

AMENDED AND RESTATED  
DECLARATION OF COVENANTS  
AND RESTRICTIONS  
FOR  
MYRTLE BEACH GOLF & YACHT CLUB  
SUBDIVISION

Developer:  
MYRTLE BEACH GOLF & YACHT CLUB  
A GENERAL PARTNERSHIP  
Post Office Box 8309  
Myrtle Beach, South Carolina 29578-8309

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STATE OF SOUTH CAROLINA	)	AMENDED AND RESTATED
	)	DECLARATION OF COVENANTS AND
COUNTY OF	)	RESTRICTIONS FOR MYRTLE BEACH
HORRY	)	GOLF & YACHT CLUB SUBDIVISION

THIS DECLARATION made by MYRTLE BEACH GOLF & YACHT CLUB, A GENERAL PARTNERSHIP, hereinafter called "Developer";

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain real property located in Socastee Township, Horry County, South Carolina, which particularly described on Exhibit "A" attached hereto and made a part hereof by reference; and

WHEREAS, the Developer proposes to create on such property a subdivision (hereafter referred to as "the Subdivision") containing detached home site lots and multi-family developments or condominium regimes, together with Common Areas as more fully described herein; and

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

- (a) To maintain the value and the residential character and integrity of the residential portions of the Subdivision and to maintain the quality and value of any recreational or commercial portions of the Subdivision,
- (b) To preserve the quality of the natural amenities of the Subdivision,
- (c) To minimize or eliminate the possibility of any disruptions of the peace and tranquility of the residential environment of the subdivision,
- (d) To prevent the abuse of unwarranted alteration of the trees, vegetation, lakes and streams and other bodies of water and natural character of the land in the Subdivision,



recorded in Book 112 at Page 238; by instrument dated August 31, 1989, and recorded in Book 1338 at Page 196; and by instrument dated December 20, 1989, and recorded in Book 1361 at Page 343 (Amended Declaration, as so amended, referred to as the "Declaration"); and

WHEREAS, on December \_\_\_\_\_, 1989, Loyola purchased a portion of the Property from MBG&YC pursuant to order of the United States Bankruptcy Court; and

WHEREAS, the parties hereto now desire to enter into this Amendment to make certain amendments to the Declaration as set forth herein.

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

WHEREAS, by Declaration dated as of October 23, 1984, recorded in the office of the Horry County Clerk of Court on October 26, 1984, in Deed Book 910 at page 250 ("the Original Declaration"), the Developer imposed certain covenants, liens, restrictions and reserved certain easements in and to the property described therein and in this Declaration; and

WHEREAS, the Developer, pursuant to the authority reserved to it in the Original Declaration, the Developer wishes to amend the Original Declaration to read in full as set forth in this Amended and Restated Declaration;

NOW, THEREFORE, the Developer hereby declares that all of the Property described in Exhibit "A" and any additional Property described in Exhibit "B" or so much of it as Developer may, in its sole discretion, see fit to develop or dedicate, as, by subsequent amendment hereto, may be subjected to this Declaration, shall be held, mortgaged, transferred, sold, conveyed, leased, occupied and used subordinate and subject to the following easements, restrictions, covenants, charges, liens and conditions which are hereby imposed for the purpose of protecting the value and desirability of these lands and which restrictions, easements, charges, liens, conditions, and covenants shall touch and concern and run with title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in these described properties or any portion of them. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone or anything who/which purchases or takes any interest in real property within the lands subject to this Declaration. In the event of any conflict between the terms of this Amended and Restated Declaration and the terms of the Original Declaration, the terms of this Amended and Restated Declaration shall control.

## ARTICLE 1

### Definitions

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

Section 1.1 Additional Property shall mean and refer to the real property described in Schedule B attached to this Amendment and all improvements thereon.

Section 1.2 Architectural Review Board means the duly constituted members of the Association appointed by the Board of directors to review and approve the external design appearance and location of improvements or alterations to or of the Property constituting the Subdivision or any portion(s) thereof.

Section 1.3 Assessment shall mean and refer to an Owner's share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided.

Section 1.4 Association means the Myrtle Beach Golf & Yacht Club Association, Inc. (a South Carolina eleemosynary corporation), its successors and assigns.

Section 1.5 Board of Directors shall mean and refer to the Board of Directors of the Association.

Section 1.6 By-Laws of the Association shall mean and refer to those By-Laws of the Association which govern the administration and operation of the Association, as may be amended from time to time.

Section 1.7 Club Charges shall mean and refer to all fees, rentals, food and beverage costs and other charges which are charged by or to an Owner with respect to his use or the use by his family, tenants or guests of the Recreational Amenities or for the purchase of services or goods provided or sold in connection with the Recreational Amenities.

Section 1.8 Common Areas shall mean and refer to all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or designated by the Developer as Common Areas.

Such areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public and the general public shall thereby have no easement of use or enjoyment therein.

Specifically included as part of the Common Areas are all maintenance areas, streets roads, alleys, parking lots and parking areas, medians, green areas, walkways, sidewalks, jogging trails, bike paths, street lighting, signage, lagoons, streams ponds, easement areas designated as Common Areas, access easements across real property, parks, golf courses and other Recreational Amenities as hereinafter defined, and such other lands and/or improvements as, by subsequent amendment of or supplement to this Declaration, may be subjected to this Declaration and designated as Common Areas by the Developer. However, no general plan or plat of the Properties showing areas which may later be developed as additional phases of the Development shall be deemed to include such property as Common Areas nor shall the Association or any Owner be entitled to any right, title or interest in such property unless and until such property shall have been formally included as a part of the Subdivision by the Developer pursuant to the terms hereinafter contained.

Section 1.9 Common Expenses shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of financial, equipment, or material reserves, consistent with the provisions and intent of this Declaration.

Section 1.10 Declaration shall mean this Amended and Restated Declaration and all predecessors, supplements and amendments to this Declaration as filed in the office of the Horry County Clerk of Court.

Section 1.11 Developer means (a) Myrtle Beach Golf & Yacht Club, Inc., its successors and assigns, as to any portion or portions of the Property now or hereafter owned in fee simple by Myrtle Beach Golf & Yacht Club, Inc. and (b) Loyola Federal Savings & Loan Association, its successors and assigns as to any portion or portions of the Property at any time owned in fee simple by Loyola Federal Savings & Loan Association provided, however, that each such successor or assignee must be the simple owner of at least (a) fifteen (15) Lots and/or Dwellings and/or (b) any Multi-Family Area.

Loyola Federal Savings & Loan Association shall have the right but not the obligation to assign, in whole or in part, to one or to multiple assignees, its rights as Developer, with each such assignee having such rights as to the portion of Property acquired by it and provided that once any such assignee or successor of Loyola Federal Savings & Loan Association has attained the status of Developer, such assignee or successor shall continue to be a Developer and shall retain all of its rights as Developer until such assignee or successor no longer owns any portion of Property.

Section 1.12 Dwelling shall mean and refer to any improved real property for which a certificate of occupancy has been issued located within the Development and intended for use as (i) a single family detached or duplex Dwelling or (ii) a townhouse condominium unit or patio or cluster home, whether detached or attached; or (iii) apartment, cooperative living unit or condominium unit in a midrise or high-rise building.

Section 1.13 Foreclosure shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

Section 1.14 Institutional Mortgage shall mean a Mortgage held by a bank, trust company, insurance company or other recognized lending institution, or by an institutional or governmental purchaser or mortgage loans in the secondary market, such as, but not limited to Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

Section 1.15 Lease shall mean and refer to any lease, sublease or rental contract, whether oral or written and for a term of hours, days months or years.

Section 1.16 Living Space shall mean and refer to enclosed and covered areas within a Dwelling, exclusive of garages, unenclosed porches, terraces, balconies, decks, patios, courtyards, greenhouses, atriums, bulk storage areas, attics and basements.

Section 1.17 Lot shall mean and refer to those portions of the Subdivision identified as "Lots" on Exhibit "A" attached hereto, together with any portions of the Additional Property that may be so designated from time to time by the Developer, but shall not include any Common Areas or Multi-Family Areas as defined herein.

Section 1.18 Mortgage with an initial capital letter shall mean and refer to a mortgage, security deed, deed of trust, installment land sales contract and security agreement or other similar security instrument granting, creating or conveying a lien upon, a security interest in, or a security encumbered title to a Dwelling Multi-Family Area or Common Area.

Section 1.19 Mortgagee with an initial capital letter shall mean and refer to the holder of a Mortgage.

Section 1.20 Multi-Family Area Shall mean and refer to any portion of the Subdivision designated as such by the Developer in which common elements are owned by either the Owners of Dwellings in such Multi-Family Area as tenants-in-common or by the Multi-Family Association composed of such Owners, pursuant to a Horizontal Property Regime within the Subdivision upon which there will be constructed either attached townhouses, condominium units, cooperative units, cluster homes, patio homes or similar multi-family structures.

Section 1.21 Multi-Family Association or Subordinate Regime shall mean and refer to a corporation or an unincorporated association the shareholders or members of which are all Owners of Dwellings within a Multi-Family Area or within any subordinate property development, residential, commercial, or mixed, within the Subdivision, whether submitted to a horizontal property regime or made subject to further or additional restrictions/covenants of ownership and control.

Section 1.22 Multi-Family Declaration shall mean and refer to any instrument or document, and any amendments thereto, which is recorded in the Office of the Clerk of Court for Horry County, South Carolina with respect to any Multi-Family area and which creates a townhouse, patio home, cluster home, cooperative regime, or condominium or horizontal property regime for such Multi-Family Area or imposes covenants, conditions, easements and restrictions with respect to such Multi-Family Area.

Section 1.23 Occupant shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, licensee, lessee, tenant, transient paying guest, or family member of an Owner lawfully occupying or otherwise using a Dwelling within the Subdivision.

Section 1.24 Owner with an initial capital letter, shall mean and refer to one or more persons or entities, including Developer, who or which own(s) fee simple title to any Dwelling, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Dwelling, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" shall also refer to the heirs, successors and assigns of any Owner.

Section 1.25 Person shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust, or any other legal entity or any combination thereof.

Section 1.26 Recreational Amenities shall include such recreational facilities or club and improvements owned by and so designated by Developer and are, from time to time, located within the Subdivision or located within or dedicated to the Common Areas, including, without limitation, golf courses and related facilities, tennis courts, sporting or exercise areas, meeting areas, swimming pools, tennis pro shops, locker room facilities, clubhouses, food and beverage facilities, lagoons, jogging trails and bike paths.

Section 1.27 Subdivision with an initial capital letter, shall mean and refer to those tracts or parcels of land described on Exhibit "A", together with all improvements presently thereon and subsequently constructed thereon, and, upon the submission to the provisions of

this Declaration of the tracts or parcels of land described in Exhibit "B", or any portion thereof, shall mean and refer to the real property described in Exhibit "A" and the real property described in Exhibit "B" or such portion thereof so submitted, together with all improvements thereon or thereafter constructed thereon.

Section 1.28 Subdivision Plat shall mean and refer to that certain plat prepared by Sur-Tech, Incorporated, dated October 23, 1984, recorded in the office of the Clerk of Court for Horry County, South Carolina, in Plat Book 83 at page 9 as amended by that certain plat prepared by Sur-Tech, Incorporated, dated January \_\_\_\_, 1985, recorded in said Clerk's office in Plat Book \_\_\_\_ at page \_\_\_\_, together with: (i) any future revisions thereof; or (ii) any subdivision plat for any portion of the Additional Property as may be submitted to the terms of this Declaration, and recorded from time to time said Clerk's office.

Section 1.29 Annual Assessment shall have the meaning set forth as Section 6.1 of the Declaration.

Section 1.30 Special Assessment shall have the meaning set forth in section 6.1 and Section 6.4 of the Declarations.

Section 1.31 Developer Assessment shall have the meaning set forth in Section 6.10 of this Amendment.

## ARTICLE II

### Plan of Development

Section 2.1 Plan of Development of the Subdivision. The Subdivision initially shall consist of the Property described in Exhibit "A" attached hereto. The Property shall also include certain improvements to the Common Areas, including roads, utility systems, drainage systems and other improvements serving the Dwellings, and various Recreational Amenities to the extent the same are, from time to time, installed and existing and submitted to the provisions hereof. The dimensions of the Subdivision shall be subject to the covenants and easements and restrictions set forth in this Declaration.

Developer shall have the right, but not the obligation, for so long as Developer: (i) owns any portion of the Common Areas; or (ii) owns any Multi-Family Area; or (iii) owns any Dwelling primarily for the purpose of sale of the Dwelling; or (iv) has the option to add the Additional Property or any portion thereof to the Development, to make improvements and changes to all Common Areas and to any or all Dwellings or any other property owned by Developer: (i) installation and maintenance of any improvements in and to the Common Areas, including the Recreational Amenities; (ii) changes in the location of the boundaries of the Common Areas, any Recreation Amenities, and any Dwellings owned by Developer or of the dedicated or undedicated Common Areas; (iii) installation and maintenance of any water, sewer

and other utility systems and facilities, to include but not limited to, T.V. cable and its various attendant services and telephone service to include teletype or computer, telex, news service, or any such like instrument used in the transmittal, reception, or retrieval of messages, facts, or information; and (iv) installation of security and/or refuse facilities. The Developer and the Association, as the case may be, shall have the right to assess and collect reasonable fees and charges for the use of Recreational Amenities.

Section 2.2 Plan of Development of Additional Property. Developer hereby reserves the option, to be exercised in its sole discretion, to submit at any time, or from time to time, the Additional Property or a portion or portions thereof to the provisions of this Declaration and thereby to cause the Additional Property or a portion or portions thereof to become part of the Property. Developer reserves the right to plan, design, develop, construct, maintain and manage the Common Areas, the Additional Property, the Recreational Amenities, the Multi-Family Areas and any unsold Dwelling as Developer deems necessary or convenient for its purpose, except as otherwise expressly stated in this Declaration, including without limitation the right to expand the number, size and density of the unsold Dwellings, the Common Areas the Multi-Family Areas, the Recreational Amenities and the Additional Property. This option may be exercised by Developer in accordance with the following rights, conditions and limitations, which are the only conditions and limitations on such option to add all or any portion of the Additional Property to the Development.

This option to add additional property/phase(s) may be exercised from time to time during a period of fifteen (15) years from the date of recordation of this Declaration; provided, however, that Developer reserves the right to terminate such option at any time prior to the expiration of such fifteen year period by executing and filing an agreement evidencing such termination by the Office of the Clerk of Court of Horry County, South Carolina, and except for such termination by Developer, no other circumstances will terminate such option prior to the expiration of such fifteen year period.

The legal description of the Additional Property is set forth on Exhibit "B"; portions of the Additional Property may be added to the Development at different times, and there are no limitations fixing the boundaries of those portions or regulating the order, sequence or location in which any such portions may be added to the Development. The exercise of the option to submit a portion of the Additional Property to the Declaration shall not bar the further exercise of this option as to other portions or the balance of the Additional Property.

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

If the Additional Property or any portion thereof is added to the Development, Developer reserves the right to designate and restrict the boundaries of the Dwellings, Recreational

Amenities, Multi-Family Areas, any Commercial Properties as well as the Common Areas, if any, to be added to the Development in connection therewith.

Should the option to add the Additional Property or any portion of it not be exercised within the term specified herein or be terminated by Developer, such option shall in all respects expire and be of no further force and effect. DEVELOPER SHALL NOT BE OBLIGATED TO IMPOSE ON THE ADDITIONAL PROPERTY OR ANY PORTION OF IT, ANY COVENANTS, CONDITIONS, OR RESTRICTIONS THE SAME OR SIMILAR TO THOSE CONTAINED HEREIN AND THAT PROPERTY NOT SUBMITTED WILL BE FREE OF ANY COVENANT OR CONDITIONS WHATSOEVER UNLESS OTHERWISE AFFIRMATIVELY IMPOSED.

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

The option reserved under this Section 2.2 may be exercised by Developer only by the execution of an amendment to this Declaration which shall be filed in the Office of the Clerk of Court for Horry County, South Carolina, together with a revision of or an addition to the Site Plan showing the Additional Property or such portion or portions thereof as are being added to the Development by such amendment, as well as the Dwellings, Recreational Amenities, Common Areas, Multi-Family Areas, or other types of Property located within the Subdivision.

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

Any such amendment shall expressly submit the Additional Property or such portion of it to all the provisions of this Declaration, and upon the exercise, if any, of such option or options, the provisions of this Declaration, and upon the exercise, if any, of such option or options, the provisions of this Declaration shall then be construed as embracing the real property described in Exhibit "A" and the Additional Property or such portions or portions thereof so submitted to the terms hereof, together with all improvements thereon.

If the Additional Property or any portion or portions of it is added to the Development, then from and after the addition to the Development of the Additional Property or such portion or portions by such amendment to this Declaration, the number of votes in the Association shall be modified to include the Dwellings to be located on the Additional Property or such portion or portions of it as are added, so that there shall continue to be one vote in the Association per Dwelling in the Subdivision, and the total number of votes in the Association shall be increased by the number of Dwellings added as determined by the formulae provided in this document for the voting rights for any Dwelling or Developer-owned facility located on the Additional Property or such portion or portions thereof as are added.

Notwithstanding anything to the contrary, Developer, its successors and assigns, agree that it shall not unilaterally amend the Declaration to add any Additional Property other than that which is described on Schedule B attached to this Amendment. The addition of any property not described on Schedule "B" attached to this Amendment shall require an amendment as set forth in Section 8.5 (b) of the Declaration.

Section 2.3 Multi-Family Associations. In the event that Developer submits the Additional property or any portion or portions thereof to the terms of this Declaration, there will be established by Developer, its successors or assigns, other than recreational Amenities and/or Developer-owned properties, commercial or otherwise, only Multi-Family Associations structured as horizontal property regimes and similar multi-family projects, the membership of which shall be limited to the Owners of Dwellings within the Multi-Family Areas located within such portion or portions of the Additional Property so submitted in order to promote the health, safety and social welfare of the Owners of Dwellings therein, as well as to provide for the maintenance of Dwellings, or other improvements and/or other common elements owned by such Owners and/or such Multi-Family associations, provided that such Owners shall also be members of the Association and such Dwellings and other improvements shall continue to be subject to the terms of this Declaration. Such Multi-Family Areas may be subject to Multi-Family declarations which impose covenants and restrictions which are in addition to, but not in abrogation or substitution of, those imposed hereby, and such Multi-Family Associations may levy additional assessments and make and enforce supplementary covenants, restrictions, rules and regulations with respect to such Multi-Family Areas.

Section 2.4 Commercial Associations. In the event that Developer submits the Additional Property or any portion or portions thereof to the terms of this Declaration, there may be established by Developer, its successors or assigns Commercial Associations limited to the Owners of commercial property located within such portions or portions of the Additional Property so submitted in order to promote their health, safety, and well-being as well as to provide for the maintenance and appearance of the commercial property, other improvements and/or other Common Elements owned by such Owners and/or such Commercial Associations, provided that such Owners shall also be members of the Association and such commercial property and other improvements shall continue to be subject to the terms of the Declaration.

Such Commercial Areas may be subject to property owner declarations which impose covenants and restrictions which are in addition to, but not in abrogation or substitution of, those imposed hereby and such Commercial Associations may levy additional assessments and make and enforce supplementary covenants, restrictions, rules and regulations with respect to such Commercial Center Areas, and among themselves as may be agreed upon/imposed from time to time.

Section 2.5 Utilities and Related Facilities. Developer, its affiliates, successors and assigns shall retain ownership of the water and sewer treatment facilities, and telephone, master television antennas and/or cable system facilities serving the Subdivision, including all lines, plugs, conduits, outlets, pipes, pumps, water towers or tanks, cables and wires, and other systems related thereto which are located within the Subdivision. Water and sewer treatment service, telephone, master television antennas and/or cable system services shall be provided to the Subdivision pursuant to the terms of agreements between the Association and Developer, its affiliates, successors or assigns.

Notwithstanding the foregoing, Developer, its affiliates, successors or assigns owning such water and sewer treatment facilities, telephone, master television antennas and/or cable system facilities, or any of them, shall have the right, but not the obligation, to convey at any time all or any part of such facilities to either the Association as a portion of the Common Areas or to a municipality, public authority, governmental agency, public service district or a public or private utility.

Section 2.6 Interest subject to Plan of Development. Every Purchaser of a Dwelling or any portion of the Subdivision shall purchase such Dwelling or other Property and every Mortgagee and lien holder holding an interest therein shall take title, or hold such security interest with respect thereto, with notice of Developer's plan of development as set forth herein, and Developer shall have and does hereby specifically reserve the right to add the Additional Property or any portion or portions thereof to the Subdivision as hereinabove provided, and, with respect to each Dwelling or other Property located within the Additional Property, to convey to the purchaser thereof the title to the Dwelling or other Property and its appurtenant membership and voting rights in the Association. Any provision of this Declaration to the contrary notwithstanding, the provisions of the foregoing plan of development set forth in this Article may not be abrogated, modified, rescinded, supplemented or amended in whole or in part without the prior written consent of Developer.

### ARTICLE III

The Association; Membership and Voting Right

Section 3.1 The Association. The Developer has established or will establish the Association for the purpose of exercising powers of maintaining and administering common facilities and providing common services, administering and enforcing covenants, conditions and restrictions contained herein, and levying, collecting and disbursing assessments and charges herein created. Further, the Developer reserves the rights to convey to the Association and the Association agrees to accept any or all of its rights and obligations set forth herein.

Section 3.2 Rules and Regulations. The Association may adopt from time-to-time additional reasonable rules and regulations governing the use of Common areas, Recreational amenities and Dwellings.

Section 3.3 Membership. Every person or entity who is an owner of any Dwelling which is subjected by this Declaration to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Dwelling which is subject to assessments.

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

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

Class B. The sole Class B member shall be the Developer. The Class B member shall be entitled to four votes for each Dwelling in which it holds the interest required for membership under Section 3.3 above. The Class B membership shall cease and become converted to Class A membership upon the occurrence of the first of either of the following two events.

1. When the total votes held by in the Class A member equal or exceed the total votes held by the Class B member (Dwellings shall include those Dwellings contained in or situate on any Additional Property which Developer shall hereafter bring under the terms of this Declaration) or

2. October 20, 1989.

When a purchaser of an individual Dwelling or Dwellings takes title thereto from the Developer, such purchaser becomes a Class A Member.

Section 3.5 Initial Assessment.

Purchase From Developer. There shall be assessed by the Association and collected from the new purchaser of each unimproved, single family Lot existing on the date of this Amendment and each single family Dwelling existing on the date of this Amendment from the Developer a transfer fee ("Developer Transfer Fee") equal to one-fourth of one percent (1/4%) of, as applicable, (i) the sales price of such Lot, or (ii) the sales price of such Dwelling less the portion thereof attributable to improvements located thereon, which Developer Transfer Fee shall be paid to the Association and used by the Association for its regular operations and/or reserves. In the event of nonpayment of such Developer Transfer Fee, the amount due shall bear interest and shall be due and collectible as an assessment as set forth in Article VI of the Declaration. The Association may require the purchasing Owner and/or to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds or other such evidence.

Section 3.6 Transfer Fee. Excluding the first sale of each Dwelling from the Developer to an Owner, but including all subsequent sales of all Dwellings, there shall be assessed by the Association and collected from the new purchaser of each Dwelling a transfer fee equal to one-fourth per cent (1/4%) of the sales price of such Dwelling, which transfer fee shall be paid to the Association and used by the Association for its regular operations and/or reserves. In the event of non-payment of such transfer fee the amount due shall bear interest and shall be collectible as an assessment as set forth in Article VI hereof. The Association may require the purchasing and/or selling Owner to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deed, or other such evidence.

This section shall not apply to conveyances from the Developer to Coastal Construction Management, Inc., nor to conveyances from Coastal construction Management, Inc. To the Developer, neither of which conveyances shall be deemed to be a "sale" within the meaning of this section.

Section 3.7 Association May Require Single Property Management Firm. The Association may require any and all Multi-Family or Commercial Associations established with respect to any portion of the Subdivision to exclusively utilize the same property management firm as utilized by the Association.

#### ARTICLE IV

##### Property Rights in the Common Areas

Section 4.1 Owners' Easements of Enjoyment Subject to the provisions of Section 4.3 below, every Owner shall have a non-exclusive right and easement of enjoyment in and to the dedicated Common Areas, and such easement shall be appurtenant to and shall pass with the title to every Dwelling.

Section 4.2 Title to Common Areas. The Developer hereby covenants for itself, its successors and assigns, that on or before October 20, 1989, it will convey to the Association, in such portions as may be convenient to the Developer by limited warranty deed or deeds fee simple title to the Common Areas, subject, however, to all liens and encumbrances of record and to the following covenant, which shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns:

“In order to preserve and enhance the property value and amenities of the community, the common Areas and all facilities now or hereafter built to installed thereon shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Areas shall include, but not be limited to, the repair of damage to pavements, roadways, walkways, outdoor lighting, buildings, recreational equipment, if any, fences, storm drains, signs, and sewer and water and other utility lines, connections and appurtenances.”

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

Notwithstanding anything to the contrary contained herein, on or before January 1, 1992, Developer shall convey all roadways and rights of way then owned by Developer within the Property (except those within Multi-Family Areas) to the Association and the Association shall accept title to all such roads and the Association shall bear all cost and responsibility for maintenance, repair and operation of all such roads.

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

- (a) The right of the Developer, and of the Association, to dedicate, transfer or convey all or any part of the Common Areas, with or without consideration, to any successor association, governmental body, district, agency or authority, or any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Areas by the Owners;
- (b) The right of the Developer, and of the Association, to grant, reserve and accept easements and right-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public or private water, drainage, fuel oil and other utilities and services, including a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Developer to grant and reserve easements and rights-of-way through, over

and upon and across the Common Areas for the completion of the Development, and for the operation and maintenance of the Common Area.

- (c) The right of visitors, invitees, etc. to ingress and egress in and over those portions of the Common Areas that lie within the private roadways, parking lots and/or driveways (and over any other necessary portion of the Common Areas in the case of landlocked adjacent Owners) to the nearest public highway;
- (d) The right of the Association, as provided in its By-Laws, to suspend the enjoyment rights of any Owner for any period during which any assessment remains unpaid, for a period not to exceed thirty (30) days for any infraction of its published rules and regulations; provided, however, that the right of an Owner to ingress and egress over the roads and/or parking areas shall not be suspended;
- (e) The rights of the Developer and the Association, as the case may be, to establish rules and regulations for the Subdivision and to prescribe fees and charges from time to time for use of the Recreational Amenities.

Section 4.5 Delegation of Parking Rights. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Areas and facilities to his employees, tenants, invitees or licensees.

Section 4.6 Additional Structures. Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of Developer and the Architectural Review Board, erect, construct or otherwise locate, or permit the existence of, any structure of other improvement in the Common Areas.

Section 4.7 Access. All Owners, by accepting title to Dwellings conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such Dwelling and acknowledge and agree that such access, ingress and egress shall be limited to roads, sidewalks, walkways and trails located within the Subdivision from time to time, provided that pedestrian and vehicular access to and from all Dwellings shall be provided at all times.

There is reserved unto Developer, the association and their respective successors and assigns the right and privilege, but not the obligation: (i) to maintain guarded or electronically monitored gates controlling vehicular access to and from the Subdivision; and (ii) to require payment of toll charges for use of roads within the Subdivision by permitted commercial traffic or by members of the general public, provided that in no event shall any such tolls be applicable to any Owner or his family, tenants or guests or to those individuals designated by Developer and their families and guests.

Section 4.8 Easements for Developer. During the period that Developer owns any common Area, or owns any Dwelling primarily for the purpose of sale or has the option to add the Additional Property or any portion thereof to the Subdivision, Developer shall have an alienable and transferable right and easement on, over, through, under and across the Common areas for the purpose of constructing Dwellings, any improvements to the Common Areas, the Multi-Family Areas and the Additional Property and for installing, maintaining, repairing and replacing such other improvements to the Subdivision (including the Recreational Amenities and other portions of the Common Areas) as are contemplated by this Declaration or as Developer desires, in its sole discretion, including without limitation any improvements or changes permitted and described in this Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, provided that in no event shall Developer have the obligation to do any of the foregoing.

Section 4.9 Changes in Boundaries; Additions to Common Areas. Developer expressly reserves for itself and its successors and assigns the right to change and realign the boundaries of the Common Areas and any Dwellings, Recreational Amenities or Multi-Family Areas owned by Developer, including the realignment of boundaries between adjacent Dwellings, Common Areas, and/or Multi-Family Areas owned by Developer. In addition, Developer reserves the right, but shall not have the obligation, to convey to the Association at any time, and from time to time, any portion of the Additional Property, such real property to be conveyed to the Association as an addition to Common Areas and subject to the other provisions set forth in this Declaration.

Section 4.10 Easements for Utilities. There is hereby for the benefit of the Developer, the Association and their respective successors and assigns the alienable, transferable and perpetual right and easement, as well as the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person upon, over, under and across: (i) all of the Common Areas; (ii) all portions of the Multi-Family Areas in which Dwellings are not constructed or erected; (iii) an area across every Lot five (5') feet in width along the front and side boundary lines thereof, and ten (10') feet in width along the rear boundary lines thereof; for the purpose of installing, replacing, repairing, maintaining and using master television antenna and/or cable systems, security and similar systems, and all utilities, including but not limited to storm sewers and drainage systems and electrical, gas, telephone, water and sewer lines.

Such easements may be granted or accepted by Developer, its successors and assigns or by the Board of Directors; provided, however, that for so long as Developer owns any portion of the Common Areas, owns any Dwelling primarily for the purpose of sale or has the option to add the Additional Property or any portion thereof to the subdivision, the Board of Directors must obtain the written consent of Developer prior to granting or accepting any such easements. To the extent possible, all utility lines and facilities serving the Subdivision and located therein shall be located underground. By virtue of any such easement and facilities, it

shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Subdivision so encumbered: (i) to erect and maintain pipes, lines, manholes, pumps and other necessary equipment and facilities; (ii) to cut and remove any trees, bushes or shrubbery; (iii) to grade, excavate or fill; or (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

Section 4.11 Easements for Walks, Trails and Signs There is hereby reserved for the benefit of Developer, the Association and their respective successors and assigns the alienable, transferable and perpetual right and easement upon, over and across: (i) all portions of the Multi-Family Areas in which Dwellings are not constructed or erected; and (ii) all other lands which may remain unimproved for the installation, maintenance and use of sidewalks, jogging trails, bike paths, traffic directional signs and related improvements.

Section 4.12 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents and employees, including but not limited to any property manager employed by the Association and any employees of such manager, to enter upon any Dwelling, or Multi-Family Area or any portion thereof in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner, occupant or Multi-Family Association, or to Owner(s) or Multi-Family Area affected.

Section 4.13 Sales Offices, Rental Offices, Property Management Offices and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Developer, its successors and assigns, the perpetual, alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, rental offices, property management offices, construction offices, business offices and model Dwellings, together with such other facilities as in the sole opinion of Developer reasonably may be required, convenient or incidental to the completion, management, rental, improvement and/or sale of Dwellings, Multi-Family Areas, Common Areas or the Additional Property.

Section 4.14 Easements for Additional Property. There is hereby reserved in the Developer, its successors, assigns and successors in title to the Additional Property, for the benefit of and as an appurtenance to the Additional Property, for the benefit of and as an appurtenance to the Additional Property and as a burden upon the Subdivision, perpetual, non-exclusive rights and easements for: (i) pedestrian and vehicular access, ingress, egress and parking over, across, within and on all roads, sidewalks, trails, parking facilities and lagoons from time to time located on or within the Common Areas or within easements serving the Common Areas; (ii) the installation, maintenance, repair, replacement and use of security systems and utility facilities and distribution lines, including without limitation drainage systems, storm sewers and

electrical, gas, telephone, water, sewer and master television antenna and/or cable system lines; and (iii) drainage and discharge of surface water onto and across the Subdivision, provided that such drainage and discharge shall not materially damage or affect the Subdivision or any improvements from time to time located thereon.

Section 4.15 Maintenance Easement. Subject to the other terms of this Declaration, there is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement to enter upon any improved portions of any Dwelling or Multi-Family Area for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Subdivision; provided that such easements shall not impose any duty or obligation upon the Developer or the Association to perform any such actions.

Furthermore, there is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement, but not the obligation, to enter upon any unimproved portions of Dwelling or Multi-Family Areas which are located within twenty (20') feet from the water's edge of any lagoon, pond or other body of water within the Subdivision for the purpose of mowing such area and keeping same clear and free from unsightly growth and trash, as well as for the purpose of maintaining such body of water, such maintenance to include, without limitation, dredging and the maintenance of reasonable water quality standards.

Section 4.16 Environmental Easement. There is hereby reserved for the benefit of the Developer, the Association and their respective agents, employees successors and assigns an alienable, transferable and perpetual right and easement on, over and across all unimproved portions of the Common Areas, Dwellings and Multi-Family Areas for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include without limitation the right to implement erosion control procedures, the right to drain standing water and the right to dispense pesticides.

Section 4.17 Wells and Effluent. There is hereby reserved for the benefit of Developer, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement: (i) to pump water from lagoons, ponds and other bodies of water located within the Subdivision for the purpose of irrigating any portions of the Subdivision and for other purposes; (ii) to drill, install, locate, maintain and use wells, pumping stations, water towers, siltation basins and tanks and related water and sewer treatment facilities and systems within the Common Areas, including within any portion of the Recreational Amenities; or (iii) to spray or locate any treated sewage effluent within the Common areas, including within any portion of the Recreational Amenities or upon any unimproved portions of any dwelling, or Multi-Family Area.

Section 4.18 Conservation Easements. There is hereby reserved for the benefit of the Developer, the association and their respective agents, employees, successors and assigns and alienable, transferable and perpetual right, easement and restriction across those portions of Lots, Multi-Family Areas and Common Areas shown as conservation Easements on the Subdivision Plat, as follows:

- (a) No Construction of any kind shall be allowed in such conservation easements areas;
- (b) Such conservation easement areas shall be maintained in their natural state, but this restriction shall not prohibit or prevent the removal of trash, weeds, or dead or decaying or diseased vegetation, nor shall this restriction prohibit the Developer or the Association from utilizing such conservation easement areas for drainage or other utility purposes and
- (c) Such conservation easement shall also include the right to flood such conservation easement areas with water as a part of the maintenance, preservation or expansion of streams lagoons, lakes and other bodies of water in the Subdivision or nearby.

Provided, however, that the requirements of this Section 4.18 may be modified or released in whole or in part by the Developer, its successors and assigns.

Section 4.19 No Partition There shall be no judicial partition of the subdivision or any part thereof, nor shall any person acquiring any interest in the Subdivision or any part thereof seek any such judicial partition unless the Subdivision has been removed from the provisions of this Declaration.

#### Article V

Right of Association to Alter, Improve, Maintain and Repair Common Areas and Portions of Dwellings.

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

Section 5.2 Responsibilities of Owners and Multi-Family Associations. Unless specifically identified herein or in a Multi-Family Declaration as being the responsibility of any Owner or a Multi-Family Association, all maintenance and repair of Dwellings, together with all other improvements thereon or therein and all lawns, landscaping and grounds on and within a Dwelling shall be the responsibility of the Association. Unless otherwise provided in the

appropriate Multi-Family Declaration, the maintenance and repair of all Common Areas or common elements located within Multi-Family areas (including all landscaping and grounds and all recreational facilities and other improvements located within such Multi-Family Area) shall be the sole responsibility of the Association.

Developer shall be responsible for Developer-owned properties. Each Owner or Multi-Family Association shall be responsible for maintaining his or its Dwelling or Multi-Family Area, as the case may be, in a neat, clean and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of all Dwellings, buildings and other structures. All Common area lawns, trees, shrubs, hedges, grass, natural areas, and other landscaping shall be maintained by the Association. As provided in Section 5.3(b) hereof, each Owner or Multi-Family Association shall also be obligated to pay for the costs incurred by the Association for repairing, replacing, maintaining or cleaning any item which is the responsibility of such Owner or Multi-Family Association, but which responsibility such Owner or Multi-Family Association fails or refuses to discharge. No Owner or Multi-Family Association shall: (i) decorated, change or otherwise alter the appearance of any portion of the exterior of a Dwelling or within a Multi-Family Area unless such decoration, change or alteration is first approved, in writing, by the Architectural Review Board as otherwise provided herein; or (ii) do any work which, in the reasonable opinion of the Architectural Review Board, would jeopardize the soundness and safety of the Subdivision, reduce the value thereof, or impair any easement or hereditament thereto, without in every such case obtaining the written approval of the Architectural Review Board and the Owners and Mortgagees of the Dwellings directly affected thereby or benefiting from such easement or hereditament.

Each Owner (other than a Developer) shall be responsible for maintaining all lawns, trees, shrubs, hedges, grass, natural areas and other landscaping located on his or its property which is not Common Area. Notwithstanding anything to the contrary contained herein, the Developer shall be responsible for maintaining the Lots and Dwellings owned by such Developer in a manner consistent with lot maintenance practices prior to the date of this Amendment and shall bear all costs relating thereto.

### Section 5.3 Association's Responsibility

- (a) Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas, which responsibility shall include the maintenance, repair and replacement of: (i) all roads, walks, trails, lagoons, ponds, parking lots, landscaped areas/natural areas and other improvements situation within the Common Areas or within easements encumbering Dwellings, or Multi-Family Areas; (ii) such security systems and utility lines, pipes, plumbing, wires, conduits and related systems which are a part of the Common Areas and which are not maintained by the Developer or a public authority, public service district, public or private utility or

other person; and (iii) all lawns, trees, shrubs, hedges, grass and other landscaping situation within the Subdivision as it may be constituted from time to time.

The Association shall not be liable for injury or damage to any person or property (A) caused by the elements or by any Owner or any other person, (B) resulting from any rain or other surface water which may leak or flow from any portion of the Common Areas, or (C) caused by any pipe, plumbing, drain, conduit, appliance, equipment, security system or utility line or facility, the responsibility of the maintenance of which is that of the Association, becoming out of repair.

Nor shall the Association be liable to any Owner for loss or damage, by theft or otherwise, of any property of such Owner which may be stored or left in or upon any portion of the Common Areas or any other portion of the Subdivision. No Diminution or abatement of assessments or any dues or charges shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the association, or from any action taken by the Association to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments and Club Dues being a separate and independent covenant on the part of each Owner.

(b) In the event that the Developer or the Board of Directors determines that: (i) any Owners, Multi-Family Association or Commercial Center Association has failed or refused to discharge properly his or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he or it is responsible hereunder; or (ii) that the need for maintenance, cleaning, repair, or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, his family, tenants, guests or invitees, and is not covered or paid for by insurance in whole or in part, then, in either event, the Developer or the Association, except in the event of an emergency situation, may give such Owner, Multi-Family Association or commercial Center Association written notice of the Developer's or the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost of expense of such Owner, Multi-Family Association or Commercial Center Association, as the case may be, and setting forth with reasonable particularity the maintenance, cleaning, repairs or replacement deemed necessary.

Except in the event of emergency situation, such Owner, Multi-Family Association or Commercial Center Association, as the case may be, shall have fifteen (15) days within which to complete the same in ad and workmanlike manner. In the event of emergency situations or the failure of any Owner, Multi-Family Association or Commercial Center Association to comply with the provisions hereof after such notice, the Developer or the

Association may provide (but shall not have the obligation to so provide) any such maintenance, cleaning, repair or replacement at the sole cost and expense of such Owner, Multi-Family Association or Commercial Center Association, as the case may, and said cost shall be added to and become a part of the assessment to which such Owner and his Dwelling or Commercial Center Association are subject and shall become a lien against such Dwelling or Commercial Center Association, or, in the case of a Multi-Family Association or Commercial Center Association, shall be added to and become a part of the assessments for all Owners within such Multi-Family Association or Commercial Center Association and shall become a lien against such Owners' Dwelling or Commercial Units. In the event that the Developer undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse the Developer's costs and expenses.

## ARTICLE VI

### Covenant for Maintenance Assessments

Section 6.1 Creation of a Lien and Personal Obligation of Assessment. The Developer, for each Dwelling and Lot owned within the Properties, hereby covenants, and each Owner of any Dwelling and Lot by Acceptance of a deed therefore, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges for the maintenance of the Common Areas, including such reasonable reserves as the Association may deem necessary, and (2) special assessments for capitol improvements, such assessments to be established and collected as hereinafter provided the annual and special assessments, together with interest, cost of collection, and reasonable attorney's fees for the collection thereof, shall be charged on the Dwelling and Lot and shall be continuing lien upon the Property against which each such assessment is made. Each such assessment, together with interest, cost of collection, and reasonable attorney's fees for the collection thereof, shall also be the personal obligation of the person who was the Owner of such Property at the time when the assessment fell due. The personal obligation for the delinquent assessment shall not pass to his successors in title unless expressly assumed by them.

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

Section 6.3 Maximum Annual Assessment Until May 1, 1986, the maximum monthly assessment shall be Thirty-three (\$33.00) Dollars per Dwelling.

- (a) From and after May 1, 1986, the maximum monthly assessment may be increased by the Board of Directors each calendar year not more than 20% above the maximum monthly assessment for the previous calendar year without a vote of the membership.
- (b) From and after May 1, 1986, the maximum monthly assessment may be increased above 20% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at meeting duly called for this purpose, or by written consent in lieu of such meeting.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.
- (d) Anything to the contrary contained herein notwithstanding, annual assessments imposed and assessed by the Association against Lots with no improvements located thereon shall be equal to no more than 50% of the maximum annual assessment amount per Dwelling provided in this section.

Section 6.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Provided, further, however, that the Developer shall be responsible for and shall pay special assessments on each Lot or Dwelling owned by Developer in an amount equal to 1/3 of the total special assessment imposed on each Dwelling owned by an Owner.

Section 6.5 Notice and Quorum for any Action Authorized Under Sections 6.3 and 6.4. Written notice of any meeting called for the purpose of taking any action authorized under Section 6.3 or 6.4 shall be sent to all members not less than 30 days not more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6.6 Collection and Rate of Assessments. Annual Assessments, Special Assessments and Developer Assessments may be collected on a monthly, quarterly, semi-annual basis. Both Annual Assessments and Special Assessments must be fixed at a uniform rate for all Dwellings owned by an Owner.

Section 6.7 Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Dwelling on the first day of the month following the conveyance of that Dwelling by the Developer to an Owner. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be set to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Dwelling have been paid. A properly executed certificate of the Association as to the status of assessments on a Dwelling is binding upon the Association as of the date of its issuance.

Section 6.8 Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate equal to the lesser of (a) eighteen (18%) percent per annum or (b) the maximum rate provided by applicable law. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Dwelling (as in the foreclosure of a mortgage), or both. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Dwelling.

Section 6.9 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Dwelling shall not affect the assessment lien. However, the sale or transfer of any Dwelling pursuant to mortgage foreclosure or any deed or other proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Dwelling from liability for any assessments thereafter becoming due or from the lien thereof.

Section 6.10 Developer Assessments. Notwithstanding anything to the contrary contained herein, until conveyance of any Lot or Dwelling by Developer to an Owner, Developer shall be responsible for and shall pay annual assessments ("Developer Assessments") on each Lot or Dwelling owned by Developer in an amount equal to 1/3 of the total Annual Assessment imposed on each Dwelling owned by an Owner.

Notwithstanding anything to the contrary contained in this Amendment or in the Declaration, or in any other document relating to this Declaration or to the Association, (a) the Developer Assessment and any special Assessments imposed shall be the only assessments due from the Developer to the Association and the Developer shall not be assessed for any other Annual Assessments, and (b) no Developer Assessments or Special Assessments shall be imposed against any portion of the Multi-Family Area owned by the Developer until such time as such portion of the Multi-Family Area is developed, improved and has received a certificate of occupancy, at which time such Dwellings shall be subject to the Developer Assessments and Special Assessments as provided herein, and (c) the Developer Assessments and the Special Assessments shall be the sole monetary obligation of Developer to the Association.

Section 6.11 Interim Reduced Assessments. Notwithstanding anything to the contrary contained herein, any individual or entity which acquires or at any time is the Owner of five (5) or more but less than fifteen (15) Lots shall be responsible for and shall pay assessments equal to 1/3 of the total Annual Assessment imposed on each Lot owned by an Owner and on each Dwelling owned by an Owner, respectively, for a period of two (2) years from the date of acquisition of such Lot and/or Dwelling.

Once any such individual or entity has acquired or become the owner of five (5) or more but less than fifteen (15) Lots and/or Dwellings, such individual or entity shall continue to be entitled to and enjoy the reduced assessments provided for in this section until the earlier of (a) the date two (2) years from the date of acquisition of any Lot and/or Dwellings, or (b) such time as the individual or entity no longer owns any Lot and/or Dwellings. Thereafter, assessments shall be due and payable as provided in Section 6.3 hereof.

## ARTICLE VII

### Use Restrictions

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

Section 7.2 No building, fence, wall or other structure, and no change in topography, landscaping or any other item shall be commenced, erected or maintained upon any Lot or Dwelling within the Subdivision (excluding the Multi-Family Area), nor shall any exterior addition to or change be made until the plans and specifications showing the nature, kind, size, shape, height, materials, color and location of the same shall have been submitted to, and approved in writing, as to the harmony of the external design and location in relation to the surrounding structures and topography by the Architectural Review Board.

Provided, however, that upon the Developer's selling of all the Dwellings in the Subdivision, this right of approval shall be transferred to an Architectural Review Board of the

Association. Such Architectural Review Board shall be comprised of not less than (3) representatives to be appointed by the Board of Directors of the Association; provided, further, that the Developer may transfer its rights of approval under this Declaration prior to its selling of all of the Lots in the Development if it so chooses.

In the event the Developer or the Architectural Review Board fails to approve or disapprove any request within thirty (30) days after complete written plans and specifications have been submitted to it, the same shall be deemed approved, and this article shall be deemed to have been fully complied with, provided, however, that no such failure to act shall be deemed and approval of any matters specifically prohibited by any other provisions of this Declaration. Refusal or approval of plans, specifications and plot plans, or any of them, may be based on any grounds, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Developer or the Architectural Review Board may deem sufficient. The transfer of control shall not be mandatory on the part of the Developer if the Developer has brought any portion of the Additional Property under the terms of this Declaration.

No fences whatsoever shall be erected or allowed to remain in the Subdivision except approved privacy patio fences in rear yards only, not exceeding 6' in height or except those erected by the Developer in Common Areas. Said fences and patios shall be allowed only after obtaining prior written approval of the Developer. Said fences shall be treated wood or stained or painted to match the colors of the siding on the principal house structure. No fences shall be permitted which obstruct the view of any golf course or lake when viewed from inside an adjacent dwelling.

Section 7.3 Residential Use of Lots. All Lots shall be used for single-family residential purposes exclusively. No structures, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family Dwelling, provided, however, that nothing contained herein shall be construed to prevent the Developer from maintaining one or more model homes and/or sales offices in the Subdivision for the purpose of selling, leasing or managing Dwellings or other property in or near the Subdivision.

No accessory structures or outbuildings, whether or not attached to the principal residence (including but not necessarily limited to carports, storage sheds, dog houses, metal awnings, breezeways, covered swimming pools and the like) shall be constructed or allowed to remain on any Lot. Provided, however, that the Developer may construct attached storage compartments, screened-in rear porches and rear sun rooms as an integral part of the principal residence. Provided further however, that an Owner, after application to and written approval by the Architectural Review Board, may construct attached storage compartments, screened-in rear porches and rear sun rooms as an integral part of the principal residence if, and only if, such construction and improvement is consistent with the design of the principal residence and with the standards of construction prevailing in the Subdivision.

Section 7.3.1 A property owner, after application to and written approval by the Architectural Review Board, may construct an attached garage to an existing single family dwelling. Such structure must enhance the appearance of the dwelling by:

- (a) Placement along the side wall of the existing structure.
- (b) Have gabled roof design so as to appear an integral part of the original building. No flat roof structure to be considered.
- (c) Single garage door entry not to exceed eight (8') feet
- (d) Building material and paint to match existing structure.
- (e) Driveway installed with macadam or concrete at time of construction. Owner responsible for providing drainage culvert and protection of drainage ditch under and along side of driveway entry.
- (f) Strict adherence to Section 7.9 Building Setbacks.

Section 7.4 Prohibition Against business Activity and "Time Sharing" Use. No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, professional office or beauty/barber shop or the like, or any trade of any kind whatsoever shall be carried on upon or in any Dwelling.

Provided, however, that nothing contained herein shall be construed so as to prohibit home occupations (i.e., any occupation within a Dwelling and clearly incidental thereto, carried on by a member of the family resident of the premises is employed, so long as no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or household purposes, and there is no exterior indication that the building is being used for any purpose other than a Dwelling), or the construction of houses to be sold on said Lots or the showing of said Dwelling for the purpose of selling or leasing Dwellings in the Subdivision.

Nothing herein shall be construed to prevent the Developer from erecting, placing or maintaining signs, structures and offices as it may deem necessary for its operation and sales or lease or management of Dwellings in the Subdivision. Provided, however, that nothing herein contained shall prevent the Developer from erecting and maintaining sales and marketing signs in Common Areas or on other property owned by the Developer.

No Dwelling or structure shall be "time shared", nor shall any Dwelling or structure be owned, used or operated in violation of the statutory provisions regulating Vacation Time Sharing Plans, S.C. Code Ann. 27-32-10 et seq. (1983 Supp.), as the same may be amended

from time to time, nor shall any Dwelling, or structure be owned used or operated so as to constitute such Dwelling or structure as a "time sharing unit" within the meaning of such statutory provisions.

Section 7.5 Association Office Nothing in this Declaration shall be construed to prohibit the Association from constructing, operating and maintaining a facility for use as its office and headquarters, for the benefit of the Association and its members, provided that such facility shall first be approved in all respects in writing by the Developer.

Section 7.6 Temporary Structures No structure of a temporary character shall be placed upon any Lot or Dwelling at any time provided, however, that this prohibition shall not apply to shelters approved by the Developer and used by the contractor during construction of a house, it being clearly understood that the latter temporary shelters may not, at any time, be used for residence or permitted to remain on the Lot or Dwelling after completion of construction. No trailer, mobile home, double-wide, park model trailer, motor home, tent, barn, camper, bus, tree house or other similar vehicle, out-building or structure shall be placed on any Lot or on any portion of the Common Areas at any time, either temporarily or permanently.

Section 7.7 Mining and Drilling Prohibition. No oil or natural gas drilling refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, and no derrick or other structure designed for use in boring for oil or natural gas shall be stored, erected, maintained or permitted in the Subdivision.

Section 7.8 Use and Height Restrictions. No structure shall be erected, placed or permitted to remain on any Lot other than one detached single-family residence Dwelling, not to exceed one and one-half stories in height, and in no instance shall any residence exceed twenty-five (25') feet in height.

Section 7.9 Building Setbacks. No Dwelling or structure of any kind (except for air handlers, heat pumps, and related HVAC equipment) shall be erected on any Lot nearer than:

- (a) Twenty (20') feet to the front line of the Lot (the line abutting on a street), nor
- (b) Five (5') feet to the side lines of the Lot, nor
- (c) Ten (10') feet to the rear line of the Lot;

provided, however, that the requirements of this paragraph may be released in whole or in part by the Developer, its successors and assigns, when in its sole direction there would otherwise be a hardship upon a Lot Owner or would result in substantial damage to one or more natural features of the Lot.

Section 7.10 Timely Construction Progress. Once construction of improvements is started on any Lot improvements must be substantially completed within six (6) months from commencement.

Section 7.11 Material Restriction. All structures constructed or placed on any Lot shall be built of substantially new material and no used structures shall be relocated or placed on any such Lot.

Section 7.12 Re-Building Requirement. Any Dwelling or outbuilding on any Lot which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God must be rebuilt or all debris removed and the Lot restored to a natural condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than three (3) months.

Section 7.13 Elevation and Drainage Changes. No changes in the elevation, topography or drainage characteristics of the Subdivision shall be made on the premises without the prior written approval of the Developer nor shall any fill be used to extend any property beyond any boundary line of any waterfront property.

Section 7.14 Vegetation Cutting Restrictions. No tree or shrub taller than three (3') feet in height shall be cut, removed or intentionally damaged on any Lot or Common Area, unless such vegetation interferes with the construction or safe maintenance of improvements on such Lot or Common Area or unless such tree is deceased or dead. The Owner(s) of any Lot upon which a violation of this restriction occurs agrees to promptly (within 30 days after notice) replace such vegetation with vegetation of comparable size.

Section 7.15 Clotheslines. No clothesline or drying yards shall be located upon the premises so as to be visible from any Common Area or other Dwellings.

Section 7.16 Water Systems. No individual water supply system shall be permitted upon any Lot with the exception of a shallow well to be used for irrigation purposes only, which shallow well shall be approved in writing all respects, including the pump and the covering or screen thereof and method of operation by the Developer, its successors or assigns, prior to installation.

Section 7.17 Sewer Systems. No surface toilets or septic tanks are permitted in the Subdivision (other than those utilized for a designated model home complex by the Developer). A purchaser of a Dwelling assumes responsibility for attaching to public sewer system including all fees associated therewith.

All plumbing fixtures, dishwashers, toilets or sewage disposal system shall be connected to the central sewer system of the Subdivision.

Section 7.18 Garbage Disposal Each Owner shall provide garbage receptacles or similar facilities in accordance with reasonable standards established by the Developer, which shall be visible from the streets on garbage pickup days only. No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage or trash on any Lot or within the Subdivision or Development shall be permitted. Provided, however, that Owner shall be permitted to modify the requirements of this Section where necessary to comply with orders of governing bodies or their franchisees.

Section 7.19 Sign Controls. Signs are prohibited on or in any Dwelling or Common Area with the following exceptions.

- (a) Temporary "For Sale" signs or signs indication the name of a contractor only (not subcontractors) during the period of sale or construction only, provided the sign does not exceed four (4) square feet in size. "For Sale" or "For Lease" signs are allowed to be displayed only in a widow of a Dwelling.
- (b) Address numerals or letters not to exceed four (4) inches in height.
- (c) Provided, however, that nothing herein contained shall prevent or restrict the Developer from creating and maintaining sales, rental, management or marketing signs in Common Areas or on any other property owned by the Developer.
- (d) The Architectural Review Board shall review and approve all signage proposed by the Developer, provided that approval for signage shall not be unreasonably withheld.
- (e) Designated bulletin board, as approved by the Association Review Board, for display of club activities

Section 7.20 Exclusion of Above Ground Utilities All electrical service, wires, pipes, lines, telephone, cable television (CATV) lines and utility services of any type shall be placed in appropriate conduit underground and no outside electrical lines shall be placed overhead. No exposed or exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of the Subdivision except those master facilities approved by the Developer. Provided, however, that the normal service pedestals, etc., used in conjunction with such underground utilities shall be permitted within the Development. Overhead utilities shall be permitted during the construction period and until utility companies can place them underground.

Section 7.21 Communication System. There shall not be permitted or maintained any type of radio or communications system antenna (other than normal receive-only radio

antennae) or satellite disc or any exterior portion of a Dwelling, nor shall any such antenna or satellite disc be maintained inside a Dwelling).

Section 7.22 Off-Street Parking. Two off-street parking spaces shall be provided by the Lot Owner for the parking of automobiles or other vehicles owned by Said Owner, his guests, invitees or tenants, and said Owner agrees not to park his automobile or other vehicles (including golf carts) or those of his guests on the streets or Common Areas in the Subdivision (except in designated guest parking areas). Parking shall only be allowed on designated paved parking areas, which shall not be changed in size or location without prior written approval of the Developer.

No travel trailers or mobile homes, campers or other habitable motor vehicles of any kind, whether self-propelled or not, school buses, motorcycles, trucks, or commercial vehicles, or both trailers or boats shall be kept, stored or parked overnight, either on any Common Area, specifically including streets and guest parking areas, or any Lot, except within the approved Common Storage Area.

Section 7.23 Junk or Disabled Vehicles. No stripped, partially wrecked, unlicensed or invalidly licensed, disabled or junk motor vehicle, or part thereof, shall be permitted to be parked or kept in the Subdivision.

Section 7.24 Motorcycles. Motorcycles (except motor scooters, motorbikes with less than 5 h.p.) are prohibited from all Lots, streets and Common Areas, except from any Common Storage Area so designated by the Developer.

Section 7.25 Pets. No animals, livestock, birds, or fowl shall be kept or maintained on any part of the Subdivision except dogs, cats, pet fish and birds which may be kept thereon in reasonable numbers (not to exceed three) as pets for the pleasure and use of the property Owner but not for any commercial use or purpose. All animals must be kept on a leash when they are outside the Owner's Dwelling and must not become a nuisance to other residents by barking or other acts. Non-owners (e.g. renters or lessees) may not keep any pets on any part of the Property, without prior written approval of the Owner, said approval to be filed with the Association.

Section 7.26 Perimeter Access There shall be no access to any Lot on the perimeter of the Subdivision except from designated roads within the Subdivision, provided, however, that Developer reserves the right to construct and operate temporary construction roads during the construction and development period.

Section 7.27 Rental Period. No Owner shall lease or rent any Lot more than three (3) times in any given twelve month period nor shall any Owner lease or rent any Multi-Family Dwelling more than fifty-two (52) times in any one year period.

Section 7.28 Prohibition of Open Outdoor Storage. No junk, debris or materials of any kind shall be stored on a Lot other than in an approved enclosed structure, which shall be attached to the principal Dwelling or in a manner that is visible from any other Lot, Common Area, street, easement or amenity area. Firewood and bicycles may be stored outside in side or rear yards only, provided they are not visible from any Common Area, easement, street, or amenity area.

Section 7.29 Prohibition of Accessory Structures No dog houses, detached garages, carports, or any other accessory structure shall be constructed upon any Lot, except an attached storage compartment, porch, swimming pool, swing set and similar play structure which has been approved in writing by the Architectural Review Board prior to installation or construction.

Section 7.30 Nuisances No noxious or offensive activity shall be carried on upon or in any Dwelling, or shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood, including Common Areas, other home sites, easement areas or residences. No trash, leaves or rubbish may be burned on any Lot or within the Development nor shall there be maintained any plants, poultry, animals (other than household pets) or device or thing of any sort, the normal activities or existence of which is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the Owner thereof.

Section 7.31 Landscaping The developer reserves the right to reasonably restrict the placement of landscaping, fences or other impediments to the employment of views from and of adjoining Common Areas or amenity areas.

Section 7.32 Special Hazards Each Owner accepts and assumes all the risks and hazards of ownership or occupancy attendant to the ownership of such Dwelling, including but not limited to its proximity to any recreational facility or Common Area or the Intracoastal Waterway. Specifically, the Developer does hereby disclaim any and all liability for any property damage or personal injury resulting from erosion along the bank of the Intracoastal Waterway, and all ditches streams, lakes, lagoons or other bodies of water or watercourses located in the Subdivision.

Section 7.33 Traffic Regulations Traffic regulations on all roads and streets within the Subdivision will be enforced under the provisions of the South Carolina Uniform Act for regulating traffic to private roads. A speed limit of 25 MPH is established on all roads and streets and all traffic control signs, including but not limited to speed limit, stop, directional and no parking signs will be enforced.

Section 7.34 Prohibited Activities for Golf Course Area Owners of Dwellings abutting golf fairways or greens shall be obligated to refrain from any actions which would distract from the playing qualities of any golf course on or abutting the Property. Such prohibitive action shall include, but not be limited to, such activities as the maintenance of unfenced dogs or other pets under conditions interfering with play due to loud barking, running on the fairways, or other like interference.

Section 7.35 Encroachments No owner or individual shall alter in any way any Common Area except with the written permission of the Association provided that such activity is required for the benefit of the Association or the Subdivision as a whole.

Section 7.36 Subdivision of Dwelling: Easements and Encroachments No Dwelling shall be subdivided except as hereinafter provided and no building or residence, including porches or projections of any kind, shall be erected so as to extend over or across any of the building lines as hereinafter established. Provided, however, if any portion of any Common Areas unintentionally encroaches upon a Dwelling or any part thereof, whether by settlement or otherwise a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. If any portion of improvements to a Dwelling or Dwellings or any portion thereof, whether by settlement or otherwise, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist.

In the event any improvement or part thereof is partially or totally destroyed and then rebuilt, any encroachment of any Common Area upon a Dwelling or Dwellings, or encroachment of a Dwelling or Dwellings upon any Common Area or upon an adjoining Dwelling or Dwellings resulting because of such rebuilding, shall be permitted, and a valid easement shall exist for the maintenance of such encroachments and easements shall not be considered or determined to be encumbrances whether on any Common Area or any Dwelling or Dwellings, and no Owner shall be entitled to damages or injunctive relief because of the construction, re-construction or maintenance thereof.

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

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

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

## ARTICLE VIII

### General Provisions

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

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

Section 8.3 Duration The Covenants and Restrictions of this Declaration shall run with and bind the property constituting the Subdivision, and shall inure to the benefit of and be enforceable by the Developer, the Association, or any Owner for a period of twenty (20) years from the date hereof and thereafter shall continue automatically in effect for additional periods of twenty (20) years, unless otherwise agreed to in writing by the then Owners of at least seventy-five (75%) percent of the Dwellings.

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

Section 8.5 (a) Amendment

Amendments by Developer. For a period of fifteen (15) years from the date of recording of the Declaration on January 21, 1985, any Developer may amend this Declaration in any particular by an instrument in writing filed and recorded in the Records of the Office of the Clerk of Court for Horry County, South Carolina, with the prior written consent of the Board of Directors of the Association, and without the approval of any Owner or Mortgagee or other Developer, provided however, that, with the exception of the addition of any portion of the Additional Property to the terms of this Declaration:

- (i) In the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of his Dwelling or Multi-Family Area, such amendment shall be valid only upon the written consent thereto by a majority in number of the then existing Owners affected thereby; or,
- (ii) In the event that such amendment would materially and adversely affect the security, title, and interest of any Mortgagee, such amendment shall be valid only upon the written consent thereto of all such Mortgagees so affected; or,
- (iii) In the event such amendment would materially alter or change any rights of any other Developer, such amendment shall be valid only upon the written consent thereto by such other Developer.

Any amendment made pursuant to this Section 8.5 (a) shall be certified by Developer as having been duly approved by Developer and by such Owners, Mortgagees and other Developers, if required, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Dwelling or Commercial Unit, agrees to be bound by such amendments as are permitted by this Section 8.5 (a) and further agrees that if requested to do so Developer, such Owner will consent to the amendment of this Declaration or any other instruments relating to the Subdivision.

- (A) If such amendment is necessary to bring any provision hereof or thereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination which shall be in conflict therewith,

- (B) If such amendment is necessary to enable any title insurance company to issue title insurance coverage with respect to any Dwellings or Multi-Family Areas subject to this Declaration;
- (C) If such amendment is 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 such lender or purchaser to make or purchase mortgage loans on any Dwelling, Commercial Unit or other improvements subject to this Declaration, or
- (D) If any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure Mortgages on the Dwellings or other improvements subject to this Declaration. Anything to the contrary notwithstanding, the addition of any property other than that property described on Schedule B attached hereto as Additional Property shall require the written consent of the Majority in number of then existing Owners and the written consent of all Developers.

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

- (1) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.
- (2) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by members of the Association. Such amendment must be approved by Owners holding at least three-quarters (3/4) of the total votes in the Association; provided, however: (i) that any amendment which materially and adversely affects the security title and interest of any Mortgage must be approved by such Mortgagee; and (ii) during any period in which Developer owns a Dwelling or Commercial Unit primarily for the purpose of sale or has the option under this Declaration to add the Additional Property or any portion thereof to the Subdivision, such amendment must be approved by Developer.
- (3) The agreement of the required percentage of the Owners and, where required, Developer and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state

unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

Section 8.6 Multiple Associations So long as Developer, its successors or assigns, owns an unsold Dwelling in the Subdivision, it shall have the right to merge the Association with other associations governing the use and control of other property in the Subdivision.

Section 8.7 Each of the streets in the Subdivision now or hereafter designated on any plat is a private street, and every park, stream, body of water, common Area, recreational facility, and other amenity within the subdivision is a private park, facility or amenity and neither the Developer's recording or any such plat nor any other act of the Developer with respect to the Property is, or is intended to be, or shall be construed, as a dedication to the public of any said streets, parks, Common Areas, recreational facilities and amenities other than as reflected therein.

An easement for the use and enjoyment of each of said streets and areas designated as parks is reserved to the Developer, its successors and assigns; to the persons who are, from time to time, members of the Association; to the members and Owners of any recreational facility; and to the residents, tenants and occupants of any Multi-Family residential buildings, and all other kinds of residential structures that may be erected within the boundaries of the Property and to the invitees of all the aforementioned persons; the use of which shall be subject to such rules and regulations as may be prescribed by the Association, if the Association is the Owner of the facility or Property involved. The Developer may dedicate the streets to a public authority if it so desires.

Section 8.8 It is agreed that time is of the essence with regard to these restrictions, covenants, limitations and conditions.

Section 8.9 In the event of a violation or breach of any of these restrictions by any Owner, or agent of such Owner, the Owners of Dwellings in the Subdivision, or any of them, jointly or severally shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach in any event.

In addition to the foregoing, the Developer, its successors and assigns, shall have the right, whenever there shall have been built on any Dwelling in the Subdivision any structure which is in violation of these restrictions, to enter upon the Property where such violation exists, and summarily abate or remove the same at the expense of the Owner if, after thirty (30) days written notice of such violation, it shall have not been corrected by the Owner.

The Association is hereby granted a perpetual easement across each Dwelling for the purposes of carrying out its responsibilities under this Section, and any such entry and

abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservation, restriction or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the rights to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should Developer employ counsel to enforce any of the foregoing covenants, conditions, reservations or restrictions, because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for Developer's counsel shall be paid by the Owner of such Dwelling or Dwellings in breach thereof.

Section 8.10 The Developer herein shall not be in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself.

Section 8.11 In the event that any of the provisions hereof are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then in that event such term shall be reduced to a period of time which shall not violate the rule against perpetuities or any other law of the State of South Carolina, and such provision shall be fully effective for said reduced period of time.

The By-Laws of Myrtle Beach Golf & Yacht Club Association, Inc., shall be and are hereby modified to the extent necessary to be consistent herewith.

EXHIBIT "A"

Description of Property Submitted to the Declaration, Constituting the Subdivision at the time of Filing the Declaration:

LOTS

All those certain pieces, parcels or lots of land, together with the improvements thereon or to be constructed thereon, situate, lying and being in Socastee Township, Horry County, South Carolina, consisting of 249 numbered lots and being shown on the Subdivision Plat as Lots G-1 through G-9 inclusive, H-1 through H-9, inclusive, L-1 through L-23 inclusive, M-1 through M-8 inclusive, S-1 through S-13, inclusive, T-1 through T-14 inclusive, V-1 through V-15 inclusive, X-1 through X-8 inclusive, JA-1 through JA-14 inclusive, KA-1 through KA-9 inclusive, LA-1 through LA-8 inclusive, NA-1 through NA-6 inclusive, PA-1 through PA-5 inclusive, YA-1 through YA-7 inclusive, ZA-1 through ZA-11 inclusive, AB-1 through AB-12 inclusive, and BB-1 through BB-23 inclusive, and having such boundaries and measurements as are set forth on the Subdivision Plat, which is incorporated herein and made a part hereof by reference.

MULTI-FAMILY AREAS

All those certain pieces, parcels or tracts of land, together with the improvements thereon or to be constructed thereon, situate, lying and being in Socastee Township, Horry County, South Carolina, consisting of numbered tracts and being shown on the Subdivision Plat as Tracts MA, QA, RA, PA, UA, VA AND WA and having such boundaries and measurements as are set forth on the Subdivision Plat, which is incorporated herein and made a part hereof by reference.

STREETS AND ROADS

All those certain pieces, parcels or tracts of land, together with improvements thereon or to be constructed thereon, situate, lying and being in Socastee Township, Horry County, South Carolina, consisting of the following named streets and roads as shown on the Subdivision Plat, and having such boundaries and measurements as are set forth on the Subdivision Plat, which is incorporated herein and made a part hereof by reference:

Blue Heron Boulevard from enterprise road to just north of Multi-Family Tract WA;

Spice Bush Crescent:

Sweet Gum Crescent:

Laguna Point:

White Heron Crescent:

Snow Egret Crescent:

Snowy Egret Trail:

Heron Point:

Royal Pine Drive:

Eagle Crescent:

Meadow Crescent:

Pebble Beach Crescent:

Cardinal Crescent:

Augusta Crescent:

Carolina Wren Crescent:

Wintergreen Point:

Wood Duck Cove:

Royal Fern Crescent:

Wisteria Drive:

Scotman's Crescent:

Night Heron Crescent:

Mallard View Point:

Greenslake Point:

ENTRY PARCELS

All those certain pieces, parcels or lots of land, together with the improvements thereon or to be constructed thereon, situate, lying and being on the southwestern side of Enterprise Road in Socastee Township, Horry County, South Carolina, consisting of Parcel A and Parcel B as shown on the Subdivision Plat, which is incorporated herein and made a part hereof by reference.

EXHIBIT "B"

Additional Property

All that certain piece, parcel or tract of land together with the improvements thereon or to be constructed thereon, more particularly shown and designated as "Enterprise Tract" containing 1015.705 acres, more or less, on "Boundary Survey of Enterprise Tract" prepared by Sur-Tech, Incorporated dated November, 1983, recorded in the office of the Horry County Clerk of Court in Plat Book 79 at page 166, which survey or plat is incorporated herein and made a part hereof by reference.

LESS AND EXCEPTING THEREFROM HOWEVER, the Property described on Exhibit "A".

ALSO:

All that certain piece, parcel or tract of land lying, being and situate in the County of Horry, State of South Carolina, and being shown on a map prepared by Sur-Tech, Incorporated, dated April 24, 1984 and to be recorded herewith. Being more particularly described as follows:

Commencing at the southern corner of the Enterprise tract, property of James H. Dusenbury, Nominee, North 43 degrees 09 minutes 03 seconds East 338.20 feet to an iron pin; thence turning and running South 56 degrees 07 minutes 01 seconds East 158.79 feet to an iron pin; thence turning and running South 23 degrees 05 minutes 18 seconds 74.93 feet to an iron pin; thence turning and running South 28 degrees 50 minutes 55 seconds West 116.72 feet to an iron pin; thence turning and running North 87 degrees 47 minutes 35 seconds West 336.45 feet to the point of beginning.

This is the same property conveyed to Myrtle Beach Golf & Yacht Club, a South Carolina partnership, by deed of Green Springs Enterprises, Inc. dated July 11, 1984, recorded in the office of the Horry County Clerk of Court on September 5, 1984, in Deed Book 898 at page 87.

ALSO:

See other real property located within one (1) mile of the property described above which, from tie to time, may be acquired by the Developer for purposes of subdivision to this Declaration and/or development of subdivision.

ALSO:

All easements, rights, leasehold estates, licenses, riparian, littoral or other rights appurtenant to or associated with the property described above.