. All costs, together with the interest at the maximum rate then allowed by law, may be assessed against the benefitted Lot and collected as a Benefitted Assessment unless otherwise prohibited in this Declaration.

All approvals granted hereunder shall be deemed conditioned upon completion of all elements of the approved work and all work previously approved with respect to the same Lot, unless approval to modify any application has been obtained. In the event that any Person fails to commence and diligently pursue to completion all approved work, the Declarant or the Association shall be authorized, after notice to the Owner of the Lot and an opportunity to be heard in accordance with the By-Laws, to enter upon the Lot and remove or complete any incomplete work and to assess all costs incurred against the Lot and the Owner thereof as a Benefitted Assessment unless otherwise prohibited in this Declaration.

All acts by any contractor, subcontractor, agent, employee, or invitee of an Owner shall be deemed as an act done by or on behalf of such Owner. Any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded from the Properties, subject to the notice and hearing procedures contained in the By-Laws. In such event, neither the Declarant, the Association, its officers, or directors shall be held liable to any Person for exercising the rights granted by this paragraph.

In addition to the foregoing, the Association and the Declarant shall have the authority and standing to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the Reviewing Body.

Article XII: Use Restrictions

12.1. Plan of Development; Applicability; Effect. Declarant has established a general plan of development for the Properties under this Declaration in order to protect all Owners' quality of life and collective interests, the aesthetics and environment within the Properties, and the vitality of and sense of community within the Properties, all subject to the Board's and the Members' ability to respond to changes in circumstances, conditions, needs, and desires within the community. The Properties are subject to Design Guidelines as set forth in Article XI and other restrictions governing land development, architectural and design control, individual conduct and uses of or actions upon the Properties. This Declaration, including the initial Use Restrictions attached hereto as Exhibit "C," and the rules and resolutions adopted by the Board or the Members establish affirmative and negative covenants, easements, and restrictions on the Properties.

All provisions of this Declaration and any rules shall apply to all Owners, occupants, tenants, guests and invitees of any Lot. Any lease on any Lot shall provide that the lessee and all occupants of the leased Lot shall be bound by the terms of this Declaration, the By-Laws, and the rules of the Association.

12.2. Authority to Promulgate Use Restrictions and Rules.

(a) Subject to the terms of this Article and in accordance with its duty of care and undivided loyalty to the Association and its Members, the Board may adopt rules which modify, cancel, limit, create exceptions to, or expand the initial Use Restrictions set forth on Exhibit "C" which limit both the Association's and Members' right to use the Property. The Board shall send notice by mail to all Owners concerning any such proposed action at least five business days prior to the Board meeting at which such action is to be considered. Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

Any such rules shall become effective after compliance with subsection (c) of this Section unless such rules are disapproved at a meeting of Owners representing at least a majority of the total Class "A" vote and by the Declarant, so long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1. The Board shall have no obligation to call a meeting of the Owners to consider disapproval except upon receipt of a petition of the Owners as required for special meetings in By-Laws, Section 2.4. If a meeting to consider disapproval of a rule is requested by the Owners prior to the effective date of such rule, the rule may not become effective until after such meeting is held.

(b) Alternatively, the Owners, at a meeting duly called for such purpose, may adopt rules which modify, cancel, limit, create exceptions to, or expand the Use Restrictions and previously adopted rules by a vote of Owners representing 67% of the total Class "A" vote and the approval of the Declarant, so long as the Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1.

(c) At least 30 days prior to the effective date of any action under subsections (a) or (b) of this Section, the Board shall send a copy of the rule to each Owner specifying the effective date of such rule. The Association shall provide, without cost, a copy of the Use Restrictions and rules then in effect to any requesting Member or Mortgagee.

(d) Nothing in this Article shall authorize the Board or the Owners to modify, repeal or expand the Declaration (with the exception of Exhibit "C"), the By-Laws, the Articles, or the Design Guidelines. Such documents may be amended as provided therein.

12.3. Owners' Acknowledgment. All Owners are subject to the Use Restrictions and are given notice that (a) their ability to use their privately owned property is limited thereby, and (b) the Board and/or the Owners may add, delete, modify, create exceptions to, or amend the Use Restrictions in accordance with Sections 12.2 and 19.2.

Each Owner by acceptance of a deed acknowledges and agrees that the use and enjoyment and marketability of his or her property can be affected by this provision and that the Use Restrictions and rules may change from time to time.

12.4. Rights of Owners. Except as may be specifically set forth in the initial Use Restrictions, neither the Board nor the Owners may adopt any rule in violation of the following provisions:

- (a) Equal Treatment. Similarly situated Owners and occupants shall be treated similarly.
- (b) Speech. The rights of Owners and occupants to display on their Lot political signs and symbols of the kinds normally displayed in or outside of residences located in single-family residential neighborhoods in individually owned property shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating signs and symbols which are visible from outside the Lot.
- (c) Religious and Holiday Displays. The rights of Owners and occupants to display religious and holiday signs, symbols, and decorations on their Lots of the kinds normally displayed in residences located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions regulating displays which are visible from outside the Lot.
- (d) Household Composition. No rule shall interfere with the freedom of occupants of Dwelling Units to determine the composition of their households, except that the Association shall have the power to require that all occupants be members of a single housekeeping unit and to limit the total number of occupants permitted in each Dwelling Unit on the basis of the size and facilities of the Dwelling Unit and its fair share use of the Common Area.
- (e) Activities Within Dwelling Units. No rule shall interfere with the activities carried on within the confines of Dwelling Units, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Owners, that create a danger to the health or safety of occupants of other Dwelling Units, that generate excessive noise or traffic, that create unsightly conditions visible outside the Dwelling Unit, or that create an unreasonable source of annoyance.
- (f) Pets. The Association may adopt reasonable rules designed to minimize damage and disturbance to other Owners and occupants, including rules requiring damage deposits, waste removal, leash controls, noise controls, pet occupancy limits based on size and facilities of the Lot and fair share use of the Common Area; provided, however, any rule prohibiting the keeping of ordinary household pets shall apply prospectively only and shall not require the removal of any pet which was being kept on the Properties prior to the adoption of such rule. Nothing in this provision shall prevent the Association from requiring removal of any animal that presents an actual threat to the health or safety of residents or from requiring abatement of any nuisance or unreasonable source of annoyance. No Owner shall be permitted to raise, breed or keep animals or poultry of any kind for commercial or Business purposes.
- (g) Allocation of Burdens and Benefits. Except as permitted by Section 2.3, the initial allocation of financial burdens and rights to use Common Areas among the various Lots shall not be changed to the detriment of any Owner over that Owner's objection expressed in writing to the Association. Nothing in this provision shall prevent the Association from changing the use of the Common Areas as provided in Section 4.10, from adopting generally applicable rules for use of Common Areas, or from denying use privileges to those who abuse the Common Area, violate rules or this Declaration, or fail to pay assessments. This provision does not affect the right to increase the amount of assessments as provided in Article X.

(h) Alienation. No rule shall prohibit the leasing or transferring of any Lot, or require consent of the Association or Board for leasing or transferring of any Lot; provided, the Association or the Board may require a minimum lease term of up to 12 months. The Association may require that Owners use lease forms approved by the Association, but shall not impose any fee on the lease or transfer of any Lot greater than an amount reasonably based on the costs to the Association of its costs to administer that lease or transfer.

(i) Reasonable Rights to Develop. No rule or action by the Association or Board shall unreasonably impede Declarant's right to develop in accordance with the Master Plan, including, but not limited to, the rights of the Declarant as set forth in Article XV.

(j) Abridging Existing Rights. Any rule which would require Owners to dispose of personal property being kept on the Properties shall apply prospectively only and shall not require the removal of any property which was being kept on the Properties prior to the adoption of such rule and which was in compliance with all rules in force at such time unless otherwise required to be removed by law.

The limitations in this Section 12.4 shall apply to rules only; they shall not apply to amendments to this Declaration adopted in accordance with Section 19.2.

Article XIII: Easements

13.1. Easements of Encroachment. Declarant reserves unto itself, so long as it owns any portion of the Properties or has the right to annex property pursuant to Section 9.1, easements of encroachment, and for maintenance and use of any permitted encroachment, between each Lot and any adjacent Common Area and between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with this Declaration) to a distance of not more than three feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of the Declarant.

13.2. Easements for Utilities, Etc. Declarant reserves unto itself, so long as it owns any portion of the Properties or has the right to annex property pursuant to Section 9.1, and grants to the Association an easement for the purpose of access and maintenance upon, across, over, and under all of the Properties to the extent reasonably necessary to install, replace, repair, and maintain cable television systems, master television antenna systems, security and similar systems, roads, walkways, bicycle pathways, trails, lakes, ponds, wetlands, drainage systems, street lights, signage, and all utilities, including, but not limited to, water, sewers, meter boxes, telephone, gas, and electricity. The Declarant and/or the Association may assign these rights to any local utility supplier, cable company, security company or other company providing a service or utility to Sun City Hilton Head subject to the limitations herein.

This easement shall not entitle the holders to construct or install any of the foregoing systems, facilities, or utilities over, under or through any existing Dwelling Unit on a Lot, and any damage to a Lot resulting from the exercise of this easement shall promptly be repaired by, and at the expense of, the Person exercising the easement. The exercise of this easement shall not unreasonably interfere with the use of any Lot and, except in an emergency, entry onto any Lot shall be made only after reasonable notice to the Owner or occupant.

Declarant specifically grants to the local utility suppliers easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility meters and boxes. However, the exercise of this easement shall not extend to permitting entry into the Dwelling Unit on any Lot, nor shall any

utilities be installed or relocated on the Properties, except as approved by the Board or Declarant.

13.3. Easements to Serve Additional Property. The Declarant hereby reserves for itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the property described in Exhibit "B" and any Contiguous Property whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property. Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of vehicular traffic connected with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof is not made subject to this Declaration, the Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.

13.4. Easements for Private Amenities.

(a) The owner of any Private Amenity, its respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of the Common Areas reasonably necessary, with or without the use of maintenance vehicles and equipment, for the operation, maintenance, repair and replacement of such Private Amenity.

(b) The owner of any Private Amenity, its respective agents, successors and assigns, shall have a perpetual, non-exclusive easement to the extent reasonably necessary, over the Properties for the installation, maintenance, repair, replacement and monitoring of utility lines, wires, drainage pipelines and pipelines serving all or portions of such Private Amenity.

(c) There is hereby established for the benefit of the Private Amenities and their members (regardless of whether such members are Owners hereunder), guests, invitees, employees, and authorized users, a right and nonexclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and the Private Amenities. Without limiting the generality of the foregoing, members of the Private Amenities and guests and authorized users of the Private Amenities shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after tournaments and other similar functions held by or at the Private Amenities to the extent that the Private Amenity has insufficient parking to accommodate such vehicles.

(d) The owner of any Private Amenity, its respective agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over such portion of the Properties designated by the Declarant as the common maintenance area. Such common maintenance area may be used by the owner of any Private Amenity and the Association for offices of maintenance personnel, for the storage of maintenance vehicles, parts, fuel and materials, and for vehicle maintenance.

13.5 Easements for Golf Courses.

(a) Every Lot and the Common Area and the common property of any Neighborhood Association are burdened with an easement permitting golf balls unintentionally to come upon such Common Area, Lots or common property of a Neighborhood and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Lot to retrieve errant golf balls; provided, however, if any Lot is fenced or walled, the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall any of the following Persons be held liable for any damage or injury resulting from

errant golf balls or the exercise of this easement: the Declarant; the Association or its Members (in their capacity as such); the management company of the Association; the owner of any Golf Course; its successors, successors-in-title to any Golf Course, or assigns; any successor Declarant; any builder or contractor (in their capacities as such); any officer, director, partner, employee or agent of any of the foregoing, or any officer or director of any partner.

(b) The Properties immediately adjacent to any Golf Course are hereby burdened with a non-exclusive easement in favor of the owner of such course for overspray of water from any irrigation system serving such course. The owner of any Golf Course may use treated effluent in the irrigation of any Golf Course. Under no circumstances shall the Association or the owner of any Golf Course be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

(c) The owner of any Golf Course, its respective agents, successors and assigns, shall have a perpetual, exclusive easement of access over the Properties for the purpose of retrieving golf balls from bodies of water within the Common Areas lying reasonably within range of golf balls hit from such Golf Course.

(d) The owner of any Golf Course, its respective agents, successors and assigns, shall have a perpetual non-exclusive easement, to the extent reasonably necessary, over the Properties, for the installation, operation, maintenance, repair, replacement, monitoring and controlling of irrigation systems and equipment, including, without limitation, wells, pumps and pipelines, serving all or portions of the Golf Course.

(e) The Properties are hereby burdened with easements in favor of any Golf Course for natural drainage of storm water runoff from such Golf Course.

(f) The Properties are hereby burdened with easements in favor of any Golf Course for golf cart paths serving such Golf Course. Under no circumstances shall the Association or the owner of any Golf Course, or their respective agents, successors, or assigns, be held liable for any damage or injury resulting from the exercise of this easement.

(g) The owner of any Golf Course, its respective agents, successors and assigns, as well as its members, guests, invitees, employees, and authorized users of the Golf Course shall at all times have a right and non-exclusive easement of access and use over the golf cart paths, if any, located within the Properties as reasonably necessary for the use and enjoyment of the Golf Course.

(h) There is hereby established for the benefit of the owner of any Golf Course, its respective agents, successors and assigns, as well as its members, guests, invitees, employees, and authorized users of the Golf Course, a right and nonexclusive easement of access and use over all roadways located within the Properties reasonably necessary to travel between the entrance to the Properties and the Golf Course. Without limiting the generality of the foregoing, members of the Golf Course and guests and authorized users of the Golf Course shall have the right to park their vehicles on the roadways located within the Properties at reasonable times before, during, and after tournaments and other similar functions held by or at the Golf Course to the extent that the Golf Course has insufficient parking to accommodate such vehicles.

13.6. Easements for Cross-Drainage. Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Properties; provided, no Person shall alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent portions of the Properties without the consent of the Owner(s) of the affected property and the Board.

13.7. Right of Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of the Association,

its Board, officers or committees, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Owner thereof. This easement includes the right to enter any Lot to cure any condition which increases the risk of fire or other hazard if an Owner fails or refuses to cure the condition within a reasonable time after request by the Board, but does not authorize entry into any Dwelling Unit without permission of the Owner, except by emergency personnel acting in their official capacities.

13.8. Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter all portions of the Properties, including each Lot to (a) perform its maintenance responsibilities under Article V, and (b) make inspections to ensure compliance with this Declaration, any Supplemental Declaration, By-Laws, and rules. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment to Owners' property, and any damage shall be repaired by the Association at its expense.

The Association also may enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Declaration, any Supplemental Declaration, the By-Laws, the Design Guidelines, or the rules. All costs incurred, including reasonable attorneys' fees, shall be assessed against the violator as a Benefitted Assessment.

The Properties are hereby burdened with a non-exclusive easement in favor of the Association for overspray of water from any irrigation system serving the Area of Common Responsibility. The Association may use treated effluent in the irrigation of any Area of Common Responsibility. Under no circumstances shall the Association be held liable for any damage or injury resulting from such overspray or the exercise of this easement.

13.9. Rights to Stormwater Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees, including but not limited to the owner of any Private Amenity, all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties, and each Owner agrees, by acceptance of a deed to a Lot, that Declarant shall retain all such rights. Such right shall include an easement over the Properties for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and effluent.

13.10. Easements for Lake and Pond Maintenance and Flood Water. Declarant reserves for itself, the Association, and their successors, assigns, and designees, the nonexclusive right and easement, but not the obligation, to enter upon the lakes, ponds, rivers, streams, and wetlands located within the Area of Common Responsibility to (a) construct, maintain, and repair pumps in order to provide water for the irrigation of any of the Area of Common Responsibility; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining water; and (c) remove trash and other debris therefrom and fulfill their maintenance responsibilities as provided in this Declaration. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any of the Properties abutting or containing any portion of any of the lakes, ponds, rivers, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section.

There is further reserved herein for the benefit of Declarant, the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the Dwelling Units thereon) adjacent to or within one hundred feet of lake beds, ponds, rivers, streams and wetlands within the Properties, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Properties; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the lakes, ponds, rivers, streams, and wetlands within the Area of Common Responsibility subject to the approval of all appropriate regulatory bodies; (c) maintain and landscape the slopes and banks pertaining to such

lakes, ponds, rivers, streams, and wetlands; and (d) enter upon and across such portions of the Properties for the purpose of exercising their rights under this Section. All Persons entitled to exercise these easements shall use reasonable care in, and repair any damage resulting from the intentional exercise of such easements. Nothing herein shall be construed to make Declarant or any other Person liable for damage resulting from flooding due to heavy rainfall, hurricanes, or other natural occurrences.

Article XIV: Mortgage Provisions

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Lots in the Properties. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

14.1. Notices of Action. An institutional holder, insurer, or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the street address of the Lot to which its Mortgage relates, thereby becoming an "Eligible Holder"), will be entitled to timely written notice of:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Lot on which there is a first Mortgage held, insured, or guaranteed by such Eligible Holder;

(b) Any delinquency in the payment of assessments or charges owed by a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of 60 days, or any other violation of the Declaration or By-Laws relating to such Lot or the Owner or Occupant which is not cured within 60 days. Notwithstanding this provision, any holder of a first Mortgage is entitled to written notice upon request from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or By-Laws which is not cured within 60 days; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

14.2. No Priority. No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

14.3. Notice to Association. Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Article XV: Declarant's Rights

Any or all of the special rights and obligations of the Declarant set forth in this Declaration or the By-Laws may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration or the By-Laws. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Register of Deeds of Jasper County and Beaufort County, South Carolina. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit "B" or any Contiguous Property in any manner whatsoever.

Each Owner, by accepting title to a Lot and becoming an Owner, and each other Person, by acquiring any

interest in the Properties, acknowledges awareness that Sun City Hilton Head is a master planned community, the development of which is likely to extend over many years, and agrees not to protest or otherwise object to (a) zoning or changes in zoning or to uses of, or changes in density of, the Properties (other than within said Owner's or other Person's Neighborhood), or (b) changes in any conceptual or master plan for the Properties, including, but not limited to, the Master Plan (other than within said Owner's or other Person's Neighborhood); provided, such revision is or would be lawful (including, but not limited to, lawful by special use permit, variance or the like) and is not inconsistent with what is permitted by the Declaration (as amended from time to time).

The Declarant and its employees, agents and designees shall also have a right and easement over and upon all of the Common Area for the purpose of making, constructing, installing, modifying, expanding, replacing, and removing such improvements to the Common Area as it deems appropriate in its sole discretion.

So long as construction and initial sales of Lots shall continue or the Declarant owns any Private Amenity, the Declarant and its designees may maintain and carry on upon the Common Area and any property owned by the Declarant such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of such Lots, including, but not limited to, business offices, signs, model units, sales offices, and storage of building materials. The Declarant and its designees shall have easements for access to and use of such facilities. The Declarant's or any designee's unilateral right to use the Common Area for purposes stated in this paragraph shall not be exclusive and shall not unreasonably interfere with use of such Common Areas by Owners unless leased pursuant to a lease agreement with the Association providing for payment of reasonable rent.

The Declarant may, in its discretion, construct residential improvements for temporary occupancy within or adjacent to the Properties and designate such improvements as "Vacation Villas." Such Vacation Villas shall not be considered Dwelling Units or Lots; provided however, such Vacation Villas shall be subject to assessments as provided in Article X. The owners and occupants of Vacation Villas shall not become Members of the Association by virtue of their ownership or occupancy of such Vacation Villas. The Declarant may transfer or lease such Vacation Villas and make Vacation Villas available for use by guests selected in its sole discretion. The Declarant hereby reserves for itself and its guests a non-exclusive easement for use, access, and enjoyment in and to the Common Area, including but not limited to any recreational facilities within the Common Area.

The Declarant may convert a Vacation Villa located in the Properties to a Lot by filing a Supplemental Declaration in the Register of Deeds identifying such property as a Lot or Lots. Such Supplemental Declaration shall not require the consent of the Neighborhood Representatives, but shall require the consent of the Declarant and the owner of such property, if other than the Declarant. Any such conversion of a Vacation Villa to a Lot shall be effective upon the filing of record of such Supplemental Declaration unless otherwise provided therein.

So long as the Declarant owns any portion of the Properties or any Private Amenity or has the right to annex property pursuant to Section 9.1, neither the Association nor any Neighborhood Association shall, without the prior written approval of the Declarant, adopt any policy, rule or procedure that:

- (a) Limits the access of the Declarant, its successors, assigns and/or affiliates or their personnel and/or guests, including visitors, to the Common Areas of the Association or to any property owned by any of them;
- (b) Limits or prevents the Declarant, its successors, assigns and/or affiliates or their personnel from advertising, marketing or using the Association or its Common Areas or any property owned by any of them in promotional materials;
- (c) Limits or prevents purchasers of new residential housing constructed by the Declarant, its successors, assigns and/or affiliates in Sun City Hilton Head from becoming members of the Association or enjoying

full use of its Common Areas, subject to the membership provisions of this Declaration and the By-Laws;

(d) Discriminates against or singles out any group of Association members or prospective members or the Declarant [this provision shall expressly prohibit the establishment of a fee structure (i.e., assessments, Special Assessments and other mandatory fees or charges) that discriminates against or singles out any group of Association members or the Declarant, but shall not prohibit the establishment of Benefitted Assessments];

(e) Impacts the ability of the Declarant, its successors, assigns and/or affiliates, to carry out to completion its development plans and related construction activities for Sun City Hilton Head, as such plans are expressed in the Master Plan, as such may be amended and updated from time to time. Policies, rules or procedures affecting the provisions of existing easements established by the Declarant and limiting the establishment by the Declarant of easements necessary to complete Sun City Hilton Head shall be expressly included in this provision. Easements that may be established by the Declarant shall include but shall not be limited to easements for development, construction and landscaping activities and utilities; or

(f) Impacts the ability of the Declarant, its successors, assigns and/or affiliates to develop and conduct customer service programs and activities in a customary and reasonable manner.

Neither the Association nor any Neighborhood Association shall exercise its authority over the Common Areas (including, but not limited to, any gated entrances and other means of access to the Properties, the Exhibit "B" property or any Private Amenity) to interfere with the rights of the Declarant set forth in this Declaration or to impede access to any portion of the Properties, the Exhibit "B" property or any Private Amenity over the streets and other Common Areas within the Properties.

No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Properties without Declarant's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This Article shall not be amended without the prior written consent of the Declarant so long as the Declarant owns any portion of the Properties or any Private Amenity or has the right to annex property pursuant to Section 9.1. The rights contained in this Article shall terminate upon the earlier of (a) 40 years after the conveyance of the first Lot to a Home Owner, or (b) upon recording by Declarant of a written statement that all sales activity has ceased. Thereafter, the Declarant and its designees may continue to use the Common Areas for purposes stated in this Article only pursuant to a rental or lease agreement between the Declarant and/or such designee and the Association which provides for rental payments based on the fair market rental value of any such portion of the Common Areas.

Article XVI: Golf Courses and Private Amenities.

16.1. Right to Use. Access to and use of the Private Amenities are strictly subject to the rules and procedures of the Private Amenities, and no Person automatically gains any right to enter or to use those facilities by virtue of membership in the Association, ownership of a Lot, or occupancy of a Dwelling Unit.

Rights to use the Private Amenities will be granted only to such persons, and on such terms and conditions, as may be determined by their respective owners. Such owners shall have the right, from time to time in their sole and absolute discretion and without notice, to amend or waive the terms and conditions of use of their respective Private Amenities and to terminate use rights altogether.

The ownership or operational duties of and as to the Private Amenities may change at any time and from time to time by virtue of, but without limitation, (a) the sale to or assumption of operations by an independent entity, (b) conversion of the membership structure to an "equity" club or similar arrangement whereby the members of a Private Amenity or an entity owned or controlled thereby become the owner(s) and/or operator(s) of the Private Amenity, (c) the conveyance of a Private Amenity to one or more subsidiaries, affiliates, shareholders, employees, or independent contractors of the Declarant, or (d) the conveyance of a Private Amenity to the Association by the Declarant or any affiliate or designee of the Declarant. No consent of the Association, any Neighborhood Association, or any Owner shall be required to effectuate such a transfer or conversion.

At a time to be determined in the Declarant's sole discretion, but not later than the termination of the Class "B" Control Period, the Declarant or, upon the direction of the Declarant, an affiliate of the Declarant, shall convey to the Association the initial 18 hole Golf Course and clubhouse to be located within the property described in Exhibits "A" and "B" and/or within any Contiguous Property. Such property shall be accepted by the Association, subject to any restrictions set forth in the deed of conveyance, including but not limited to, restrictions governing the use of such property.

After such conveyance, the Association shall have the responsibility for the maintenance, operation, and insurance of such Golf Course in accordance with this Declaration; provided however, the Association shall not make any modification with regard to the maintenance, operation, or insurance of the Golf Course, without the prior written consent of the Declarant, so long as the Declarant owns any portion of the Properties or any Private Amenity or has the right to annex property pursuant to Section 9.1.

Except as provided herein, no representations or warranties, either written or oral, have been or are made by the Declarant or any other Person with regard to the nature or size of improvements to, or the continuing ownership or operation of the Private Amenities. No purported representation or warranty, written or oral, in conflict with this Section shall be effective without an amendment to this Declaration executed or joined into by the Declarant or the owner(s) of the Private Amenities which are the subject thereof.

16.2. Assumption of Risk and Indemnification. Each Owner, by its purchase of a Lot in the vicinity of any Golf Course, hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of any such Golf Course, including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around sunrise or sunset), (b) noise caused by golfers, (c) use of pesticides, herbicides and fertilizers, (d) use of effluent in the irrigation of the Golf Course, (e) reduction in privacy caused by constant golf traffic on the Golf Course or the removal or pruning of shrubbery or trees on the Golf Course, (f) errant golf balls and golf clubs, and (g) design of the Golf Course.

Each such Owner agrees that neither Declarant, the Association nor any of Declarant's affiliates or agents shall be liable to any Owner or any other person claiming any loss of damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of Owner's Lot to the Golf Course, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents or the Association. The Owner hereby agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents and the Association against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot.

16.3. View Impairment. Neither the Declarant, the Association nor the owner or operator of any Private Amenity or Golf Course guarantees or represents that any view over and across any Private Amenity or Golf Course from adjacent Lots will be preserved without impairment. No provision of this Declaration shall be deemed to create an obligation of the Association, the owner of any Private Amenity, nor the Declarant to prune or thin trees or other landscaping except as provided in Article V. The Association and the owner of any Private Amenity may, in

their sole and absolute discretion, add trees and other landscaping to their Private Amenities and Golf Courses from time to time. In addition, the owner of any Golf Course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways and greens on such Golf Course from time to time. Any such additions or changes to Golf Courses or Private Amenities may diminish or obstruct any view from the Lots and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed. Any such addition or change to any Private Amenity may not adversely affect drainage flow across the Properties.

16.4. Architectural Control. Neither the Association, the Modifications Committee, nor any Neighborhood Association, board or committee thereof, shall approve or permit any construction, addition, alteration, change, or installation on or to any portion of the Properties which is adjacent to, or otherwise in the direct line of sight of, any Private Amenity without giving the Private Amenity at least 15 days' prior written notice of its intent to approve or permit the same together with copies of the request and all other documents and information finally submitted in such regard. The Private Amenity shall then have 15 days to approve or disapprove the proposal in writing delivered to the appropriate committee or association, stating in detail the reasons for any disapproval. The failure of the Private Amenity to respond to the notice within the 15-day period shall constitute a waiver of the Private Amenity's right to object to the matter. This Section shall also apply to any work on the Common Area or any common property or common elements of a Neighborhood Association, if any.

16.5. Limitations on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the Private Amenities, no amendment to this Article, and no amendment in derogation of any other provisions of this Declaration benefitting any Private Amenity, may be made without the written approval of the owner of the Private Amenities affected thereby. The foregoing shall not apply, however, to amendments made by the Declarant.

16.6. Jurisdiction and Cooperation. It is Declarant's intention that the Association and the Private Amenities shall cooperate to the maximum extent possible in the operation of the Properties and the Private Amenities. Each shall reasonably assist the other in upholding the Community-Wide Standard as it pertains to maintenance and the Design Guidelines. The Association shall have no power to promulgate Use Restrictions other than those set forth on Exhibit "C" affecting activities on or use of the Private Amenities without the prior written consent of the owners of the Private Amenities affected thereby.

Article XVII: Dispute Resolution and Limitation on Litigation

17.1. Agreement to Avoid Litigation. The Declarant, the Association, its officers, directors, and committee members, all Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described in Sections 17.2 ("Claims") shall be resolved using the procedures set forth in Section 17.3 in lieu of filing suit in any court.

17.2. Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration, the By-Laws, the Association's Use Restrictions, or the Articles (referred to jointly in this Declaration as the "Governing Documents"), or the rights, obligations and duties of any Bound Party under the Governing Documents or relating to the design or construction of improvements on the Properties shall be subject to the provisions of Section 17.3.

Notwithstanding the above, unless all parties thereto otherwise agree, the following shall not be Claims and shall not be subject to the provisions of Section 17.3:

- (a) any suit by the Association against any Bound Party to enforce the provisions of Article X (Assessments);
- (b) any suit by the Association to obtain a temporary restraining order, or other mandatory or prohibitive equitable relief, and such other ancillary relief as permitted to enforce the provisions of Article XI (Architectural and Design Standards) and Article XII (Use Restrictions);
- (c) any suit by an Owner to challenge the actions of the Declarant, the Association, the ARC, the MC, any covenants committee, or any other committee with respect to approval, disapproval, application or enforcement of the provisions of Article XI (Architectural and Design Standards) or Article XII (Use Restrictions);
- (d) any suit between Owners, which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Governing Documents;
- (e) any suit in which any indispensable party is not a Bound Party; and
- (f) any suit which otherwise would be barred by any applicable statute of limitations.

With the consent of all parties thereto, any of the above may be submitted to the alternative dispute resolution procedures set forth in Section 17.3.

17.3. Mandatory Procedures.

(a) Notice. Any Bound Party having a Claim ("Claimant") against any other Bound Party ("Respondent") (collectively, the "Parties") shall notify each Respondent in writing (the "Notice"), stating plainly and concisely:

1. the nature of the Claim, including the Persons involved and Respondent's role in the Claim;
2. the legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant's proposed remedy; and
4. that Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation and Mediation.

1. The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation.

2. If the Parties do not resolve the Claim within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days to submit the Claim to mediation under the auspices of an independent agency providing dispute resolution services in the Beaufort County or Jasper County, South Carolina area.

3. If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any Person other than the Claimant.

4. Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth that the Parties are at an impasse and the date that mediation was terminated.

5. Within five days of the Termination of Mediation, the Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent and the Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(c) Final and Binding Arbitration.

1. If the Parties do not agree in writing to a settlement of the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in Exhibit "D" or such rules as may be required by the agency providing the arbitrator. If not timely submitted to arbitration or if the Claimant fails to appear for the arbitration proceeding, the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons other than Claimant.

2. This subsection (c) is an agreement to arbitrate and is specifically enforceable under the applicable arbitration laws of the State of South Carolina. The arbitration award (the "Award") shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of South Carolina.

17.4. Allocation of Costs of Resolving Claims.

(a) Subject to Section 17.4(b), each Party shall bear its own costs, including any attorneys fees incurred, and each Party shall share equally all charges rendered by the mediator(s) and all filing fees and costs of conducting the arbitration proceeding ("Post Mediation Costs").

(b) Any Award which is equal to or more favorable to Claimant than Claimant's Settlement Demand shall add Claimant's Post Mediation Costs to the Award, such costs to be borne equally by all Respondents. Any Award which is equal to or less favorable to Claimant than any Respondent's Settlement Offer shall award to such Respondent its Post Mediation Costs.

17.5. Enforcement of Resolution. After resolution of any Claim, if any Party fails to abide by the terms of any agreement or Award, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award without the need to again comply with the procedures set forth in Section 17.3. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys' fees and court costs.

Article XVIII: Compliance with County Requirements

18.1. General. The purpose of this Article is to provide the Association and the Owners with notice of several of the requirements and obligations imposed on the Association and the Owners by the Development Agreements. Nothing in this Article shall be construed to modify, limit or expand any requirement or obligation imposed by either the Jasper County Development Agreement or the Beaufort County Development Agreement nor to reduce, limit or eliminate any requirement or obligation otherwise imposed by this Declaration, any applicable Supplemental Declaration, the By-Laws, the Articles, the Use Restrictions, the Design Guidelines, or the Association rules. In the event of conflict between any provision of the Development Agreements, as they may be amended, and any provision of this Article, those of this Article shall be subject and subordinate to those of the Development Agreement.

18.2 Beaufort County Development Agreement. The Beaufort County Development Agreement and this Section shall apply only to that portion of the Properties located within Beaufort County, South Carolina.

(a) Recycling Programs. The Board shall establish a recycling program and recycling center within the Properties consistent with Beaufort County, South Carolina, laws. In the event of conflict between the standards of Jasper County and Beaufort County, South Carolina laws, the more restrictive standard shall apply. All occupants of Dwelling Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

(b) Effluent. To the extent effluent is not accepted by the Declarant or its designees, the Association shall accept treated effluent as required by the Beaufort-Jasper Water and Sewer Authority and may use such effluent in the irrigation of any Golf Course or areas of the Area of Common Responsibility that are isolated from Dwelling Units; provided however, if the treatment level of the effluent is tertiary, the Association may use such effluent on all portions of the Area of Common Responsibility.

(c) Wells. No wells that draw water from the Upper Floridian aquifer as a primary source of potable water or irrigation water shall be constructed, except wells constructed by the Declarant or the Association as a back-up source for temporary emergency use when no other source of fresh water is available.

(d) Water Conservation. All automatic sprinkler systems installed within the Properties shall include rain sensors and must be approved in strict compliance with Article XI.

(e) Mulching of Landscape Waste. Except as provided in the Beaufort County Development Agreement, all landscape waste produced within the Properties shall be mulched for use within the Properties. The Association shall provide facilities within the Properties for grinding landscape waste or contract to dispose of such waste through a private contractor who grinds waste into mulch outside of the Properties; provided, such contractor shall be obligated to return an equivalent tonnage of mulch to the Properties. Declarant hereby reserves for the Association all rights to such landscape waste and mulch produced within the Properties; provided however, the Board may require Owners to use a proportionate share of such mulch on their Lots.

This Section shall not apply to waste produced during initial site preparation and clearing or during construction activities within the first five years of development. Such waste may be disposed of in any manner permitted by law and in compliance with the Design Guidelines.

(f) County Approval Required. This Section may not be amended to be inconsistent with the Beaufort County Development Agreement without the prior written consent of the appropriate governmental authority of Beaufort County, South Carolina.

18.3. Jasper County Development Agreement. The Jasper County Development Agreement and this Section shall apply only to that portion of the Properties located within Jasper County, South Carolina.

(a) Recycling Programs. If and to the extent required under Jasper County, South Carolina, law, the Board shall establish a recycling program and recycling center within the Properties. In the event of conflict between the standards of Jasper County and Beaufort County, South Carolina, laws, the more restrictive standard shall apply. All occupants of Dwelling Units shall support such program by recycling, to the extent reasonably practical, all materials which the Association's recycling program or center is designed to accommodate. The Association may, but shall have no obligation to, purchase recyclable materials in order to encourage participation, and any income received by the Association as a result of such recycling efforts shall be used to reduce Common Expenses.

(b) Effluent. To the extent effluent is not accepted by the Declarant or its designees, the Association shall accept treated effluent as required by the Beaufort-Jasper Water and Sewer Authority and may use such effluent in the irrigation of any Golf Course or areas of the Area of Common Responsibility that are isolated from Dwelling Units; provided however, if the treatment level of the effluent is tertiary, the Association may use such effluent on all portions of the Area of Common Responsibility.

(c) Water Conservation. All automatic sprinkler systems installed within the Properties shall include rain sensors and must be approved in strict compliance with Article XI.

(d) County Approval Required. This Section may not be amended to be inconsistent with the Jasper County Development Agreement without the prior written consent of the appropriate governmental authority of Jasper County, South Carolina.

Article XIX: General Provisions

19.1. Term. This Declaration shall run with and bind the Properties, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors, and assigns, for a term of 20 years from the date this Declaration is recorded. After such time, this Declaration shall be automatically extended for successive periods of ten years, unless an instrument in writing, signed by a majority of the then Owners, has been recorded within the year preceding each extension, agreeing to amend, in whole or in part, or terminate this Declaration, in which case this Declaration shall be amended or terminated as specified therein.

19.2. Amendment.

(a) By Declarant. Until termination of the Class "B" membership, Declarant may unilaterally amend this Declaration for any purpose. Thereafter, Declarant may unilaterally amend this Declaration if such amendment is (i) necessary to bring any provision into compliance with any applicable governmental statutes, rule, regulation, or judicial determination; (ii) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (iii) required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable it to make or purchase Mortgage loans on the Lots; (iv) necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots; or

(v) otherwise necessary to satisfy the requirements of any governmental agency for approval of this Declaration. However, any such amendment shall not adversely affect the title to any Lot unless the affected Owner shall consent thereto in writing. In addition, so long as Declarant owns any portion of the Properties or has the right to annex property pursuant to Section 9.1, it may unilaterally amend this Declaration for any other purpose, provided the amendment has no material adverse effect upon any right of any Owner. Thereafter and otherwise, this Declaration may be amended in accordance with Section 19.2(b).

(b) By Owners. Except as otherwise specifically provided in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Neighborhood Representatives representing 67% of the total Class "A" votes in the Association, and the consent of the Declarant, so long as the Declarant owns any Private Amenity or any portion of the Properties or has the right to annex property pursuant to Section 9.1.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

(c) Validity and Effective Date of Amendments. Amendments to this Declaration shall become effective upon recordation in the Register of Deeds of Jasper County and Beaufort County, South Carolina unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within six months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of the Declarant without the written consent of the Declarant or the assignee of such right or privilege as long as the Declarant owns any Private Amenity or any portion of the Properties or has the right to annex property pursuant to Section 9.1.

19.3. Litigation. Except as provided below, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of 67% of the Class "A" vote and the consent of Declarant during Class "B" control period. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens); (b) the imposition and collection of assessments as provided in Article X; (c) proceedings involving challenges to ad valorem taxation; or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the percentage of votes, and pursuant to the same procedures, necessary to institute proceedings as provided above. This Section shall apply in addition to the provisions of Article XVII, if applicable.

19.4. Severability. Invalidation of any provision of this Declaration, in whole or in part, or any application of a provision of this Declaration by judgment or court order shall in no way affect other provisions or applications.

19.5. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

19.6. Cumulative Effect; Conflict. The covenants, restrictions, and provisions of this Declaration shall

be cumulative with those of any Neighborhood and the Association may, but shall not be required to, enforce the covenants, conditions, and provisions of any Neighborhood; provided, however, in the event of conflict between or among such covenants and restrictions, and provisions of any articles of incorporation, by-laws, rules and regulations, policies, or practices adopted or carried out pursuant thereto, those of any Neighborhood shall be subject and subordinate to those of the Association. The foregoing priorities shall apply, but not be limited to, the liens for assessments created in favor of the Association.

19.7. Use of the Words "Sun City Hilton Head". No Person shall use the words "Sun City Hilton Head" or any derivative, or any other term which Declarant may select as the name of this development or any component thereof, in any printed or promotional material without the Declarant's prior written consent. However, Owners may use the words "Sun City Hilton Head" in printed or promotional matter solely to specify that particular property is located within the Properties and the Association shall be entitled to use the words "Sun City Hilton Head" in its name.

19.8. Del Webb Marks. Any use by the Association of names, marks or symbols of Del Webb Corporation or any of its affiliates (collectively "Del Webb Marks") shall inure to the benefit of Del Webb Corporation and shall be subject to Del Webb Corporation's periodic review for quality control. The Association shall enter into license agreements with Del Webb Corporation, terminable with or without cause and in a form specified by Del Webb Corporation in its sole discretion, with respect to permissive use of certain Del Webb Marks. The Association shall not use any Del Webb Mark without Del Webb Corporation's prior written consent.

19.9. Compliance. Every Owner and occupant of any Lot shall comply with this Declaration, the By-Laws, and the rules of the Association. Failure to comply shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, by the Association or, in a proper case, by any aggrieved Owner(s).

19.10. Notice of Sale or Transfer of Title. Any Owner desiring to sell or otherwise transfer title to his or her Lot shall give the Board at least seven days prior written notice of the name and address of the purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. The transferor shall continue to be jointly and severally responsible with the transferee for all obligations of the Owner of the Lot, including assessment obligations, until the date upon which such notice is received by the Board, notwithstanding the transfer of title. The Association may require the payment of a reasonable administration or registration fee by the transferee.

19.11. Attorneys' Fees. In the event of an action instituted to enforce any of the provisions contained in this Declaration, the Articles of Incorporation or the By-Laws, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs, including administrative and lien fees, of such suit. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs shall be a Benefitted Assessment with respect to the Lot(s) involved in the action.

EXHIBIT "A"

Land Initially Submitted

ALL THOSE CERTAIN TRACTS OR PARCELS OF LAND, lying and being in Beaufort County, South Carolina, and being more particularly shown and delineated on a plat prepared for Del Webb Communities, Inc. by Thomas & Hutton Engineering Co., dated April 21, 1994, last revised April 28, 1994, entitled "Boundary Survey Parcels 1a, 1b, 1c and 1d Sun City Hilton Head, Beaufort County, South Carolina," and being recorded on May 2, 1994, in Plat Book 49, Page 102 of the Register of Mesne Conveyances of Beaufort County, South Carolina;

TOGETHER WITH:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND, lying and being in Beaufort County, South Carolina, and being more particularly shown and delineated on a plat prepared for Del Webb Communities Inc. by Thomas & Hutton Engineering Co., dated May 16, 1994, entitled "Boundary Survey Parcel 2 Sun City Hilton Head, Beaufort County, South Carolina," and being recorded on June 1, 1994, in Plat Book 49, Page 155 of the Register of Mesne Conveyances of Beaufort County, South Carolina.

EXHIBIT "B"

Land Subject to Annexation

ALL THAT CERTAIN TRACT OR PARCEL OF LAND, lying and being in Beaufort and Jasper Counties, South Carolina, and being more particularly shown and delineated on a plat prepared for Del Webb Communities, Inc., by Thomas & Hutton Engineering Co., dated September 8, 1993, entitled "Boundary Plat for a portion of the Argent and Okatie Tracts," and being recorded on March 10, 1994, in Plat Book 488, at Page 188 of the Register of Deeds of Beaufort County, South Carolina, and in Plat Book 21, Page 46 of the Register of Deeds of Jasper County, South Carolina;

TOGETHER WITH:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND, lying and being in Beaufort County, South Carolina, and being more particularly shown and delineated on Exhibit 1 to the Amendment to Memorandum of Option dated January 21, 1994, and being recorded on March 10, 1994, in Deed Book 689, Page 2173 of the Register of Deeds of Beaufort County, South Carolina, and in

Deed Book 6, Page 1059 of the Register of Deeds of Jasper County, South Carolina;

TOGETHER WITH:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND, lying and being in Beaufort County, South Carolina, and being more particularly shown and delineated on a plat prepared by Harold R. Johnson, Surveyor, dated May 20, 1960, entitled "Tract 4 of Bull Hill Plantation," and being recorded in Plat Book 12, at Page 55 of the Register of Deeds of Beaufort County, South Carolina and being identified as Parcel No. 1 as shown on the County Tax Map No. 28 for the Bluffton Township District, Beaufort County, South Carolina (PIN #R600-028-000-0001-0000);

TOGETHER WITH:

ALL THAT CERTAIN TRACT OR PARCEL OF LAND lying and being Parcel No. 1 as shown on the County Tax Map No. 79 for Jasper County, South Carolina (PIN #794-00-01-01).

EXHIBIT "C"

Initial Use Restrictions

(a) General. The Properties shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association consistent with this Declaration and any Supplemental Declaration), subject to applicable laws. Any Supplemental Declaration or additional covenants imposed on the property within any Neighborhood may impose stricter standards than those contained in this Declaration and the Association shall have standing and the power to enforce such standards.

(b) Prohibited Activities. The following activities are prohibited within the Properties unless expressly authorized by, and then subject to such conditions as may be imposed by, the Board:

(i) Posting of signs of any kind except those required by law, including posters, circulars and billboards; provided, one professionally lettered "for rent" or "for sale" sign may be displayed on a Lot being offered for lease or for sale if in accordance with any restrictions in size, coloring, lettering and placement of signs as may be adopted by the Board, the Architectural Review Committee and the Modifications Committee and if approved by the Modifications Committee;

(ii) Subdivision of a Lot into two or more Lots after a subdivision plat including such Lot has been approved and filed with the appropriate governmental authority, or changing the boundary lines of any Lot, except that the Declarant shall be permitted to subdivide or change the boundary lines of Lots which it owns;

(iii) Active use of lakes, ponds, rivers, streams, wetlands, or other bodies of water within the Properties or within any Golf Course, except that the owners of any Golf Courses and their agents, successors and assigns, shall have the exclusive right and easement to retrieve golf balls from bodies of water within the Common Areas and except that the Board may allow use of non-motorized boats subject to any rules and regulations it may establish. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, rivers, streams, wetlands or other bodies of water within or adjacent to the Properties;

(iv) Operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Dwelling Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;

(v) Occupancy of a Dwelling Unit by more than two persons per bedroom in the Dwelling Unit. For the purposes of this provision, "occupancy" shall be defined as staying overnight in the Dwelling Unit more than 30 days in any six-month period;

(vi) Capturing, trapping or killing wildlife within the Properties, except in circumstances posing an imminent threat to the safety of persons or pets on the Properties;

(vii) Raising, breeding or keeping of animals or poultry of any kind, except that a total of two dogs and cats and a reasonable number, as determined by the Board, of other usual and common household pets may be permitted on a Lot. However, those pets which are permitted to roam free, or, in the sole discretion of the Board,

make objectionable noise, endanger the health or safety of, or constitute a nuisance or inconvenience to the Owners or occupants of other Lots shall be removed upon request of the Board. If the pet owner fails to honor such request, the Board may remove the pet;

(viii) Feeding, caring, taunting, or playing with any alligators on the Properties;

(ix) Activities which materially disturb or destroy the vegetation, wildlife, or air quality within the Properties or which result in unreasonable levels of sound or light pollution;

(x) Discharge of firearms or explosives within the Properties. The term "firearms" includes "B-B" guns, pellet guns, and other firearms of all types, regardless of size;

(xi) Exterior antennas, aerials, satellite dishes, or other apparatus for the transmission or reception of television, radio, satellite, or other signals of any kind; provided, the Declarant and the Association shall have the right, without obligation, to erect or install and maintain such apparatus for the benefit of all or a portion of the Properties; and

(xii) Conducting any Business, Trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Dwelling Unit may conduct business activities which are commonly conducted within residential areas within the Dwelling Unit so long as: (A) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Dwelling Unit; (B) the business activity conforms to all zoning requirements for the Properties; (C) the business activity does not involve visitation of the Lot or Dwelling Unit by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Properties; and (D) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

This subsection shall not apply to any activity conducted by the Declarant with respect to its development and sale of the Properties or its use of any Lots which it owns within the Properties, including the designation and use of Vacation Villas. The leasing of a Dwelling Unit shall not be considered a Business or Trade within the meaning of this subsection.

(c) Prohibited Conditions. The following shall be prohibited within the Properties:

(i) Walls, dog runs, animal pens, or fences of any kind on any Lot except as approved in accordance with Article XI; provided, the Declarant and the Association shall have the right, without obligation, to construct and maintain fences on any portion of the Properties which they own;

(ii) Open garage doors. Garage doors shall remain closed at all times except when entering and exiting the garage;

(iii) Excessive exterior lighting on any Lot. The Board shall in its sole discretion determine whether any exterior lighting is excessive;

(iv) Tents, shacks, or other structures of a temporary nature on any Lot except as approved in accordance with Article XI or as may be authorized by the Declarant during initial construction within

the Properties. Approved temporary structures used during the construction or repair of a Dwelling Unit or other improvements shall be removed immediately after the completion of construction or repair; and

(v) Storage of furniture, fixtures, appliances, machinery, equipment or other goods and chattels not in active use on the Common Area or any portion of a Lot which is visible from outside the Lot, except as approved in accordance with Article XI.

(d) Leasing. "Leasing," for purposes of this Declaration, is defined as regular, exclusive occupancy of a Dwelling Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. Dwelling Units may be leased only in their entirety. No fraction or portion may be leased. No structure on a Lot other than the primary residential Dwelling Unit shall be leased or otherwise occupied for residential purposes, except that any Lot comprised of more than one acre of land may make residential use of such a structure other than the primary residential Dwelling Unit for an ancillary use such as in-law suite or nanny suite, but not for independent leasing. There shall be no subleasing of Dwelling Units or assignment of leases unless prior written approval is obtained from the Board. All leases shall be in writing. No transient tenants may be accommodated in a Dwelling Unit, and all leases shall be for an initial term of no less than 90 days. The leasing of any Lot is further subject to the restrictions on occupancy set forth in Section 2.2 of the Declaration.

Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Lot Owner within ten days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

Notwithstanding the above, Declarant retains the right to lease any Lot it owns for a period of not less than 30 days, provided the tenant is awaiting the completion of construction of a new home on a Lot he or she owns or is under a binding contract to purchase within Sun City Hilton Head.

(e) Nuisances. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Lot so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other portion of the Properties. Woodpiles or other material shall be stored in a manner so as not to be visible from outside the Lot and so as not to be attractive to native rodents, snakes, and other animals and to minimize the potential danger from fires. No other nuisance shall be permitted to exist or operate upon any Lot so as to be offensive or detrimental to any other portion of the Properties. No activities shall be conducted upon or adjacent to any Lot or within improvements constructed thereon which are or might be unsafe or hazardous to any Person or property. No open fires shall be lighted or permitted on the Properties, except in a contained outdoor fireplace or barbecue unit while attended and in use for cooking purposes or within a safe and well designed interior fireplace.

(f) Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot, except in covered containers of a type, size and style which are approved in accordance with Article XI or as required by the applicable governing jurisdiction. Such containers shall be kept inside garages or other structures on Lots except when they are being made available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from the Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot.

(g) Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Lot.

(h) Vehicles and Parking. The term "vehicles," as used in this Section, shall include, without limitation, automobiles, trucks, boats, trailers, motorcycles, campers, vans, and recreational vehicles.

No vehicle may be left upon any portion of the Properties except in a garage, driveway, parking pad, or other area designated by the Board. Commercial vehicles, recreational vehicles, mobile homes, trailers, campers, boats or other watercraft, or other oversized vehicles, stored vehicles, and unlicensed vehicles or inoperable vehicles shall not be parked within the Properties other than in enclosed garages; provided however, that one recreational vehicle, one camper, or one boat or other watercraft may be temporarily kept or stored completely in a driveway or completely on a parking pad on a Lot for not more than 24 hours within each seven day period.

EXHIBIT "D"

Rules of Arbitration

1. Claimant shall submit a Claim to arbitration under these Rules by giving written notice to all other Parties stating plainly and concisely the nature of the Claim, the remedy sought and Claimant's submission of the Claim to arbitration ("Arbitration Notice").

2. The Parties shall select arbitrators ("Party Appointed Arbitrators") as follows: all the Claimants shall agree upon one Party Appointed Arbitrator, and all the Respondents shall agree upon one Party Appointed Arbitrator. The Party Appointed Arbitrators shall, by agreement, select one neutral arbitrator ("Neutral") so that the total arbitration panel ("Panel") has three arbitrators.

3. If the Panel is not selected under Rule 2 within 45 days from the date of the Arbitration Notice, any party may notify the nearest chapter of The Community Associations Institute, for any dispute arising under the Governing Documents, or the American Arbitration Association, or such other independent body providing arbitration services, for any dispute relating to the design or construction of improvements on the Properties, which shall appoint one Neutral ("Appointed Neutral"), notifying the Appointed Neutral and all Parties in writing of such appointment. The Appointed Neutral shall thereafter be the sole arbitrator and any Party Appointed Arbitrators or their designees shall have no further duties involving the arbitration proceedings.

4. No person may serve as a Neutral in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Any person designated as a Neutral or Appointed Neutral shall immediately disclose in writing to all Parties any circumstance likely to affect impartiality, including any bias or financial or personal interest in the outcome of the arbitration ("Bias Disclosure"). If any Party objects to the service of any Neutral or Appointed Neutral after receipt of that Neutral's Bias Disclosure, such Neutral or Appointed Neutral shall be replaced in the same manner in which that Neutral or Appointed Neutral was selected.

5. The Appointed Neutral or Neutral, as the case may be ("Arbitrator") shall fix the date, time and place for the hearing. The place of the hearing shall be within the Properties unless otherwise agreed by the Parties. In fixing the date of the hearing, or in continuing a hearing, the Arbitrator shall take into consideration the amount of time reasonably required to determine Claimant's damages accurately.

6. Any Party may be represented by an attorney or other authorized representative throughout the arbitration proceedings. In the event the Respondent fails to participate in the arbitration proceeding, the Arbitrator may not enter an Award by default, but shall hear Claimant's case and decide accordingly.

7. All persons who, in the judgment of the Arbitrator, have a direct interest in the arbitration are entitled to attend hearings. The Arbitrator shall determine any relevant legal issues, including whether all indispensable parties are Bound Parties or whether the claim is barred by the statute of limitations.

8. There shall be no stenographic record of the proceedings.

9. The hearing shall be conducted in whatever manner will, in the Arbitrator's judgment, most fairly and expeditiously permit the full presentation of the evidence and arguments of the Parties. The Arbitrator may issue such orders as it deems necessary to safeguard rights of the Parties in the dispute without prejudice to the rights of the Parties or the final determination of the dispute.

10. If the Arbitrator decides that it has insufficient expertise to determine a relevant issue raised during arbitration, the Arbitrator may retain the services of an independent expert who will assist the Arbitrator in making the necessary determination. The scope of such professional's assistance shall be determined by the Arbitrator in the Arbitrator's discretion. Such independent professional must not have any bias or financial or personal interest in the outcome of the arbitration, and shall immediately notify the Parties of any such bias or interest by delivering a Bias Disclosure to the Parties. If any Party objects to the service of any professional after receipt of a Bias Disclosure, such professional shall be replaced by another independent licensed professional selected by the Arbitrator.

11. No formal discovery shall be conducted in the absence of express written agreement among all the Parties. The only evidence to be presented at the hearing shall be that which is disclosed to all Parties at least 30 days prior to the hearing; provided, however, no Party shall deliberately withhold or refuse to disclose any evidence which is relevant and material to the Claim, and is not otherwise privileged. The Parties may offer such evidence as is relevant and material to the Claim, and shall produce such additional evidence as the Arbitrator may deem necessary to an understanding and determination of the Claim. The Arbitrator shall be the sole judge of the relevance and materiality of any evidence offered, and conformity to the legal rules of evidence shall not be necessary. The Arbitrator shall be authorized, but not required, to administer oaths to witnesses.

12. The Arbitrator shall declare the hearings closed when satisfied the record is complete.

13. There will be no posthearing briefs.

14. The Award shall be rendered immediately following the close of the hearing, if possible, and no later than 14 days from the close of the hearing, unless otherwise agreed by the Parties. The Award shall be in writing, shall be signed by the Arbitrator and acknowledged before a notary public. If the Arbitrator believes an opinion is necessary, it shall be in summary form.

15. If there is more than one arbitrator, all decisions of the Panel and the Award shall be by majority vote.

16. Each Party agrees to accept as legal delivery of the Award the deposit of a true copy in the mail addressed to that Party or its attorney at the address communicated to the Arbitrator at the hearing.