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HORRY COUNTY, S.C.  
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BALLECY V. SKIPPER  
DECLARANT OF DEEDS

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STATE OF SOUTH CAROLINA )  
                                          )     DECLARATION OF PROTECTIVE  
                                          )     COVENANTS, RESTRICTIONS, EASEMENTS,  
COUNTY OF HORRY                    )     CHARGES AND LIENS FOR CASCADES AT  
                                          )     AZALEA LAKES SUBDIVISION

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC. is made as of the 11<sup>th</sup> day of February, 2004, by Bill Clark Homes of Myrtle Beach, LLC, a South Carolina Limited Liability Company, (hereinafter referred to as "Declarant").

WHEREAS, the Declarant is the owner of the real property more particularly described below, and desires to develop thereon a residential subdivision (hereinafter, together with any property added thereto, called "the Subdivision"); and

WHEREAS, the Declarant, in its discretion, may incorporate additional real property as additional phases of the Subdivision and bring same under this Declaration but shall be under no obligation to do so. Declarant intends by this Declaration to impose mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential property within the Parcel now or hereafter made subject to this Declaration, by the recording of the Declaration and amendments thereto. Declarant also desires to establish a method for the administration, maintenance, preservation, use and enjoyment of the Parcel that is now or hereafter subjected to this Declaration and certain other properties described in the Declaration.

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

WHEREAS, each owner of a Lot in the Subdivision will be required to maintain and construct homes in accordance with the design criteria herein contained; and,

CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC.  
COVENANTS & RESTRICTIONS; BYLAWS

  
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WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in the Subdivision and for the maintenance of common lands and facilities, if any, and to this end, desires to subject the real property described in Exhibit "A" to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and,

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Subdivision, to create an agency to which will be delegated and assigned the powers of maintaining and administering the Subdivision (as defined hereinafter), promulgating rules and regulations for the usage of common areas in accordance with this Declaration, administering and enforcing the covenants and restrictions and levying, collecting and disbursing the assessments and charges hereinafter created; and,

WHEREAS, Declarant has caused the POA (as hereinafter defined) to be formed as a non-profit corporation to perform certain functions for the common good and general welfare of the Owners (as hereinafter defined).

WHEREAS, Declarant hereby declares that all of the real property within the Parcel shall be held, sold and conveyed subject to this Declaration of Covenants, Restrictions and Easements, which is for the purpose of enhancing and protecting the value, desirability and attractiveness of the Parcel. The covenants, restrictions and easements set forth herein shall run with the Parcel, and shall be binding on all parties having or acquiring any right, title or interest in the Parcel or any part thereof, and shall, subject to the limitations herein provided, inure to the benefit of each Owner, his heirs, grantees, devisees, successors and assigns and to the benefit of the POA.

## ARTICLE 1 DEFINITIONS

The following words, when used in this Declaration of Covenants, Restrictions and Easements, shall have the following meanings:

- A. ACC: "ACC" means the Architectural Control Committee of the POA.
- B. Board: "Board" means the Board of Directors of the POA.

C. By-Laws: "By-Laws" means the By-Laws of the POA.

D. Commencement Date: "Commencement Date" means the date on which the first lot is conveyed to a third party other than Declarant.

E. Common Property: "Common Property" means all real property (together with any and all improvements now or hereafter located thereon) including, but not limited to streets, owned by the POA, or in certain instances over which the POA has been granted permanent easements, for the common use and enjoyment of the Owners.

F. Controlling Interest: "Controlling Interest" means and refers to the ownership of the Declarant at any time of Ten (10%) percent or more of the total number of Lots in the Parcel. Provided, however, that the Declarant shall be deemed to have a Controlling Interest, until the Declarant shall notify the POA in writing when the final phase of the Development has been platted of record.

G. Declarant: "Declarant", Bill Clark Homes of Myrtle Beach, LLC, and its successors-in-title and assigns, provided any such successors-in-title or assigns shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the Parcel, or the real property which is intended to be added thereto, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the Grantor of such conveyance, which Grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of successor Declarant, all rights and obligations of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the Parcel, and any additional real property now or hereafter subjected to this Declaration, there shall be only one person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at anyone time.

H. Development-Wide Standard: "Development-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Development. Such standard may be more specifically determined by the Board and by committees required or permitted to be established pursuant to this Declaration or the By-Laws. Such determination, however, must be consistent with the Development-Wide Standard originally established by the Declarant.

I. POA: "POA" means CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC. (a non-profit, non-stock membership corporation organized under the South Carolina Not for Profit Corporation Code), its successors and assigns.

J. Lot: "Lot" means any parcel of land shown upon a subdivision plat recorded in the Office of the Clerk of Court for Horry County, covering any portion of the Parcel, as such boundaries may be modified in accordance with the terms below, provided, however, that no portion of the Common Property shall ever be a Lot except as provided below.

K. Member: "Member" means any member of the POA.

L. Membership: "Membership" means the collective total of all Members of the POA. There shall be Class "A" Membership and a Class "B" Membership as further defined in either or both the Articles of Incorporation and the By-Laws.

M. Occupant: "Occupant" shall mean any person occupying all or any portion of a Residence located within the Development for any period of time, regardless of whether such person is an invitee, tenant or the Owner of such property.

N. Owner: "Owner" means the record owner (including Declarant), whether one or more persons or entities, of a fee simple title to any Lot; provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

O. Parcel: "Parcel" shall mean and refer to the real property subjected to this declaration, said property being more particularly described on Exhibit A attached hereto, together with such additional real property as may be subjected to the provisions of this Declaration in accordance with terms hereto.

P. Residence: "Residence" shall mean a structure and the Lot on which it is situated which is intended for independent, use and occupancy as a residence for a single family.

Q. Restriction: "Restriction" means all covenants, restrictions, easements, charges, liens and other obligations created or imposed by this Declaration.

R. Structure: "Structure means:

1. Any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, swimming pool, dock, fence, curbing, paving, wall, tree, shrub (and all other forms of landscaping), sign, signboard, temporary or permanent living quarters (including any house trailer) or any other temporary or permanent improvement to such Lot;

2. Any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash or drain, and channel from, upon or across any Lot; and

3. Any change in the grade at any point on a Lot of more than eighteen (18) inches, whether or not Subsection (b) of this Section applies to such change.

## **ARTICLE II MASTER ASSOCIATION**

A. Master Declaration: The Development is located adjacent to property containing developments known as CASCADES AT AZALEA LAKES. Declarant may also develop other parcels adjacent to this Parcel. In order to provide for consistent standards in the adjacent developments, the Declarant reserves the right to unilaterally record a Master Declaration of Restrictions incorporating restrictions and covenants on each of the Parcels within the property. In such event, in order to provide uniform standards throughout the adjoining developments, these restrictions shall be unilaterally amended by the Declarant, and many of the restrictions, and some of the functions, duties and responsibilities of the POA may be shifted to the Master Association. Further, in such event Declarant may deed portions of the common areas to the Master Association. If such areas were previously deeded from Declarant to POA, POA shall deed such areas to the Master Association at the request of the Declarant. In such event all property in the Parcel will be subject to the terms of the Master Declaration, and where the terms of this document and' the Master Declaration conflict the terms of the Master Declaration shall control.

B. Master Association: If the Declarant elects to record a Master Declaration of Restrictions, the POA will be a member of the Master Association. The POA shall

elect representatives to the Master Association in accordance with the terms set forth in the Master Declaration. Assessments for common expenses and special assessments shall be made against each Owner by the Master Association to be collected from each Owner and paid to the Master Association by the POA in accordance with and pursuant to the terms of the Master Declaration and of the Master Association's articles and by-laws. The assessments by the Master Association shall be referred to as "Master Association Assessments".

### **ARTICLE III COMMON PROPERTY**

#### **A. Conveyance of Common Property:**

1. The Declarant may from time to time convey to the POA or grant easements to the POA, at no expense to the POA and in accordance with this Section, real and personal property for the common use and enjoyment of the Owners (such real and personal property is hereinafter collectively referred to as "Common Property") and, to the extent set forth in this Declaration of Covenants, Restrictions and Easements, the general public. The POA hereby covenants and agrees to accept from the Declarant all such conveyances of Common property.

2. The Declarant may convey to the POA Common Property for scenic and natural area preservation and for general recreational use. The Declarant may, at Declarant's sole discretion, modify, alter, increase, reduce and otherwise change the Common Property contemplated to be conveyed to the POA at any time prior to conveyance of such Common Property to the POA.

3. In addition to the Parcel the Declarant may convey to the POA in accordance with this Section such other real and personal property as the Declarant may determine to be necessary or proper for the completion of the Development.

4. Notwithstanding any legal presumption to the contrary, the fee title to, and all rights in, any portion of the Parcel owned by the Declarant and designated as Common Property or designated for public use shall be reserved to the Declarant until such time as the same shall be conveyed to the POA or to any municipality or other governmental body, agency or authority.

5. Lakes and drainage ways shall, without limitation, be included in the Parcel that may be conveyed by Declarant and which shall be accepted by the POA. Declarant shall not be required to make any improvements whatsoever to the Parcel

to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any lake that may be conveyed.

**B. Right to Enjoyment:** Every Owner shall have a right and easement to use and enjoy the Common Property, which right shall be appurtenant to and shall pass with the title to every Lot upon transfer; provided, however, that no Owner shall do any act which interferes with the free use and enjoyment of the Common Property by all other Owners. The POA may permit persons who are not Owners of Lots to use and enjoy part of all of the Common Property subject to such limitations, and upon such terms and conditions, as it may from time to time establish. The right and easement of enjoyment granted or permitted by this Section is subject to suspension by the POA as provided below.

**C. Rights of the POA:** The rights and privileges conferred in this Article shall be subject to the right, and where applicable, the obligation, of the POA acting through the Board to:

1. Promulgate rules and regulations relating to the use, operation and maintenance of the Common Property;

2. Borrow money for the purpose of carrying out the activities of the POA, including the acquisition, construction, improvement, equipping and maintenance of Common Property, and in aid thereof to encumber by mortgage or other security interest any or all of the POA's property including Common Property and revenues from assessments, user fees and other sources; and, provided, however, that during the period when the Declarant has the right to appoint members of the Board, the POA shall not deed, grant, or convey to anyone any mortgage or other security interest on or in Common Property constituting real estate without approval by Declarant.

3. Grant easements or rights-of-way over Common Property to any municipality or other governmental body, agency or authority, to any quasi-public agency, or to any utility company or cable television system. Provided, however, the POA may not exercise this right without the consent of Declarant for so long as Declarant has controlling interest;

4. Suspend the voting rights of any Member as provided below and the right of enjoyment granted or permitted by this Article;

5. Enforce all applicable provisions of valid agreements of the POA relating to the Common Property or any part thereof; and

6. Maintain any and all landscaping treatments previously installed by the Declarant, to the extent that such landscaping is not otherwise maintained by the appropriate county and/or municipal entity having jurisdiction over the roads serving the Parcel.

D. Conveyance of Common Property by Declarant to POA: The Declarant may transfer or convey to the POA any personal property and any improved or unimproved property, leasehold, easement or other property interest which is or may be subjected to the terms of this Declaration. Such conveyance shall be accepted by the POA, and the Parcel shall thereafter be Common Property to be maintained by the POA for the benefit of all of its Members. Declarant hereby retains a permanent, non-exclusive right of ingress and egress over all streets, easements, entrances and common areas conveyed to the POA by Declarant. Declarant also retains the right use all easements for purposes of future development and improvement of adjoining parcels. Lakes and drainage ways, if any, shall, without limitation, be included in the Parcel that may be conveyed by Declarant and which shall be accepted by the POA.

E. Types of Common Property: At the time of the conveyance of any real property or grant of easement by the Declarant to the POA to be used as Common Property, the Declarant shall designate in the deed of conveyance or easement that such real property is to be Common Property, and further may designate in the deed of conveyance or easement the specific or general purpose or purposes for which such real property or any portion thereof may be used, and in such event, such real property or portion thereof shall not be used for any different purpose or purposes without the prior written consent of the Declarant and a two-thirds (2/3) vote of the Class "A" Members of the POA.

F. Delegation of Use: Any Owner may delegate to the members of his family or his tenants who reside on a Lot, in accordance with the By-Laws, his right to use and enjoy the Common Property.

G. Maintenance: The POA shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping and improvement situated on the Common Property. In addition, the POA shall maintain grass and other landscaping located along or in dedicated rights of way



which were installed and maintained by Declarant, to the extent permitted by the applicable governmental authority, and shall maintain all entry features and retention ponds for the Development. On drainage ways that abut adjoining property, the POA will share in the cost of their maintenance with the adjoining property. Lot Owner will be responsible for maintaining the area along the water line. The foregoing maintenance shall be performed consistent with the Development-Wide Standard. The POA shall also have the right, but not the obligation, to maintain and provide services for other property not owned by the POA, whether located within or without the boundaries of the Development, and to enter into easements and agreements to share costs regarding such property where the Board has determined that this would benefit the Owners.

**ARTICLE IV  
CASCADES AT AZALEA LAKES PROPERTY OWNERS'  
ASSOCIATION, INC,**

A. Purposes, Powers and Duties of the POA: The POA shall be formed as a non-profit civic organization for the sole purpose of performing certain functions for the common good and general welfare of the people of the Development. The POA shall have no power or duty to do or perform any act or thing other than those acts and things which will promote in some way the common good and general welfare of the people of the Development. To the extent, and only to the extent, necessary to carry out such purpose, the POA (a) shall have all of the powers of a corporation organized under the South Carolina Not for Profit Corporation Code and (b) shall have the power and duty to exercise all of the rights, powers, and privileges and to perform all of the duties and obligations of the POA as set forth in this Declaration.

B. Membership in the POA: Every Owner shall automatically be a member of the POA and such membership shall terminate only as provided in this Declaration of Covenants, Restrictions and Easements. For purposes of voting, there shall be two (2) classes of members as set forth below.

C. Voting Rights:

1. Class A: Each Owner of a Lot, with the exception of Declarant, shall be a Class A Member and shall be entitled to one (1) Class A vote per Lot owned by such Owner. Where such Owner is a group or entity other than one individual person, the vote on behalf of such Owner shall be exercised only by such individual person as shall be designated in a proxy instrument duly executed by or on behalf of such group or entity and delivered to the secretary of the POA.

2. **Class B:** The Declarant shall be the sole Class B Member and shall be entitled to total votes in an amount equal to twice the number of Class A votes plus one. The Class B Membership shall cease and be converted to Class A Membership upon the occurrence of the events described below.

3. **Dilution of Voting Interest and Termination of Class B Membership:** The Development will be composed of Lots to be developed in phases containing unequal numbers of Lots. Each such phase will be platted of record in the Office of the Clerk of Court for Horry County in accordance with the terms of this Declaration. The Declarant shall notify the POA in writing when the final phase of the Development has been so platted of record. By acceptance of a deed conveying a Lot, each Owner acknowledges that, upon the filing by Declarant of the Subdivision plats covering such phases, the total votes outstanding in the POA will automatically increase based upon the number of Lots in the phases added. The Class B Membership shall cease and be converted to Class A Membership at such time as Declarant no longer retains a Controlling Interests provided, however, in no event shall Class B Membership cease and be converted to Class A Membership until the earlier of: (i) the receipt by the POA of the written notice provided for above or (ii) December 31, 2009. Nothing contained herein shall obligate the Declarant to develop any proposed phase of the Development unless such phase is subjected to this Master Deed.

D. **Board of Directors:** The affairs of the POA shall be managed by a Board of Directors. The number of Directors and the method of election of Directors shall be as set forth in the By-Laws of the POA. *(A copy of the Articles of Incorporation, Articles of Correction and the By-Laws are attached as Exhibit "B".)*

E. **Suspension of Membership:** The Board may suspend the voting rights of any Member and the right of enjoyment of the Common Property of any person who:

1. Shall be subject to the Right of Abatement as defined below;
2. Shall be delinquent in the payment of any assessment levied by the POA or the Master Association pursuant to the provisions hereof; or
3. Shall be in violation of any of the rules and regulations of the POA or the Master Association.

Such suspension shall be for the balance of the period in which said Member or person shall remain in violation or breach or default as aforesaid, except that in

the case of a violation described in Subsection (c) above, the suspension may be for a period not to exceed sixty (60) days after the cure or termination of such violation. No such suspension shall prevent an Owner ingress or egress from his lot.

**F. Termination of Membership:** Membership shall cease only when a person ceases to be an Owner.

**G. Voting Procedures:** The procedures for the election of Directors of the POA and the resolution of such other issues as may be brought before the Membership of the POA shall be governed by this Declaration the South Carolina Not for Profit Corporation Coder the Articles of Incorporation of the POA and the By-Laws of the POA, a copy of which is attached hereto as Exhibit Br as each shall from time to time be in force and effect.

**H. Control by Declarant:**

1. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the By-Laws of the POA, Declarant, for so long as it retains a Controlling Interest hereby retains the right to appoint and remove any or all members of the Board of the POA, and any officer or officers of the POA. Each Owner by acceptance of a deed to or other conveyance of a Lot vests in Declarant such authority to appoint and remove directors and officers of the POA as provided in this Section. The POA may exercise any other right or privilege given to it expressly by this Declaration or by law and any other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

2. Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the POA pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including Declarant if Declarant then owns one or more Lots; and a special meeting of the POA shall be called at such time. At such special meeting the Owners shall elect anew Board of Directors which shall undertake the responsibilities of the Board and Declarant shall deliver the books, accounts, and records, if any, which Declarant has kept on behalf of the POA and any agreements or contracts executed by or on behalf of the POA during such period which Declarant has in its possession.

## **ARTICLE V ASSESSMENTS**

**A. Covenants for Assessments and Creation of Lien and Personal Obligations:**  
Each Owner of a Lot, jointly and severally, for himself, his heirs, devisees, legal representatives successors and assigns, by acceptance of a deed for a Lot, whether or not the covenants contained herein shall be expressed in any such deed hereby covenants and agrees as follows:

1. To pay to the POA (and the Master Association) the annual assessments which may or shall be levied by the POA (and the Master Association) pursuant to this Declaration against all Lots owned by him.
2. To pay to the POA (and the Master Association) any special assessments for capital improvements and other charges which may or shall be levied by the POA (and the Master Association) pursuant to this Declaration against all Lots owned by him.
3. That there is hereby created a continuing charge and lien upon all Lots owned by him against which all such assessments are made to secure payment of such assessments and any interests thereon as provided herein and costs of collection including reasonable attorneys' fees.
4. That such continuing charge and lien on such Lot binds such Lot in the hands of the then Owner, and the Owner's heirs, devisees, legal representatives, successors and assigns. Such charge and lien is superior to any and all charges, liens or encumbrances. which may hereafter in any manner arise or be imposed upon such Lots whether arising from or imposed by judgement or decree or by any agreement, contract, mortgage, or other instrument, except (i) such liens for taxes or other public charges as are by applicable law made superior, and (ii) all mortgages given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lots (together with any and all Structures which may from time to time be place or located thereon) or (2) to finance the construction, repair, or alteration of any or all Structures which may from time to time be placed or located thereon.
5. That no sale or transfer at foreclosure or in lieu of foreclosure shall relieve any Lot from liability for any assessment thereafter assessed.

6. That all annual, special and specific assessments (together with interest thereon as provided in and costs of collection including reasonable attorneys' fees) levied against any Lot owned by him during the period that he is an Owner shall be (in addition to being a continuing charge and lien against such Lot) a personal obligation which will survive any sale or transfer of the Residence owned by him; provided, however, that such personal obligation for delinquent assessments shall not pass to an Owner's successor in title unless expressly assumed by such successor.

**B. Purpose of Assessments:** The assessments levied by the POA shall be used exclusively for the purpose of providing for the common good and general welfare of the people of the Development, including, but not limited to, security, the acquisition, construction, improvement, maintenance, and equipping of Common Property, the enforcement of the Restrictions contained in this Declaration, the enforcement of the Design Standards of the ACC, the payment of operating costs and expenses of the POA, the payment of Master Association Assessments, and the payment of all principal and interest when due on all debts owed by the POA.

**C. Accumulation of Funds Permitted:** The POA shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the POA be obligated to apply such surplus to the reduction of the amount of the Annual Assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the POA and the effectuation of its purposes.

**D. Annual Assessment:** The Assessments shall be determined on a calendar year basis. On or before December 31<sup>st</sup> each year, the POA shall prepare or cause to be prepared an operating budget for the upcoming calendar year. The budget shall itemize the estimated expenses of the POA for such calendar year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the Assessments for the upcoming fiscal year and as the major guideline under which the POA shall be operated during such annual period. In the event the Board fails for any reason to adopt a budget for the succeeding year, then and until such time as it is adopted, the budget and annual Assessments in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, in the Consumer Price Index (all Urban Consumers, United States City Average, All Items 1982=100), or its successor index, and such increased budget shall be the

budget for the succeeding year, until anew budget is adopted. Declarant shall estimate the budget for the first year of the POA. At least ten (10) days prior to the annual meeting of the POA, the Board of Directors shall cause an audited financial statement of the POA to be prepared and distributed to the members.

**E. Special and Partial Assessments:** In addition to the annual assessments authorized by this Article, the POA may levy, in any Assessment Year and with such frequency as the POA shall deem necessary, special assessments for the purpose of paying, in whole or in part, any unanticipated operating expenses, as well as the cost of any construction, reconstruction, repair or replacement of a capital improvement on the Common Property. Such special assessments may be levied by the Board in any Assessment Year without the approval of the Members, which special assessments in the aggregate do not exceed an amount equal to the annual assessment then in effect. Special assessments exceeding said amount shall require the approval of two thirds (2/3) of the Members of the POA who are present in person or by proxy at a meeting of Members duly held in accordance with the provisions of the By-Laws of the POA and this Declaration.

**F. Assessment Procedure:** The annual assessment shall be due and payable on February 1 of each year (such date is hereinafter referred to as the "Due Date"). The Board shall cause the POA to send to each Owner at east thirty (30) days in advance of the Due Date written notice setting forth the amount of the annual assessment and the Due Date. The annual assessment shall become due on the thirtieth (30th) day following such written notice of the Due Date, whichever is later. The Board may establish reasonable payment procedures to allow or require payment of the annual assessment in installments during the Assessment Year. The Board may also establish payment procedures for payment of any special assessments for capital improvements which may be levied in accordance with the provisions of this Article.

**G. Uniform Rate of Assessment:** Both annual and special assessments must be fixed at a uniform rate for all Lots.

**H. Effect of Non-Payment of Assessments:** Any assessment which is not paid on or before the Due Date shall bear interest after the Due Date at the lower of the highest legal rate of interest which can be charged or the rate of eighteen (18%) percent per annum or at such rate as the Board may from time to time establish.

**I. Certificate of Payment:** Upon written demand by an Owner, the POA shall within a reasonable period of time issue and furnish to such other Owner a written

certificate stating that all assessments (including penalties, interest and costs, if any) have been paid with respect to any Lot owned by said Owner as of the date of such certificate, or that all assessments, interest and costs have not been paid, setting forth the amount then due and payable. The POA may make a reasonable charge for the issuance of such certificate. Any such certificate, when duly issued as herein provided, shall be conclusive and binding with regard to any matter therein stated as between the POA and any bona fide purchaser of, or lender on, the Lot in question.

J. Assessments against Declarant: Notwithstanding anything to the contrary contained herein, for a period of one (1) year from the date upon which a lot is made subject to this declaration no assessment shall be made on any lot owned by the Declarant. Persons purchasing from the Declarant shall pay a one time working capital contribution in an amount to be determined periodically by Declarant and a pro-rata portion of assessments for the year based upon the date of purchase.

K. Specific Assessments: The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the POA or the Board and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future. The Board may specifically assess Owners for the following expenses, except for expenses incurred for maintenance and repair of items which are the maintenance responsibility of the POA as provided herein:

1. Expenses of the POA which benefit less than all of the Lots, which may be specifically assessed equitably among all of the Lots which are benefitted according to the benefit received;
2. Expenses incurred by the POA in performing the duties of an Owner to maintain his lot and any improvements thereon; and
3. Reasonable fines as may be imposed in accordance with the terms of the Declaration and By-Laws.

## ARTICLE VI GENERAL COVENANTS AND RESTRICTIONS

A. Application: The covenants and restrictions contained in this Article shall pertain and apply to all Lots and to all Structures erected or placed thereon.

**B. Restriction of Use:** Lots may be used for single-family residences only and for no other purpose provided that Declarant or any builder acquiring any Lots from Declarant may operate a Sales Office and/or Model Home on a Lot or Lots designated or approved by Declarant.

**C. Architectural Control Committee:** The "Architectural Control Committee" (ACC) shall be appointed by the Board of Directors of the POA or of the Master Association as an advisory group. The architecture of homes and/or improvements to and on each of the lots subject to these protective covenants will be subject to approval by the ACC.

The ACC will be composed of Three (3) persons and One (1) alternate designated and appointed by the POA, in which each appointed member would be entitled to one vote, and a majority vote of committee members will be controlling.

**D. Review and Approval of House and Landscape Plans:** No Member, other than the Declarant may undertake any landscaping, grading, filling, excavation of dirt, building, fence, wall, sidewalk, or other structure shall be commenced, erected or maintained on any lot, nor shall any exterior addition to or alteration therein be made until the plans and specifications showing the grading, landscaping, filling, nature, kind, shape, height, materials and location of the same shall have been submitted to the ACC and approved, in writing. Grading and filling of the lot must conform to the drainage plan for the subdivision. The ACC will make every effort to make a decision within (ten) days; however, if it fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted in writing, approval will not be required. Neither Declarant or nor any member of the ACC shall be responsible or liable in any way for any defects in any plans or specifications approved by the ACC, nor for any structural defects in any work done according to such plans and specifications. Further, neither Declarant nor any member of the ACC shall be liable for damages to anyone submitting plans or specifications for approval under this Section, or to any owner of property affected by this Declaration by reason of mistake in judgment, negligence, or non-feasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the ACC for approval agrees, by submission of such plans and specifications, and every owner of any lot agrees, that he will not bring any action or suit against Declarant, or any member of the ACC, to recover for any such damage.



**E. Building Construction:** Not more than one single-family dwelling, not to exceed two (2) stories in height, shall be erected on any lot unless otherwise approved, in writing, by the ACC. During the course of construction, all construction debris must be removed within forty-eight (48) hours. In the event construction debris is not removed within forty-eight (48) hours, the Declarant shall have the right, but not the obligation, to have the debris removed and to have a lien upon the property of the owner for failure to abide by this Restriction. No structure previously erected on another site, pre-lived in, completed modular units or mobile homes will be allowed.

**F. Setbacks and Building Lines:**

(a) Front set back lines shall be twenty (20') feet; rear set back lines shall be fifteen (15') feet; side set back lines shall be ten (10') feet with the exception of corner lots which shall have a side set back line along the street of fifteen (15') feet. Any outbuildings, such as garages or storage sheds, if permitted, shall be within the setbacks.

(b) Walls and Fences. Any fences and walls sought to be constructed on any lot shall require the specific approval of the ACC as to location, size, composition, configuration, exterior materials, color and other similar matters, which approval may be withheld for purely aesthetic considerations. No hedge, shrubbery or fence on any of the lot or lots herein referred to across the front street line of the said lot or lots, or on either of the side lines of the said lot or lots until such time as the ACC approves same as to location. No fence, hedge or shrubbery shall be constructed within fifteen (15') feet of the ten (10') foot lake easement.

(c) Subdivision of Lots: Lots may not be subdivided, except to be added to adjoining lots to make larger single building lots. In such event, the building line requirements provided herein shall apply to such lots as re-subdivided or combined.

(d) Terraces, Eaves: Terraces, stoops, eaves, wing-walls, and steps extending beyond the outside wall of a structure, shall not be considered as a part of the building.

**G. Building Requirements:** The enclosed heated areas of the home, exclusive of garages, porches and decks, shall be not less than 1,200 square feet. No dwelling shall be utilized for any activity normally conducted as a business.

H. Obstructions to View at Intersections: The lower branches of trees or other vegetation shall not be permitted to obstruct the view at intersections.

I. Completion of Construction: A home must be completed within six (6) months from the date of commencement of construction, or the date a building permit is issued which ever occurs first.

J. Pets: Only dogs, cats or other household animals may be kept as pets. Pets shall be maintained upon the Owner's lot and it shall be considered a nuisance if such pet is allowed to go upon another owner's lot or to be upon the streets unless under leash or carried by the owner.

K. Offensive Activities: No noxious, offensive, illegal or immoral activities shall be carried on upon any lot, nor shall anything be done thereon which is or may become an annoyance or nuisance to or which may diminish or destroy the enjoyment of the owners of other lots.

L. Signs: No signs whatsoever (including, but not limited to commercial and similar signs) shall, without the ACC'S prior written approval of plans and specifications therefore, be installed, altered or maintained on any Lot, or on any portion of a residence or other structure visible from the exterior thereof.

M. Nature Growth: Trees which have a diameter in excess or six (6") inches measured two (2') feet above ground level, and distinctive flora, shall not be intentionally destroyed or removed except with the prior approval, in writing, of the ACC.

N. Antennae: No radio, TV or satellite disc, ham operator Towers or television transmission or reception towers or antennae shall be erected on the lots unless approved by Declarant.

O. Trailers, Trucks, School Buses: Habitable motor vehicles, campers, school buses, motorcycles, trucks or commercial vehicles over three fourths (3/4) ton capacity and boats, shall not be kept, stored or parked overnight on any street or lot, except within enclosed garages.

P. Garbage and Refuse Disposal: Trash shall be kept in sanitary containers and shall be placed on the street the morning of pick-up and be removed by 6:00 p.m. on the date of pick-up.

Q. Utility Facilities: Declarant reserves the right to approve the necessary construction, installation and maintenance of utility facilities, including but not limited to water, cable TV, electrical service, telephone and sewerage systems. All residential utility service, telephone, television and lines to residences shall be underground and all fuel tanks or similar storage receptacles must be buried.

R. Mail and/or Paper Delivery Boxes: The location, color, size, design, lettering, brackets, name signs and all other particulars of all mail and/or paper delivery boxes, shall be determined by the ACC in order that the area may be strictly uniform in appearance with respect thereto.

S. Extraction of Minerals and Gases: No derrick or other gas structure designed for use in boring for oil or natural gas shall be erected, placed or permitted upon any part of such premises, nor shall any oil, natural gas, petroleum, asphalt, or hydrocarbon products or minerals of any kind be produced or extracted from the premises.

T. Temporary Structures: No structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor or Declarant during the period of construction, it being clearly understood that these latter temporary shelters may not, at any time, be used as residence or permitted to remain on the lot after completion of construction.

U. Outbuildings: No trailer, tent, barn, tree house, or other similar outbuilding or structure shall be placed on any lot at any time, except that a detached storage shed or garage may be constructed which is similar in style, construction and appearance to the residence on the lot. Any such shed or garage must be approved in writing by the ACC and be in conformity with the architectural and design controls of the subdivision.

V. Boats: No boats or boat trailers may be maintained on the premises for a period in excess of twenty-four (24) hours unless same is in an enclosed area or otherwise completely screened from view.

W. Clotheslines: No clothesline or drying yard shall be located upon any lot.

X. Individual Water Supplies: No individual water supply system shall be permitted upon the premises with the exception of a low capacity shallow well to be used for irrigation, heating, and air conditioning system purposes only, which shallow

well shall be approved in writing in all aspects, including but not limited to the pump and the covering or screening thereof, by the ACC prior to installation. The water from any sprinkler/irrigation system shall be permitted to fall upon the Owner's Lot only. The water shall not be allowed by the Owner of a Lot to spray or drain outside the Owner's Lot boundaries.

**Y. Sewage Disposal Systems:** No septic tank or other sewage disposal facility shall be placed upon any lot in the subdivision but the sewage treatment plant and sewer system for the collection and disposal of sewage provided for the development. shall be used as the sole means of sewage disposal for the premises.

**Z. Liability of Declarant for Violations:** The development activities of the Declarant shall not be subject to review by the ACC, nor shall the Declarant in any way or manner be held liable or responsible for any violation of these restrictions by any person other than itself.

**AA. Elevation or Topography of Lots:** No elevation or topography changes shall be permitted on any lot which materially affects the surface grade or drainage on said lot or adjoining lot or property. Builder/Buyer shall be responsible in making sure their respective lot meets the drainage requirements of the development. The Declarant reserves to itself or its designated representatives, the right to build any bridges, walkways, ramps, or fixed spans across any or all natural, or man-made canals, creeks or lagoons in the development.

**BB. Lot Maintenance:** Each Owner shall keep and maintain each Lot and structure thereon owned by him, as well as all landscaping located thereon, in good condition and repair, including but not limited to (i) the repairing and painting (or other appropriate external care) of all structures, (ii) the seeding, watering and mowing of all lawns, and (iii) the pruning and trimming of all trees, hedges and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic. All unimproved Lots shall be kept in a reasonable neat and clean condition. Notwithstanding the foregoing, the maintenance required hereunder shall also extend from the boundary of a Lot to the curbing of the right-of-way bordering said Lot. If in the opinion of the ACC, any Owner shall fail to perform the duties imposed by this Section, the ACC shall notify the POA. If the POA's Board shall agree with the determination of the ACC with respect to the failure of said Owner to perform the duties imposed by this Section, then the Board shall give written notice to the Owner to remedy the condition in question, setting forth in reasonable detail the nature of the condition and the specific action or actions needed to be taken to

remedy such condition. If the Owner shall fail to take reasonable steps to remedy the condition with thirty (30) days after the mailing of said written notice by certified mail, then the POA shall be authorized to remedy the condition and assess the Owner of said Lot with the reasonable costs thereof. Such assessment shall be collected in the same manner provided for General Assessments herein, including the right of the POA to lien the Lot and pursue collection remedies for non-payment, together with reasonable attorneys fees and costs.

**CC. Pest Control:** In order to implement effective insect, reptile and woods fire control, and to maintain the overall beauty of the neighborhood, the Declarant and his agents have the right to enter upon any property on which a building or structure has not been constructed and upon which no landscaping plan has been implemented, such entry to be made by personnel with tractors or other suitable devices for the purpose of mowing, removing, clearing, cutting, or pruning underbrush, weeds, or other unsightly growth, which in the opinion of the POA detracts from the overall beauty, setting and safety for the Property. The cost of this vegetation control shall be paid by the Owner of the lot or lots. Such entrance for the purpose of mowing, cutting, clearing or pruning shall not be deemed a trespass. The POA and its agents may likewise enter upon such land to remove any trash which has collected on such lot or lots without such entrance and removal being deemed a trespass. The provisions in this paragraph shall not be construed as an obligation on the part of the POA to mow, clear, cut or prune any lot or lots nor to provide garbage or trash removal services.

**DD. Driveways:** All driveways, turn around spaces and areas normally used for parking automotive vehicles must be suitably paved as approved by the ACC.

**EE. Private Pools:** Some lots have an appropriate site for a pool and requests to the ACC for approval of pools for specific lots will be handled on a lot-by-lot basis and shall be handled in the same manner as requests for any other type improvement. No above ground pools shall be permitted.

## **ARTICLE VII EASEMENTS, ZONING AND OTHER RESTRICTIONS**

### **A. Easements:**

1. Declarant hereby expressly reserves to the Declarant, its successors and assigns forever, the right to create perpetual easements in, on, over and under any

part of the Parcel for any purpose which Declarant deems necessary, including, by way of example, and not limitation, the following:

- a. The installation, construction and maintenance of wires, lines and conduits in connection with the transmission of electricity, telephone, cable television cables and other utilities and similar facilities.
- b. The installation, construction and maintenance of storm-water drains, land drains, public and private sewers, irrigation systems, pipelines for supplying gas and water, and for any other public or quasi-public facility, service or function;
- c. Slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow; and
- d. The planting or replanting of hedges, shrubbery, bushes, trees, flowers and plants of any nature.
- e. Ingress and egress over roadways on the Parcel to and from adjacent properties which may be developed by Declarant.

2. No Owner shall have any right to use any easement created by the Declarant in, on or over any portion of the Parcel with the exception of landscaping and/or any other use or uses approved by the ACC unless such easement has been assigned by the Declarant to the POA.

**B. Easement Area:** The words "Easement Area" as used herein shall mean those areas on any Lot or any other portion of the Parcel with respect to which easements are shown on a recorded deed, easement agreement or on any filed or recorded map or plat relating thereto.

**c. Entry:** The Declarant and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section. The Declarant and its employees,

agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area.

**D. Easements for Encroachment and Overhang:** There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant, or the POA.

**E. Lake Easements:** The Declarant hereby reserves for itself and the POA an easement of ingress and egress over and upon all Lots adjacent to lakes or waterways if any, for the purpose of providing necessary or desirable maintenance to such lake or waterways or to the land between the low water line and the Parcel line of such Lot. This easement shall extend into each Lot for a uniform distance of twenty (20) feet from the then existing high water line and may be further shown upon final recorded plats. The easement and right herein reserved shall include the right to cut, remove and plant trees, bushes or shrubbery and other vegetation and the right to grade the land covered by the easement.

**F. Zoning and Private Restrictions:** None of the covenants, restrictions or easements created or imposed by this Declaration shall be construed as permitting any action prohibited by applicable zoning laws, or by the laws, rules or regulations of any governmental body. In the event of any conflict between such laws, rules or regulations and the covenants, restrictions and easements created or imposed by Declaration, the most restrictive provision shall govern and control.

## **ARTICLE VIII ENFORCEMENT**

**A. Right of Enforcement:** This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by (i) the Declarant so long as it is an Owner, (ii) the POA, and (iii) each Owner, his heirs, devisees, legal representatives, successors and assigns.

**B. Right of Abatement:**

1. Except where different notice provisions are provided herein, in the event of a violation or breach of any Restriction contained in this Declaration, the POA shall give written notice by certified mail to the Owner setting forth in reasonable detail the nature of such violation or breach and the specific action or actions needed to be taken to remedy such violation or breach. If the Owner shall fail to take reasonable steps to remedy such violation or breach within thirty (30) days after the mailing of said written notice, then the POA shall have the Right of Abatement.

2. The Right of Abatement means the right of the POA, through its agents and employees, to enter at all reasonable times upon any Lot or Structure as to which a violation, breach or other conditions to be remedied exists, and to take the actions specified in the notice to the Owner to abate, extinguish, remove, or repair such violation, breach or other condition which may exist thereon contrary to the provisions hereof, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and such actions, provided such entry and such actions are carried out in accordance with the provisions of this Section, and with the costs thereof including the costs of collection including reasonable attorneys' fees, together with interest thereon at the lower of the highest rate permitted by law or eighteen (18%) percent to be a binding personal obligation of such Owner enforceable in law, as well as a lien on such Owner's Lot enforceable pursuant to the provisions hereof. Such lien shall be superior to any and all charges, liens or encumbrances which may in any manner arise or be imposed upon the Lot after such entry whether arising from or imposed by judgment or decree or by any agreement, contract, mortgage, or other instrument, excepting only (i) such liens for taxes or other public charges as are by applicable law made superior, (ii) the liens for assessment referred to above, and (iii) all mortgages given to secure a loan the proceeds of which are used (1) to purchase a Lot or Lots (together with any and all Structures which may from time to time be placed or located thereon) or (2) to finance the construction, repair, or alteration of any or all Structures which may from time to time be placed or located thereon.

c. Specific Performance: Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Declarant, the POA or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages, including, but not limited to, reasonable attorney's fees and costs. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary hereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform, any of the obligations



provided by this Declaration; and therefor, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof.

**D. Collection of Assessments and Enforcement of Lien:**

1. If any assessment, interest, cost or other charge is not paid as required by this Declaration, the POA may bring either an action at law against the Owner personally obligated to pay the same, or an action to foreclose any lien created by this Declaration against the Lot or Lots subject to the lien, or both, plus any interest thereon and costs of collection, including reasonable attorneys' fees.

2. No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of assessment shall be claimed or allowed by reason of any alleged failure of the POA to take some action or perform some function required to be taken or performed by the POA under this Declaration or the By-Laws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the POA, or from any action taken by the POA to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

E. No Waiver: The failure of the Declarant, the POA, or the Owner of any Lot, his or its respective heirs, legal representative, devisees, Successors and assigns, to enforce any Restrictions herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach or as to any violation or breach occurring prior or subsequent thereto.

**ARTICLE IX  
DURATION AND AMENDMENT**

A. Duration. The provisions of this Declaration shall run with the land and be binding upon the title to the Property, shall be binding upon and inure to the benefit of all Owners the Declarant, the POA and all mortgagees, and their respective heirs, executors, legal representatives, Successors and assigns, and successors in title, and shall be and remain in effect for a period of Thirty (30) years from and after the date of the recording of this Declaration, provided that rights and easements which are stated herein to have a longer duration shall have such longer duration. Upon

the expiration of said thirty (30) year period, this Declaration shall be automatically renewed for Successive ten (10) year periods. The number of ten (10) year renewal periods shall be unlimited, with this Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of an initial thirty (30) year period or the last year of any ten (10) year renewal period, seventy-five percent (75%) of the total votes of the POA are cast in favor of terminating this Declaration at the end of the then current term. In the event that the POA votes to terminate this Declaration; an instrument evidencing such termination shall be filed of record in the Office of the Register of Deeds for Horry County, South Carolina, such instrument to contain a certificate wherein the President of the POA swears that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in the Development, by acceptance of a deed or other conveyance thereof, thereby agrees that the provisions of this Declaration shall run with the land and be binding upon the title to the land as provided hereby. No termination of this Declaration shall be enforceable or valid if the Declarant owns Controlling Interest, unless Declarant consents in writing to the termination.

**B. Perpetuities:** If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until ninety (90) years after the date of execution hereof.

**C. Amendments by Declarant:** During any period in which Declarant retains a Controlling Interest, Declarant may amend this Declaration by an instrument in writing, filed and recorded in the Deed Book of the Clerk of Court's Office for Horry County, South Carolina, without the approval of any Owner or mortgagee; provided, however, that (i) in the event that such amendment materially alters or changes any Owner's right to the use and enjoyment of such Owner's Lot or of the Common Property as set forth in this Declaration or if such amendment adversely affects the title to any Lot, such amendment shall be valid only upon the written consent thereto by a majority in a number of the then existing Members 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. Any amendment made pursuant to this Section shall be certified by Declarant as having been duly approved by Declarant, and such Members and mortgagees, if required, and shall be effective only upon recondition or at such later date as shall be specified in the amendment itself.

Notwithstanding anything to the contrary herein, Declarant for so long as it owns a Controlling Interest may unilaterally amend this Declaration or any other instruments relating to this Development (including without limitation the articles and bylaws of the POA) (i) if such amendment is necessary to bring any provision hereof or thereof into compliance with the provisions of any applicable governmental statute, rule or regulation or with any judicial determination which shall be in conflict therewith, (ii) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to any Lots subject to this Declaration, (iii) if such amendment is required by an institutional or governmental lender, purchaser or guarantor of mortgage loans, including, for example, the Federal National Mortgage Association, or Federal Home Loan Mortgage Corporation, to enable such lender or purchase to make loans secured by any property subject to this Declaration (iv) if any such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots subject to this Declaration, or (v) if such amendment is necessary to correct a scrivener's error in the drafting of this Declaration.

D. Amendment by POA: Amendments to this Declaration, other than those authorized 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 POA at which such proposed amendment is to be considered and shall be delivered to each Member of the POA.
2. At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board or by Members of the POA. Such amendment must be approved by Members holding at least two thirds (2/3) of the total votes in the POA; provided, however, (i) that any amendment which materially and adversely affects the security title and interest of any mortgagee must be approved by such mortgagee, and (ii) during any period in which Declarant has a Controlling Interest, such amendment must be approved by Declarant.
3. The agreement of the required percentage of the Owners and, where required, the Declarant and any mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, and provided that Declarant does not then have the right to approve such amendment, the sworn statement of the President and any vice President or the Secretary of the POA attached

to or incorporated in the amendment executed by the POA, 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.

## **ARTICLE X ANNEXATION**

**A. Annexation:** Additional real property may be annexed to the Parcel by the Declarant without the consent of the Class A Members until December 31, 2009. Such annexation shall be accomplished by filing in the Office of the Clerk of Court of Horry County an approved subdivision plat describing the real property to be annexed to the Parcel and by including on such subdivision plat a statement that expressly sets forth the Declarant's intention to make such annexed real property subject to the provisions of the Declaration; or by filing an amendment to the Declaration which has been consented to by the owners of the real property to be annexed if any portion of such real property to be annexed if any portion of such real property is owned by someone other than Declarant. After December 31, 2009, no real property may be annexed to the Parcel unless such annexation is approved by a majority vote of the Members of the POA who are present in person or by proxy and voting at a meeting of Members duly held in accordance with the provisions of the By- Laws of the POA.

**B. Construction and Sale Period:** Notwithstanding any provisions contained in this Declaration, the By-Laws, Articles of Incorporation, Articles of Correction, use restrictions, rules and regulations, design guidelines, and any amendments thereto, until Declarant's right unilaterally to subject property to this Declaration as provided herein terminates, it shall be expressly permissible for Declarant and any builder or developer approved by Declarant to maintain and carry on, upon such portion of the Development as Declarant may deem necessary, such facilities and activities as in the sole opinion of Declarant may be required, convenient, or incidental to Declarant's and such builder's or developer's development, construction, and sales activities related to property subject to this Declaration, including, but without limitation: the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Development; the right to tie into any portion of the Development with driveways, parking areas and walkways; the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services including, without limitation, electrical, telephone, natural gas, water, sewer and

drainage lines and facilities constructed or installed in, on, under, and/or over the Development; the right to carry on sales and promotional activities in the Development; and the right to construct and operate business offices, signs, construction trailers, material storage areas, model residences, off-street parking areas, and sales offices. Declarant and any such builder or developer may use residences or offices owned or leased by Declarant or such builder or developer as model residences and sales offices. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the person causing any damage at its sole expense.

## ARTICLE XI MISCELLANEOUS

A. No Reverter: No restriction herein is intended to be, or shall be construed as, a condition subsequent or as creating a possibility of reverter.

B. Severability: A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

C. Headings: The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

D. Gender: Throughout this Declaration, the masculine gender shall be deemed to include the feminine and neuter, and the singular, the plural, and vice versa.

E. Notices: All amendments, notices, requests, objections, waivers, rejections, agreements, approvals, disclosures or contents of any kind made pursuant to this Declaration, whether made by the Declarant, the POA, the ACC, the Owner, or any other person, shall be in writing. All such writings shall be sufficient only if deposited in the United States Mail, with sufficient postage, and sent to the following addresses:

Declarant: BILL CLARK HOMES OF MYRTLE BEACH, LLC  
5000 Highway 17 Bypass  
Myrtle Beach, SC 29577

**Owners:** Each Owner's address as registered with the POA in accordance with the By-Laws

The Declarant reserves the right to change its address from time to time by filing an amendment to this Declaration specifying its new address in the Office of the Register of Deeds for Horry County, South Carolina.

Any written communication transmitted in accordance with this Section shall be deemed received on the third (3rd) day following the day such written notice is deposited in the united States Mail.

**F. No Liability:** Declarant has, using best efforts and all due diligence, prepared and recorded this Declaration so that each and every Owner shall have the right and the power to enforce the terms and provisions of this Declaration against every other Owner. However, in the event that this Declaration or any provision herein is, for any reason whatsoever, unenforceable by an Owner (or any other person) in a court of law or otherwise, Declarant shall have no liability of any kind as a result of such unenforceability, and each and every Owner, by acceptance of a deed conveying a Lot, acknowledges that Declarant shall have no such liability. In addition, neither the Declarant nor the POA shall have any liability of any kind as a result of the failure to enforce any provision contained in this Declaration.

**G. Insurance:**

1. At all times during the terms of this Declaration, the POA, its successors and assigns, shall be required to keep any and all recreational facilities and any other improvements located on the Common Property fully insured by a reputable insurance company authorized to transact business in the State of South Carolina with (i) fire, vandalism, malicious mischief and extended coverage insurance in an amount adequate to cover the cost or replacement of such improvements, fixtures and contents, thereof, and (ii) public liability insurance in such amounts as shall be determined by the Board of Directors as appropriate for the type of recreational activities which shall be allowed on the Common Property. Any such policies of insurance shall require that the certificate holders and insured by given thirty (30) days prior written notice of any cancellation of such policies.

2. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the POA, the Board or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and

detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the Parcel to substantially the same condition and location that existed prior to the fire or other casualty.

Any damage or destruction shall be repaired or reconstructed unless, within sixty (60) days after the casualty, at least seventy-five percent (75%) of the total POA vote entitled to vote thereon, and, so long as Declarant has the right to appoint and remove Directors, the Declarant, otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the POA within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed one hundred and twenty (120) days. No mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board shall, without the necessity of a vote of the POA's Members, levy a special assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited for the benefit of the POA.

In the event that it should be determined by the POA in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then in that event the Parcel shall be restored to its natural state and maintained as an undeveloped portion of the Community in a neat and attractive condition until the POA establishes another use for said property.

3. The deductible for any casualty insurance policy carried , by the POA shall, in the event of damage or destruction, be allocated among the persons who are responsible hereunder for maintenance of the damaged or destroyed property.

H. Variances: Notwithstanding anything to the contrary contained herein, the Declarant or the Board of Directors of the POA or the designee of either of them shall be authorized to grant individual variances from any of the provisions of this

Declaration, the By-Laws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Development.

## **ARTICLE XII MORTGAGE PROVISIONS**

The following are provisions for the benefit of holders of first mortgages of Residences or Lots in the Development. The provisions of this Article apply to both this Declaration and to the By-Laws, notwithstanding any other provisions contained therein.

**A. Notices of Action:** An institutional holder, insurer, or guarantor of a first mortgage, who provides written request to the POA (such request to state the name and address of such holder, insurer, guarantor, and the Residence number therefore becoming an "eligible holder"), will be entitled to timely written notice of:

1. Any condemnation loss or any casualty loss which affects a material portion of the Development or which affects any Residence or Lot of which there is a first mortgage held, insured, or guaranteed by such eligible holder;
2. Any delinquency in the payment of assessments or charges owned by an Owner of a Residence or Lot subject to the mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first mortgage, upon request, is entitled to a written notice from the POA of any default in the performance by an Owner of a Residence or Lot of any obligation under the Declaration or By-Laws of the POA which is not cured within sixty (60) days.
3. Any lapse, cancellation, or material modification of any insurance policy maintained by the POA; and
4. Any proposed action which would require the consent of a specified percentage of eligible mortgagees.

**B. Special FHLMC Provision:** So long as required by the Federal Home Loan Mortgage Corporation, the following provisions apply in addition to and not in lieu of



the foregoing. Unless at least two thirds (2/3) of the first mortgagees or at least two thirds (2/3) of the total Members of the POA entitled to vote thereon consent, the POA shall not:

1. By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Property which the POA owns, directly or indirectly (the granting of easements for public utilities or other similar purposes consistent with the intended use of the Common Property shall not be deemed a transfer within the meaning of this subsection);
2. Change the method of determining the obligations, assessments, dues, or other charges which may be levied against an Owner of a Residence or Lot;
3. By act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lots and Residences and of the Common Property (the issuance and amendment of architectural standards, procedures, rules and regulations, or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection);
4. Fail to maintain insurance, as required by this Declaration; or
5. Use hazard insurance proceeds for any Common Property losses for other than the repair, replacement, or reconstruction of such property.

First mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Property and may pay overdue premiums on casualty insurance policies or secure new casualty insurance coverage upon the lapse of a POA policy, and first mortgagees making such payments shall be entitled to immediate reimbursement from the POA.

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

D. Notice to POA: Upon request, each Owner shall be obligated to furnish to the POA the name and address of the holder of any mortgage encumbering such Owner's Residence or Lot.

E. Amendment by Board: Should the Federal National Mortgage POA, or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to be recorded to reflect such changes.

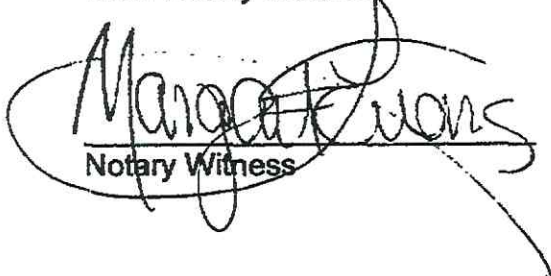
F. Applicability of Article XII: Nothing contained in this Article shall be construed to reduce the percentage vote that most otherwise be obtained under the Declaration, By-Laws, or South Carolina law for any of the acts set out in this Article.

G. Failure of Mortgagee to Respond: Any mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the POA does not receive a written response from the mortgagee within thirty (30) days of the date of the POA's request.

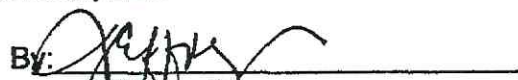
IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and sealed the day and year first above written.

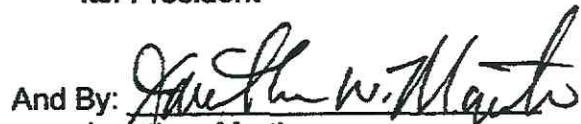
WITNESSES:

  
NON-Notary Witness

  
Notary Witness

**BILL CLARK HOMES OF MYRTLE BEACH, LLC**

By:   
Jeff Farrell  
Its: President

And By:   
Jonathan Martin  
Its: Secretary

And By:   
Tony Waters  
Its: Treasurer

STATE OF SOUTH CAROLINA )

)

PROBATE

COUNTY OF HORRY )

)

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the above-named **President, Jeff Farrell, Secretary, Jonathan Martin, and Treasurer, Tony Waters**, on behalf of Bill Clark Homes of Myrtle Beach, LLC, sign, seal and as its act and deed deliver the within written Declaration of Covenants, Restrictions and Easements for CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC.; and that s/he with the other witness whose name is subscribed above witnessed the execution thereof.

*Karen Hubbs*

NON-Notary Witness

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

*Margaret L. Evans*  
Notary Public for South Carolina

My Commission Expires: 02/19/2008



**EXHIBIT "A"  
(Real Property Description)**

**ALL AND SINGULAR** that certain piece, parcel or tract of land, situate, lying and being in Socastee Township, Horry County, South Carolina, containing 10.09 acres, as shown on the "**FINAL SUBDIVISION PLAT OF CASCADES AT AZALEA LAKES PHASE I FOR BILL CLARK HOMES OF MYRTLE BEACH, LLC**", as prepared by Engineering and Technical Services, Inc., recorded on September 4, 2003 in Plat Book/Slide 192 at Page 31 in the Office of the Register of Deeds for Horry County, South Carolina; said property having Lots 1 - 42, with the lots comprising 7.23 acres, rights-of-way comprising 2.14 acres, and the common area comprising .72 acres, with all lots, streets, easements, rights-of-way, and common areas being shown, said reference to which is craved as forming a part of this description.

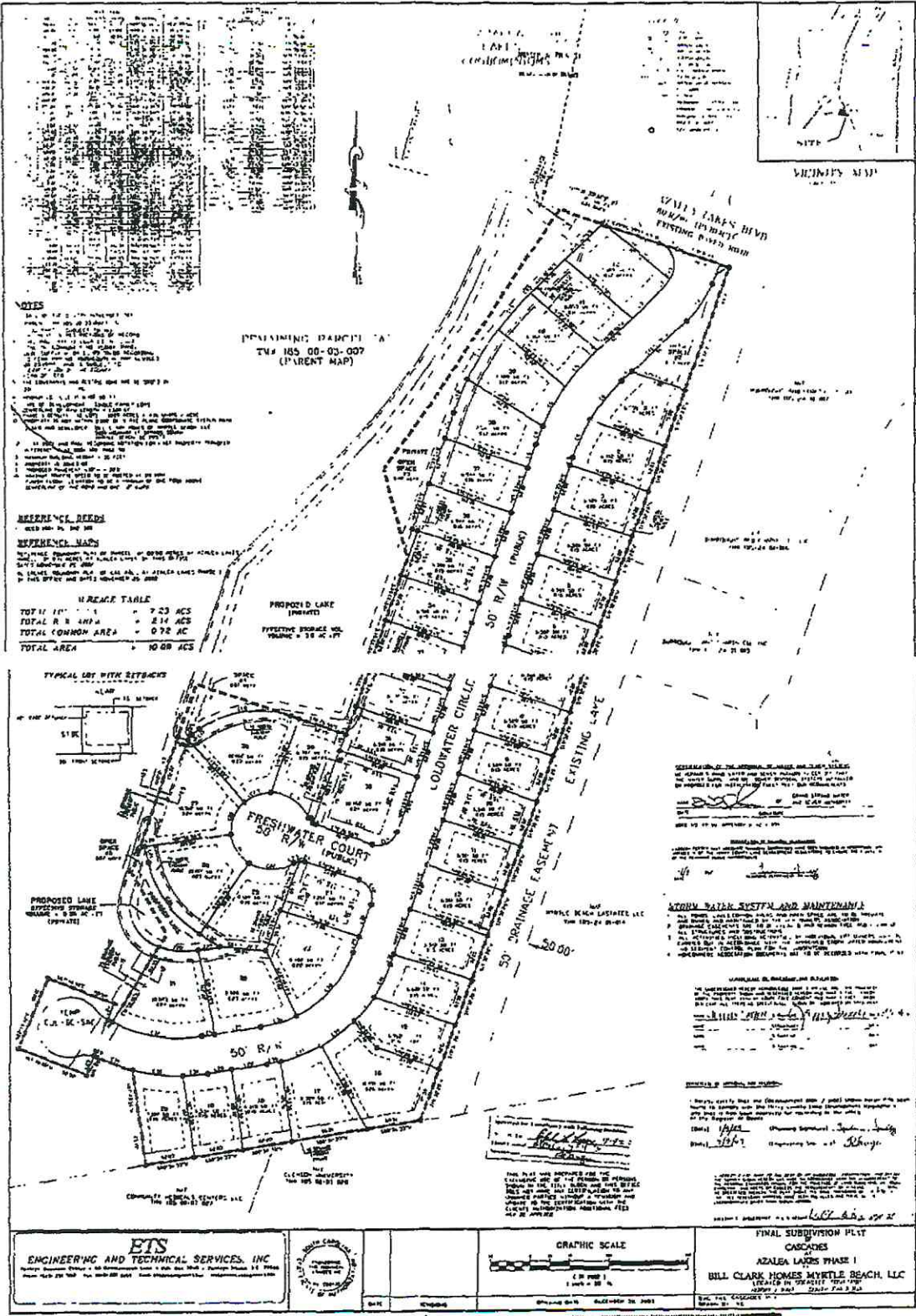
**SUBJECT TO** all easements, restrictions and covenants of record.

**THIS BEING** the identical property conveyed herein by Deed of BHHL Builders, LLC to Bill Clark Homes of Myrtle Beach, LLC, dated February 18, 2003 and recorded March 24, 2003 in Deed Book 2576 at Page 1420 in the Office of the Register of Deeds for Horry County.

**TMS # 185-00-03-046**

HORRY COUNTY REGISTER  
185-24-01-018 thru 064  
Map      Blk      Parcel 2-13-04

192-31



**NOTES**

1. THE LOTS ARE TO BE DEVELOPED AS SINGLE-FAMILY RESIDENTIAL LOTS.
2. THE LOTS ARE TO BE DEVELOPED WITH A MINIMUM OF 10,000 SQUARE FEET OF COVERED AREA.
3. THE LOTS ARE TO BE DEVELOPED WITH A MINIMUM OF 10,000 SQUARE FEET OF COVERED AREA.
4. THE LOTS ARE TO BE DEVELOPED WITH A MINIMUM OF 10,000 SQUARE FEET OF COVERED AREA.
5. THE LOTS ARE TO BE DEVELOPED WITH A MINIMUM OF 10,000 SQUARE FEET OF COVERED AREA.

**REFERENCE MAPS**

1. THE LOTS ARE TO BE DEVELOPED WITH A MINIMUM OF 10,000 SQUARE FEET OF COVERED AREA.

**AREA TABLE**

TOTAL LOT AREA	7.23 ACS
TOTAL R/W AREA	2.14 ACS
TOTAL COMMON AREA	0.92 AC
TOTAL AREA	10.29 ACS

**STORM WATER SYSTEM AND MAINTENANCE**

1. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.
2. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.
3. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.
4. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.
5. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.

**CONSTRUCTION REQUIREMENTS**

1. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.
2. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.
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5. THE STORM WATER SYSTEM SHALL BE DESIGNED TO CARRY THE DESIGN STORM RAINFALL RATE OF 3.0 INCHES PER HOUR.

<p><b>ETS</b> ENGINEERING AND TECHNICAL SERVICES, INC. 10000 Highway 101, Suite 100, Newport News, VA 23606 Phone: 757-246-1100</p>		<p>GRAPHIC SCALE 1" = 100'</p>	<p>FINAL SUBDIVISION PLAN CASADES AZALEA LAKES PHASE I BILL CLARK HOMES SEVETTE BEACH, LLC CREATED BY: [Signature] DATE: 1/20/21</p>
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192-31

STATE OF SOUTH CAROLINA  
SECRETARY OF STATE  
NONPROFIT CORPORATION  
ARTICLES OF INCORPORATION

FILED

JAN 29 2004

Mark Hammond  
SECRETARY OF STATE

TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant to Section 33-31-202 of the South Carolina Code of Laws, as amended, the undersigned corporation submits the following information:

1. The name of the nonprofit corporation is:

CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC.

2. The initial registered office of the nonprofit corporation is:

412 Main Street  
North Myrtle Beach, SC 29582 (Horry County)

The name of the registered agent of the nonprofit corporation at that office is:

BENCHMARK MANAGEMENT GROUP, INC.  
412 Main Street  
North Myrtle Beach, SC 29582 (Horry County)

I hereby consent to the appointment as registered agent of the corporation.

Jane Harris  
Agent's Signature (Jane Harris)

3. Check "a", "b", or "c" whichever is applicable. Check only one box:

- a.  The nonprofit corporation is a public benefit corporation.
- b.  The nonprofit corporation is a religious corporation.
- c.  The nonprofit corporation is a mutual benefit corporation.

4. Check "a" or "b", whichever is applicable:

- a.  This corporation will have members.
- b.  This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is:

412 Main Street  
North Myrtle Beach, SC 29582 (Horry County)

CERTIFIED TO BE A TRUE AND CORRECT COPY  
AS TAKEN FROM AND COMPARED WITH THE  
ORIGINAL ON FILE IN THIS OFFICE

JAN 29 2004

Mark Hammond  
SECRETARY OF STATE OF SOUTH CAROLINA

6. If this nonprofit corporation is either a public benefit or religious corporation (when box "a" or "b" of paragraph 3 is checked), complete either "a" or "b", whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation.
- a.  Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code, or shall be distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.
- b.  Upon dissolution of the corporation, consistent with the law, the remaining assets of the corporation shall be distributed to: \_\_\_\_\_
7. If the corporation is a mutual benefit corporation (when box "c" of paragraph 3 is checked), complete either "a" or "b", whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.
- a.  Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.
- b.  Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to: \_\_\_\_\_
8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See 33-31-202(c) of the 1976 South Carolina Code of Laws, as amended, the applicable comments thereto, and the instructions to this form):
- a. Membership. Every person or entity who is a record owner of a fee simple or undivided fee interest in any Lot which is subject by covenants or record to assessment by the Association shall be a member of the Association, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

- b. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners excepting Declarant. Class A members shall be entitled to one (1) vote for each Lot in which they hold the interest require for membership be Section (a) above. When more than one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

Class B. The sole Class B Member shall be Declarant. The Class B Member shall be entitled to total votes in an amount equal to twice the number of Class A votes plus one. The Class B membership shall cease and become converted to Class A membership upon the conveyance to Lot Owners of all Lots subject to this Declaration, or December 31, 2007, whichever first occurs. In addition, Declarant may terminate the Class B membership upon written notice to the Association.

- c. Meetings of Members. The By-Laws of the Association shall provide for an annual meeting of the Voting Members, and may make provisions for regular and special meetings of the Voting Members other than the annual meeting. Unless otherwise stated in the By-Laws or Declaration, a quorum for the transaction of business at any meeting of the Voting Members shall exist if fifty-one (51%) percent of the Voting Members shall be present. Action may be taken by majority vote of those Voting Members present at any meeting. So long as a quorum is present at the opening of the meeting, business may be transacted until adjournment notwithstanding the withdrawal of enough Voting Members to leave less than a quorum in attendance. Further, at any adjourned meeting at which a quorum is present at the reconvening of such meeting, any business may be transacted which might have been transacted at the original meeting and notwithstanding the withdrawal of enough Voting Members to leave less than a quorum.
- d. Management By Directors. The property, business and affairs of the Association shall be managed by a Board of Directors, which shall consist of not less than three (3) persons, but as many persons as the Board of Directors shall from time to time determine, not to exceed seven (7) persons. A majority of the directors in office shall constitute a quorum for the transaction of business. The By-Laws shall provide for meetings of directors.



- e. Original Board of Directors. The names and addresses of the first Board of Directors of the Association, who shall hold office until the first annual meeting of members until qualified successors are duly elected and have taken office, shall be as follows:

NAME	ADDRESS
Jonathan Martin	5000 Hwy. 17 Bypass S., Myrtle Beach, SC 29577
Tony Waters	5000 Hwy. 17 Bypass S., Myrtle Beach, SC 29577
Jeff Farrell	5000 Hwy. 17 Bypass S., Myrtle Beach, SC 29577

9. The name and address of each incorporator is as follows (only one is required)

NAME	ADDRESS
Jeff Farrell	5000 Hwy. 17 Bypass S., Myrtle Beach, SC 29577

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

NAME	SIGNATURE
Jonathan Martin	<i>Jonathan Martin</i>
Tony Waters	<i>Tony Waters</i>
Jeff Farrell	<i>Jeff Farrell</i>

11. Each incorporator must sign the articles.

NAME	SIGNATURE
Jeff Farrell	<i>Jeff Farrell</i>

FILING INSTRUCTIONS

1. Two copies of this form, the original and either a duplicate original or a conformed copy, must be filed.
2. If space in this form is insufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare this using a computer disk, which will allow for expansion of space on the form.
3. This form must be accompanied by the filing fee of \$25.00 payable to the "Secretary of State."  
Return to: Secretary of State  
P.O. Box 11350  
Columbia, SC 29211
4. If this organization is a Homeowners Association or a Political Association it must also be accompanied by the First Annual Report of Corporations and an additional \$25.00 fee is required.

NOTE

THE FILING OF THIS DOCUMENT DOES NOT, IN AND OF ITSELF, PROVIDE AN EXCLUSIVE RIGHT TO USE THIS CORPORATE NAME ON OR IN CONNECTION WITH ANY PRODUCT OR SERVICE. USE OF A NAME AS A TRADEMARK OR SERVICE MARK WILL REQUIRE FURTHER CLEARANCE AND REGISTRATION AND BE AFFECTED BY PRIOR USE OF THE MARK. FOR MORE INFORMATION, CONTACT THE TRADEMARKS DIVISION OF THE SECRETARY OF STATE'S OFFICE AT (803) 734-1728.

REQUIRED TO BE A TRUE AND CORRECT COPY  
TAKEN FROM AND COMPARED WITH THE  
ORIGINAL ON FILE IN THIS OFFICE

**FILED**

FEB 12 2004

STATE OF SOUTH CAROLINA  
SECRETARY OF STATE

FEB 12 2004

ARTICLES OF CORRECTION  
FOR A  
NONPROFIT CORPORATION

*Mark Hammond*  
SECRETARY OF STATE

*Mark Hammond*  
SECRETARY OF STATE OF SOUTH CAROLINA

The following information is submitted pursuant to Section 33-31-124 of the 1976 South Carolina Code of Laws, as amended:

1. NAME OF CORPORATION: CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC.

DATE OF INCORPORATION: January 29, 2004

2. That on January 29, 2004 the Corporation filed its ARTICLES OF INCORPORATION, a copy of which is attached.

3. That this document was incorrect in the following manner:

Paragraph 8(b), regarding Class "B" membership currently reads as shown below:

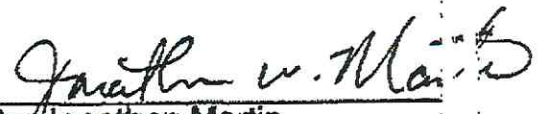
*Class B. The sale Class B Member shall be Declarant. The Class B Member shall be entitled to total votes in an amount equal to twice the number of Class A votes plus one. The Class B membership shall cease and become converted to Class A membership upon the conveyance to Lot Owners of all Lots subject to this Declaration, or December 31, 2007, whichever first occurs. In addition, Declarant may terminate the Class B membership upon written notice to the Association.*

4. That the incorrect matters stated above in Paragraph #3 should be revised as follows:

**Class B.** The sale Class B Member shall be Declarant. The Class B Member shall be entitled to total votes in an amount equal to twice the number of Class A votes plus one. The Class B membership shall cease and become converted to Class A membership upon the conveyance to Lot Owners of all Lots subject to this Declaration, or **December 31, 2009**, whichever first occurs. In addition, Declarant may terminate the Class B membership upon written notice to the Association.

Date: February 11, 2004

*Jeff Farrell*  
By: Jeff Farrell  
Its: President

  
By: Jonathan Martin  
Its: Secretary

  
By: Tony Waters  
Its: Treasurer

**BY-LAWS  
OF  
CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC.**

**Article I  
Name, Principal Office and Definitions**

Section 1. Name. The name of the Association shall be CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC., (hereinafter sometimes referred to as the "Association").

Section 2. Principal Office. The principal office of the Association in the State of South Carolina shall be located in the County of Horry. The Association may have such other offices, either within or without the State of South Carolina as the Board of Directors may determine or as the affairs of the Association may require.

Section 3. Definitions. The words used in these By-Laws shall have the same meaning as set forth in that Declaration of Restrictions and Protective Covenants for CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC. (said Declaration, as amended, renewed or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), unless the context shall prohibit.

**Article II  
Association: Membership, Meetings, Quorum, Voting, Proxies**

Section 1. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B", as more fully set forth in the Declaration, the terms of which pertaining to membership are specifically incorporated herein by reference.

Section 2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Voting Members as may be designated by the Board of Directors either within the Properties or as convenient thereto as possible and practical.

Section 3. Annual Meetings. The first meeting of the Voting Members, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. The next annual meeting shall be set by the Board

so as to occur no more than ninety (90) days and no less than sixty (60) days before the close of the Association's fiscal year. Subsequent regular annual meetings of the Voting Members shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board. Subject to the foregoing, the annual meeting shall be held at a date and time as set by the Board of Directors.

Section 4. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by Voting Members who represent at least ten (10%) percent of the total membership of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

Section 5. Notice of Meetings. Written or printed notice stating the place, day and hour of any meeting of the Voting Members shall be delivered either personally or by mail, to each Voting Member entitled to vote at such meeting, not less than seven (7) nor more than forty-five (45) days before the date of such meeting, by or at the direction of the President or the Secretary of the officers or persons calling the meeting.

In the case of a special meeting or when required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

If mailed, the notice of a meeting shall be deemed to be delivered when deposited in the United States mail addressed to the Voting Member at his address as it appears on the records of the Association, with postage thereon prepaid.

Section 6. Waiver of Notice. Waiver of notice of a meeting of the Voting Members shall be deemed the equivalent of proper notice. Any Voting Member may, in writing, waive notice of any meeting of the Voting Members, either before or after such meeting. Attendance at a meeting by a Voting Member or alternate shall be deemed waiver by such Voting Member of notice of the time, date and place thereof, unless such Voting Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted thereat unless objection to the calling or convening of the meeting, of which proper notice was not given, is raised before the business is put to a vote.

**Section 7. Adjournment of Meetings.** If any meetings of the Association cannot be held because a quorum is not present, a majority of the Voting Members who are present at such meeting, either in person or by alternate, may adjourn the meeting to a time not more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted. The required quorum at the reconvened meeting shall be one-half of the required quorum at the preceding meeting.

**Section 8. Voting.** The voting rights of the Members shall be as set forth in the Declaration and Articles of Incorporation, and such voting rights provisions are specifically incorporated herein.

**Section 9. Proxies.** Voting Members may vote in person or by proxy.

**Section 10. Majority.** As used in these By-laws, the term "majority" shall mean those votes, owners or other group as the context may indicate totaling more than fifty (50% ) percent of the total number.

**Section 11. Quorum.** Except as otherwise provided in these By-Laws or in the Declaration, the presence in person or by alternate of the Voting Members representing fifty-one (51%) percent of the total vote of the Association shall constitute a quorum at all meetings of the Association. Any provision in the Declaration concerning quorums is specifically incorporated herein. So long as a quorum is present at the opening of the meeting, business may be transacted until adjournment notwithstanding the withdrawal of enough Voting Members to leave less than a quorum in attendance. Further, at any adjourned meeting at which a quorum is present at the reconvening of such meeting, any business may be transacted at the original meeting and notwithstanding the withdrawal of enough Voting Members to leave less than a quorum.

**Section 12. Conduct of Meetings.** The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as a record of all transactions occurring thereat.

**Section 13. Action Without a Meeting.** Any action required by law to be taken at a meeting of the Voting Members, or any action which may be taken at a meeting of the Voting Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Voting Members entitled to vote

with respect to the subject matter thereof, and such consent shall have the same force and effect as a unanimous vote of the Voting Members.

**Article III**  
**Board of Directors Number, Powers, Meetings**

**A. Composition and Selection.**

**Section 1. Governing Body: Composition.** The affairs of the Association shall be governed by a Board of Directors each of whom shall have one (1) vote. Except as provided in Section 2 of this Article, the Directors shall be Members. In the case of an Owner which is a corporation or partnership, the person designated in writing to the secretary of the Association as the representative of such corporation or partnership shall be eligible to serve as a director.

**Section 2. Directors During Class "B" Control.** The Directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member until the first to occur of the following:

(i) when one hundred (100%) percent of the Lots subject to or which may become subject to the Declaration have been conveyed to Persons other than the Declarant or builders holding title for purposes of development and sale; or

(ii) on December 31, 2009, or

(iii) when, in its discretion, the Class "B" member so determines and executes and records an instrument forfeiting its Class "B" membership.

Within ninety (90) days thereafter, the Class "B" member shall call a meeting, as provided in Article II, Section 4, of these By-Laws for special meetings, to advise the membership of the termination, of the Class "B" member's control or, in the alternative, shall notify each member by U.S. Mail that the Class "B" Membership has terminated.

The Directors selected by the Class "B" member pursuant to this Section need not be Members as provided in Section 1 of this Article.

**Section 3. Veto.** This Section 3 may not be amended without the express, written consent of the Class "B" member, as long as the Class "B" membership exists.



So long as the Class "B" membership exists, the Class "B" member shall have a veto power over all actions of the Board and any committee, as is more fully provided in this Section. This veto power shall be exercisable only by the Class "B" member, its successors, and assigns who specifically take this power in a recorded instrument. The veto power shall be as follows:

No action authorized by the Board of Directors or any committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) The Class "B" member shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or any committee by *certified mail, return receipt requested, or by personal delivery at the address it has registered with the Secretary of the Association, as it may change from time to time, which notice complies as to the Board of Directors meetings with this Article III, Sections 10 and 11, of these By-Laws as to regular and special meetings of the Directors and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and*

(b) The Class "B" member shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program to be implemented by the Board, any committee, or the Association. The Class "B" member and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the subject committee and/or the Board. The Class "B" member shall have and is hereby granted a veto power over any such action, policy, or program authorized by any committee or Board or the Association or any individual member of the Association if Board, Committee, or Association approval is necessary for said action. This veto may be exercised by the Class "B" member, its representatives, or agents at any time within ten (10) days following the meeting held pursuant to the terms and provisions hereof. Any veto shall not extend to the requiring of any action or counteraction on behalf of any committee, or the Board or the Association.

Section 4. Number of Directors. The number of Directors in the Association shall not be less than three (3) nor more than seven (7) , as provided below. The initial Board shall consist of three (3) members as identified in the Articles of Incorporation. Except during the period of Class "B" control as provided in Section 2 of this Article, directors shall be elected from and shall represent the Voting Members.

**Section 5. Nomination of Directors.** Except with respect to directors selected by the Class "B" Member, nominations for election to the Board of Directors shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and three (3) or more Members of the Association. The Nominating Committee shall be appointed by the Board of Directors not less than thirty (30) days prior to each annual meeting of the Voting Members to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each such annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in no event less than the number of vacancies or terms to be filled. Nominations shall be permitted from the floor. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

**Section 6. Election and Term of Office.** Notwithstanding any other provision contained herein:

(a) Within thirty (30) days after the time Class "A" Members, other than the Declarant or a builder holding title solely for purposes of development and sale, own fifty (50%) percent of the Lots, or whenever the Class "B" Member earlier determines, the Association shall call a special meeting to be held at which Voting Members other than the Class "B" member shall elect one (1) of the three (3) directors who shall be an at-large director. The director so elected shall not be subject to removal by the Class "B" Member acting alone and shall be elected for a term of two (2) years or until the happening of the event described in subsection (b) below, whichever is shorter. If such director's term expires prior to the happening of the event described in subsection (b) below, a successor shall be elected for a like term.

(b) At the first annual meeting of the membership after the termination of the Class "B" Control and at each annual meeting of the membership thereafter, directors shall be elected by the Voting Members.

Two (2) directors shall be elected to serve for a term of three (3) years. Two (2) directors shall be elected to serve for a term of two (2) years, with one (1) director elected to serve for a one (1) year term. Members of the Board of Directors shall hold office until their respective successors shall have been elected to serve any number of consecutive terms.

**Section 7. Removal of Directors and Vacancies.** Directors may be removed, with or without cause, by a majority vote of the Class "A" and Class "B" Voting

Members. Any director whose removal is sought will be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall then and there be elected to fill the vacancy by the Voting Members responsible for such removal.

Any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of any assessment for more than thirty (30) days may be removed by a majority of the directors present at a regular or special meeting at which a quorum is present, and a successor may be appointed by the Board. In the event of the death, disability, or resignation of a director, a vacancy may be declared by the Board and it may appoint a successor. Any director appointed by the Board shall serve for the remainder of the term such successor was appointed to fill.

Section 8. Voting Procedure for Directors. At any election of directors to the Board of Directors, each Voting Member may cast, in respect to each vacancy, as many votes as he or she is entitled to exercise under Article IV of the Declaration. The candidates receiving the largest number of votes shall be elected.

#### B. Meetings.

Section 9. Organizational Meetings. The first meeting of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 10. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the time and place of the meeting shall be communicated to Directors not less than four (4) days prior to the meeting; provided, however, notice of a meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

Section 11. Special Meetings. Special meetings of the Board of Directors shall be held when called by written notice signed by the President or by a majority of directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid, (c) by telephone communication, either directly to the director or to a person at the Director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (d) by telegram,

charges prepaid. All such notices shall be given by use of the director's telephone number and shall be sent to the director's address as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone or telegraph shall be delivered, telephoned, or given to the telegraph company at least seventy-two (72) hours before the time set for the meeting.

Section 12. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (a) a quorum is present, and (b) either before or after the meeting each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 13. Quorum of Board of Directors. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for that meeting. If any meeting of the Board cannot be held because a quorum is not present, a majority of the directors who are present at such a meeting may adjourn the meeting until such time and place as they may determine. At the reconvened meeting, if a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 14. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by Members holding a majority of the total vote of the Association at a regular or special meeting of the Association; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

Section 15. Conduct of Meetings. The President shall preside over all meetings of the Board of Directors, and the Secretary shall keep a minute book of meetings of the Board of Directors, recording therein all resolutions adopted by the Board of Directors and all transactions and proceedings occurring at such meetings.

Section 16. Open Meetings. Subject to the provisions of Section 17 of this Article, all meetings of the Board shall be open to all Voting Members, but Voting Members other than directors may not participate in any discussion or deliberation unless permission to speak is requested on his or her behalf by a director. In such case, the President may limit the time any Voting member may speak.

Section 17. Action Without a Formal Meeting. Any action to be taken at a meeting of the directors or any action that may be taken at a meeting of the directors may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the directors, and such consent shall have the same force and effect as a unanimous vote.

C. Powers and Duties.

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or these By-Laws directed to be done and exercised exclusively by the Voting Members or the membership generally.

The Board of Directors shall delegate to one of its members the authority to act on behalf of the Board of Directors on all matters relating to the duties of the managing agent or manager, if any, which might arise between meetings of the Board of Directors.

In addition to the duties imposed by these By-Laws or by any resolution of the Association that may be hereafter adopted, the Board of Directors shall have the power to and shall be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses and Shared Amenities Expenses;

(b) making assessments to defray the Common Expenses and Shared Amenities Expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the annual assessment; provided, unless otherwise determined by the Board of Directors, the annual assessment for each Lot's proportionate share of the Common Expenses and

Shared Amenities Expenses shall be payable in equal monthly installments, or as determined by the Board of Directors;

(c) providing for the operation, care, upkeep, and maintenance of all of the Common Areas or other areas for which the Association has maintenance responsibility;

(d) designating, hiring, and dismissing the personnel necessary for the maintenance, operation, repair and replacement of the Association, its property, and the Common Areas and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association; provided, any reserve fund may be deposited, in the directors' best business judgment, in depositories other than banks;

(f) making and amending rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area or other areas from which the Association has maintenance responsibility, in accordance with the other provisions of the Declaration and these By-Laws after damage or destruction by fire or other casualty;

(i) enforcing by legal means the provisions of the Declaration, these By-Laws, and the rules and regulations adopted by it, including the imposition of reasonable fines and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(j) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(k) paying the cost of all services rendered to the Association or its members and not chargeable to Owners;

(l) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and mortgagees, their duly authorized agents, accountants, or attorneys, during general business hours on working days at the time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the owners. All books and records shall be kept in accordance with generally accepted accounting principles;

(m) making available to any prospective purchaser of a Lot, any Owner of a Lot, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage on any Lot, current copies of the Declaration, the Articles of Incorporation, the By-Laws, rules governing the Lot, and all other books, records, and financial statements of the Association; and

(n) permitting utility suppliers to use portions of the Common Area reasonably necessary to the ongoing development or operation of the Properties .

#### Section 19. Management Agent.

(a) The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Board of Directors may delegate to the managing agent or manager, subject to the Board's supervision, all of the powers granted to the Board of Directors by these By-Laws, other than the powers set forth in subparagraphs (a), (b), (f), (g), and (i) of Section 18 of this Article. The Declarant, or an affiliate of the Declarant, may be employed as managing agent or manager.

(b) No management contract may have a term in excess of one (1) year and must permit termination by either party without cause and without termination fee or penalty on ninety (90) days' or less written notice.

Section 20. Accounts and Reports. The following management standards of performance will be followed unless the Board by resolution specifically determines otherwise:

(a) accrual accounting, as defined by generally accepted accounting principles. shall be employed;

(b) accounting and controls shall conform to generally accepted accounting principles;

(c) cash accounts of the Association shall not be commingled with any other accounts;

(d) no remuneration shall be accepted by the managing agent from vendors, independent contractors, or others providing goods and services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; unless it benefits the Association;

(e) any financial or other interest which the managing agent may have in any firm providing goods or services to the Association shall be disclosed promptly to the Board of Directors;

(f) commencing at the end of the month in which the first Lot is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period on an accrual basis;

(ii) a variance report reflecting the status of all Association ledger accounts in an "actual" versus "approved" budget format;

(iii) a balance sheet as of the last day of the preceding period; and

(iv) a delinquency report listing all Owners who are delinquent in paying the assessments at the time of the report and describing the status of any action to collect such installments which remain delinquent (A monthly installment of the assessment shall be considered to be delinquent on the fifteenth (15th) day of each month unless otherwise determined by the Board of Directors) and

(g) an annual report as of the end of the fiscal year consisting of at least the following shall be distributed to all Members within one hundred twenty (120) days after the close of the fiscal year: (1) a balance sheet; (2) an operating (income) statement; and (3) a statement of changes in financial position for the fiscal year. The annual report referred to above shall be prepared on an audited, reviewed, or unaudited basis, as



**Section 23. Enforcement.** The Board shall have the power to impose reasonable fines, which shall constitute a lien upon the property of the violating Owner, and to suspend an Owner's right to vote or to use the Common Area for violation of any duty imposed under the Declaration, these By-Laws, or any rules and regulations adopted hereunder; provided, however, nothing herein shall authorize the Association or the Board of Directors to limit ingress and egress to or from a Lot. In the event that any occupant of a Lot violates the Declaration, By-Laws, or a rule or regulation and a fine is imposed, the fine shall first be assessed against the occupant; provided, however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Association. The failure of the Board to enforce any provision of the Declaration, By-Laws, or any rule or regulation shall not be deemed a waiver of the right of the Board to do so thereafter.

(a) **Notice.** Prior to imposition of any sanction hereunder, except the suspension of voting rights for nonpayment of assessments, the Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be imposed, (iii) a period of not less than ten (10) days within which the alleged violator may present a written request to the covenants Committee, if any, or Board of Directors for a hearing; and (iv) a statement that the proposed sanction shall be imposed as contained in the notice unless a challenge is begun within ten (10) days of the notice. If a timely challenge is not made, the sanction stated in the notice shall be imposed.

(b) **Hearing.** If a hearing is requested in a timely manner, the hearing shall be held in executive session affording the Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of proper notice shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction, if any, imposed.

(c) **Appeal.** Following a hearing before the Covenants Committee, the violator shall have the right to appeal the decision to the Board of Directors. To perfect this right, a written notice of appeal must be received by the manager, President, or Secretary of the Association within thirty (30) days after the hearing date.

(d) **Additional Enforcement Rights.** Notwithstanding anything to the contrary herein contained, the Association, acting through the Board of Directors, may elect

to enforce any Provision of the Declaration, these By-Laws, or the rules and regulations of the Association, by self-help (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations) or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth above. In any such action, to the maximum extent permissible, the Owner or occupant responsible for the violation of which abatement is sought shall pay all costs, including reasonable attorney's fees actually incurred.

#### **ARTICLE IV Officers**

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary, and Treasurer, to be elected from among the members of the Board. The Board of Directors may appoint such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary.

Section 2. Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the representatives of the membership, as herein set forth in Article III. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby.

Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors. The President shall be the chief executive officer of the Association. The treasurer shall have primary responsibility for the preparation of the budget as provided for in the Declaration.

Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified

therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Agreements, Contracts, Deeds, Leases, Checks, Etc. All agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by at least two (2) officers or by such other person or persons as may be designated by resolution of the Board of Directors.

## **ARTICLE V Committees**

Section 1. General. Committees are hereby authorized to perform such tasks and to serve for such periods as may be designated by a resolution adopted by a majority of the directors present at a meeting at which a quorum is present. Each committee shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors;

Section 2. Covenants Committee. In addition to any other committees which may be established by the Board pursuant to Section 1 of this Article, the Board of Directors may appoint a Covenants Committee consisting of at least three (3) and no more than five (5) members. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and conduct all hearings held pursuant to Article III, Section 23 of these By-Laws.

## **ARTICLE VI Miscellaneous**

Section 1. Fiscal Year. The fiscal year of the Association shall be set by resolution of the Board of Directors.

Section 2. Parliamentary Rules. Except as may be modified by Board resolution, Robert's Rule of Order (current edition) shall govern the conduct of Association Proceedings when not in conflict with South Carolina law, the Articles of Incorporation, the Declaration, or these By-Laws.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of South Carolina law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of South Carolina law, the Declaration, the Articles of Incorporation and the By-Laws (in that order) shall prevail.

determined by the Board, by an independent certified public accountant for any fiscal year in which the gross income of the Association exceeds Fifty Thousand and No/100 (\$50,000.00) Dollars, If said report is not prepared by an independent certified public accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

Section 21. Borrowing. The Board of Directors shall have the power to borrow money for the purpose of repair and restoration of the Common Areas without the approval of the membership; provided, however, the Board shall obtain Voting Member approval in the same manner provided in Article VI, Section 4, of the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities, and the total amount of such borrowing exceeds or would exceed five (5%) percent of the budgeted gross expenses of the Association for that fiscal year.

Section 22. Rights of the Association. With respect to the Common Areas, and in accordance with the Articles of Incorporation and By-Laws of the Association, the Association shall have the right to contract with any Person for the performance of various duties and functions. Without limiting the foregoing, this right shall entitle the Association to enter into common management, operational, or other agreements with trusts, condominiums, cooperatives, or neighborhood and other owners or residents associations, both within and without the Properties. Such agreements shall require the consent of two-thirds (2/3) of all Directors of the Association.

The Association shall not be bound, either directly or indirectly, by any contract, lease, or other agreement (including any management contract) executed during the period of Class "B" control unless such contract, lease or other agreement contains a right of termination exercisable by either party without penalty at any time, with or without cause, upon not more than ninety (90) days notice to the other party.

Notwithstanding anything to the contrary contained herein, the Association, through its Board of Directors, shall have the right to enter into a declaration of easement and covenant to share costs or similar arrangement whereby the Association assumes maintenance responsibility for property which it does not own, or grants easements to entities which are not Members, in consideration for payment by the owner of such property or such nonmembers of all or a portion of the costs associated with such maintenance or use.

#### Section 4. Books and Records.

(a) Inspection by Members and Mortgagees. The Declaration and By-Laws, membership register, books of account, and minutes of meetings of the Members, the Board, and committees shall be made available for inspection and copying by any Mortgagee, Member of the Association, or by his or her duly appointed representative at any reasonable time and for a purpose reasonably related to his or her interest as a Member at the office of the Association or at such other place within the Properties as the Board shall prescribe.

(b) Rules for inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents requested.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and a copy of relevant documents at the expense of the Association.

Section 5. Notices. Unless otherwise provided in these By-Laws, all notices, demands, bills, statements, or other communications under these By-Laws shall be in writing and shall be deemed to have been duly given if delivered personally or if sent by United States Mail, first class postage prepaid:

(a) if to a Member or Voting Member, at the address which the Member or Voting Member has designated in writing and filed with the Secretary or, if no such address has been designated, at the address of the Lot of such Member or Voting Member; or

(b) if to the Association, the Board of Directors, or the managing agent, at the Principal Office of the Association or the managing agent, if any, or at such other

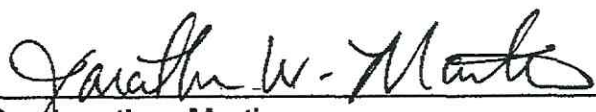
address as shall be designated by notice in writing to the Members pursuant to this Section.

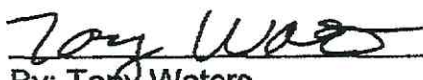
Section 6. Amendment. Prior to the conveyance of the first Lot, Declarant may unilaterally amend these By-Laws. After such conveyance, the Declarant may unilaterally amend these By-Laws so long as it still owns property described in Exhibit "A" to the Declaration for development as part of the Properties and so long as the amendment has no material adverse effect upon any right of any Member. Thereafter and otherwise, these By-Laws may be amended only by the affirmative vote (in person or by alternate) or written consent of Voting Members representing seventy-five (75% ) percent of the total votes of the Association, including seventy-five (75% ) percent of the votes of Members other than the Declarant. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. No amendment shall be effective until recorded in the public records of Horry County, South Carolina.

IN WITNESS WHEREOF, the undersigned CASCADES AT AZALEA LAKES PROPERTY OWNERS' ASSOCIATION, INC., has caused this instrument to be executed this 11<sup>th</sup> day of February, 2004.

**CASCADES AT AZALEA LAKES POA, INC.**

  
By: Jeff Farrell  
Its: President

  
By: Jonathan Martin  
Its: Secretary

  
By: Tony Waters  
Its: Treasurer