



NOW THEREFORE, the Association declares that the Property described on the Plat, and such additions thereto as may hereinafter be made, shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to this 2022 Consolidation, Amendment and Restatement of Declaration of Covenants, Conditions, Restrictions and Easements for Ribaut Island (hereinafter sometimes referred to as the "Consolidated Declaration") hereinafter set forth.

The above recitals are incorporated herein by reference.

ARTICLE I  
DEFINITIONS

When used in this Declaration, unless the context shall prohibit or otherwise require, the following words shall have all the following meanings and all definitions shall be applicable to the singular and plural forms of such terms.

Section 1.1 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Ribaut Island Property Owners Association, Inc., as amended from time to time.

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

Section 1.3 "Association" shall mean and refer to Ribaut Island Property Owners Association, Inc., a South Carolina non-profit corporation.

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

Section 1.5 "By-Laws" shall mean and refer to those By-Laws of Ribaut Island Property Owners Association, Inc. which govern the administration and operation of the Association, as the same may be amended from time to time, a copy of which is attached hereto as EXHIBIT "A."

Section 1.6 "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration and By-Laws.

Section 1.7 "Declaration" or "Consolidated Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Restrictions and Easements for Ribaut Island and all amendments hereto filed for record in the ROD Office.

Section 1.8 "Design Review Committee" or "DRC" shall mean and refer to the committee which the Board of Directors may appoint to approve exterior and structural improvements, additions and changes within the Property, as provided in Section 10 hereof.

Section 1.9 "Dwelling" shall mean and refer to each detached single-family residence located upon a Lot and intended for use and occupancy as a single-family residence.

Section 1.10 "Foreclosure" shall mean and refer to the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of a judicial foreclosure.

Section 1.11 "Hilton Head Plantation Property Owners Association" shall mean and refer to the South Carolina non-profit organization known as Hilton Head Plantation Property Owners Association, Inc.

Section 1.12 "Institutional Mortgage" shall mean and refer to a Mortgage held by a bank, trust company, insurance company or other recognized lending institution, or by an institutional or governmental purchaser of mortgage loans in the secondary market, such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

Section 1.13 "Lease" shall mean and refer to any lease, sublease or rental contract, whether oral or written, and for a term of hours, days, months or years.

Section 1.14 "Limited Common Area" shall mean and refer to the Archeological Site (as shown on the Plat) now or hereafter owned by the Association for the purposes of preserving the site in its natural state in perpetuity.

Section 1.15 "Lot" shall mean and refer to any unimproved portion of the Property upon which it is intended that a Dwelling shall be constructed.

Section 1.16 "Mortgage" shall mean and refer to a mortgage, security deed, deed of trust, installment land sales contract or other similar security instrument granting, creating or conveying a lien upon, a security interest in, or a security title to a Lot or Dwelling.

Section 1.17 "Mortgagee" shall mean and refer to the holder of a Mortgage.

Section 1.18 "Occupant" shall mean and refer to any Person occupying or otherwise using a Dwelling within the Property, including without limitation any Owner or any guest, invitee, licensee, lessee, tenant, or family member of an Owner.

Section 1.19 "Owner" shall mean and refer to one or more Persons, who or which own fee simple title to any Lot or Dwelling, excluding, however, those Persons having, an interest solely for the performance of an obligation, such as a Mortgage.

Section 1.20 "Open Space" shall mean and refer to all real and personal property now or hereafter owned by the Association or to be maintained by the Association under the terms hereof for the common use and enjoyment of the Owners. Included within the Open Space are the entry gates, and gazebo located at the entry way islands located with the road rights of way, all being designed on the Plat as Open Space. The designation of any land and/or land improvements as Open Space shall not mean or imply that the public at large acquires any easement of use or enjoyment therein and no such rights in the public shall arise or be created by virtue thereof.

Section 1.21 "Person" shall mean and refer to a natural person, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 1.22 "Plat" shall mean and refer to that certain plat of Ribaut Island dated November 16, 1988, last revised August 14, 1989, and prepared by Thomas & Hutton Engineering Co. which is filed in Plat Book 36 at Page 222 in the Register of Deeds for Beaufort County, South Carolina, as revised by Plat recorded in Plat Book 44 at Page 23 of the Plat Records of the Register of Deeds for Beaufort County, South Carolina, together with any future revisions thereof.

Section 1.23 "Private Recreational Area", shall mean and refer to those parcels or pieces of land now or hereafter owned by the Association for the operation of such property as a private-member recreation facility for Ribaut Island Owners only for swimming, tennis, fishing or similar recreational activity to be a private facility located within the Property, the membership criteria of which shall be totally selected and determined by the Association pursuant to the Rules and Regulations established by the Association. Private Recreational Area shall be subject to the Declaration which provides restrictions to reasonably insure aesthetic control.

Section 1.24 "Property" shall mean and refer to those tracts or parcels of land described on the Plat together with all improvements presently thereon and subsequently constructed thereon.

Section 1.25 "Referendum" shall mean and refer to the power of the Owners to vote by mailed or electronic ballots on certain actions described in this Consolidated Declaration or the By-laws. If (51%) percent of the Owners (unless a different percentage is required to take certain actions as provided herein) return to the Association within the specified time a vote in favor of such actions, the actions voted upon will be deemed to have been authorized by the Owners. A referendum may be called by the Board or shall be called upon the written petition of at least ten percent (10%) of the Owners. When a referendum is called, it shall be conducted by the Association according to the following rules which may be modified or supplemented by the Board.

(i) Notice of the referendum together with ballots shall be mailed or electronically sent to the Owners within sixty (60) days after the call.

(ii) The Owners shall have not more than sixty (60) days from the date of mailing or emailing to return their ballots.

Section 1.26 "Restricted Common Property" shall mean and refer to all real and personal property located within the Property now or hereafter owned by the Hilton Head Plantation Property Owners Association or to be maintained by the Hilton Head Plantation Property Owners Association under the terms hereof for the common use and enjoyment of the Owners. The conveyance of land and/or improvements as Restricted Common Property to the Hilton Head Plantation Property Owners Association shall not mean or imply that an easement of use or enjoyment is created for (i) resort accommodation "paying guests"; or (ii) visiting members of the general public; or (iii) tenants of such owners holding leases for a period of less than nine months, provided, however, that any and all tenants of Owners within the Property, their guests and invitees, shall have an express easement of use and enjoyment in the Restricted Common Property. So long as the Association retains title to any such property it shall be restricted as Open Space. There is no obligation on the part of the Association to convey any land and/or improvement to the Hilton Head Plantation Property Owners Association.

Section 1.27 "ROD Office" shall mean the Office of the Register of Deeds for Beaufort County, South Carolina.

Section 1.28 "Voting" shall include both traditional paper ballots, voice votes, and electronic means.

ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION;  
PLAN OF DEVELOPMENT

Section 2.1 Subject to Declaration. The Property described on the Plat is hereby made subject to this Declaration and all of the covenants, conditions, restrictions, easements and limitations contained herein. The Property is to be subdivided into sixty-three (63) Lots, and certain Restricted Common Property, Open Space and Limited Common Area, as more fully shown on the Plat as revised by that certain plat recorded in the ROD Office in Plat Book 44 at Page 23.

Section 2.2 Subject to Other Restrictions. In addition to the covenants, conditions, restrictions and affirmative obligations contained herein, each Lot is also subject to the covenants, conditions, restrictions and obligations contained in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hilton Head Plantation Property Owners Association and Hilton Head Plantation Company, Inc. recorded in Deed Book 367 at Page 656 as amended.

ARTICLE III  
OWNERS' PROPERTY RIGHTS IN RESTRICTED COMMON PROPERTY

Section 3.1 Owners' Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board of Directors in accordance with the Declaration and/or By-Laws, each Owner shall have a non-exclusive right, privilege and easement of access, use and enjoyment in and to the Restricted Common Property, Private Recreational Area, and Open Space. All such rights and easements of Owners are also subject to the following rights of the Board of Directors.

3.1.1 The Association has the right to suspend the enjoyment rights of any Owner in and to the recreational facilities which may be constructed upon the Private Recreational Area for any period during which any assessment remains unpaid by such Owner and for any period not to exceed thirty (30) days for a first infraction by such Owner of its published Rules and Regulations.

3.1.2 The right of the Association to grant and reserve easements and rights-of-way in, through, under, over and across the Property for the installation, maintenance and inspection, repair, and reconstruction of utilities and drainage facilities.

3.1.3 The right of the Association, with the written consent of seventy-five (75%) percent of the Owners, to mortgage, pledge, or hypothecate any or all of the real and personal property owned by it as security for money borrowed or debts incurred; provided, however, that

the rights of any such mortgagee thereunder shall be subordinate to all of the rights of the Owners set forth herein.

Section 3.2 Use of Restricted Common Property and Private Recreational Area. Owners, their families, tenants and guests shall not be charged user fees or similar charges with respect to the use of the Open Space, Restricted Common Property and Private Recreational Area, and any Owner may assign to the tenant of his Dwelling (but not as to a Lot only) such Owner's rights of access to and use of the Open Space, Restricted Common Property and Private Recreational Area so that such tenant, his family and guests shall be entitled to the access to and use of the Open Space, Restricted Common Property and Private Recreational Area on the same basis as an Owner and his family and guests.

Section 3.3 Multiple Ownership. In the event of any multiple ownership of a Dwelling, only the Occupant thereof (and his family, guests and invitees) shall be entitled to the use of the Private Recreational Area. Use of the Private Recreational Area by guests and invitees shall be subject to the rules and regulations as established from time to time by the Board of Directors and may on necessary occasions such as, but not limited to, holidays be restricted.

Section 3.4 No Partition. There shall be no partition of the restricted Common Property, Private Recreational Area, Limited Common Area or Open Space, or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek judicial partition unless the property has been removed from the provisions of this Declaration.

#### ARTICLE IV EASEMENTS

Section 4.1 Utility and Drainage Easements. There is hereby created a general easement upon, across, over, in and under the Restricted Common Property, Private Recreational Area and Open Space, and those portions of the Lots upon which vertical improvements are not to be constructed for access to and installation, replacement, repair and maintenance of all utilities and drainage facilities, including but not limited to water, sewer, gas, telephone, electricity, cable television and master communication system. By virtue of this easement it shall be expressly permissible and proper for the companies providing electricity, telephone, cable television and other communication services to install and maintain necessary equipment and to affix and maintain electricity, communications, cable television and telephone wires, conduits, circuits and drainage pipes, catch basins and related facilities. No water, sewer, gas, telephone, electricity, cable television or communications lines, systems or facilities may be installed or relocated on the surface of the Property unless approved by the Board, except for junction boxes, or other similar equipment which are not installed underground as a matter of policy in order to facilitate repairs or to avoid repairs and maintenance which would be caused by underground installation. Any utility company using this general easement shall use its best efforts to install and, maintain the utilities provided for without disturbing the uses of the Owners and the Association; shall perform its installation and maintenance activities as promptly and expeditiously as reasonably possible; and shall restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the general easement request a specific easement by separate recordable document, the Association shall have, and is hereby

given, the right and authority to grant such easement upon, across, over or under any part or all of the Property without conflicting with the terms of this Declaration. This general easement shall in no way affect, avoid, extinguish or modify any other recorded easement on the Property.

Section 4.2 Easements for Walls, Fences and Signs. There is hereby reserved for the benefit, of the Association, and its agents, employees, successors and assigns, the alienable, transferable and perpetual right and easement upon, over and across the Restricted Common Property and Open Space for the installation and maintenance of fences, walls, signs naming the Property, and directional signs and related improvements.

Section 4.3 Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents and employees, including but not limited to any manager employed by the Association and any employees of such manager, to enter upon any Lot or Dwelling, the Restricted Common Property, the Private Recreational Area and Open Space in the performance of their respective duties. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Occupant directly affected thereby. There is also reserved for the benefit of the Association, for as long as the Association owns the Limited Common Area, the Archeological Easement described in Section 4.10 for the purpose of maintenance of the Limited Common Area.

Section 4.4 Yard Maintenance Easement. There is hereby reserved for the benefit of; the Association, and its respective agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement (but not the obligation) to enter upon any Lot to mow the grass, remove, cut or prune unsightly vegetation, and to remove debris and trash in order to maintain a uniform, attractive appearance throughout Ribaut Island. The costs of providing such services shall be assessed against the Lot as a part of the annual general assessments payable by the Owner to the Association to the extent the Association assumes responsibility for maintenance of all yards. If a common yard maintenance program is not implemented by the Association, and an Owner fails to properly maintain his yard, the Association may do so as herein provided and the costs of same shall be assessed against the Owner as a specific assessment. All such assessments shall be collected by the Association as set forth in Article 9 below.

Section 4.5 Shoreline Maintenance Easement. There is hereby reserved for the benefit of the Association, and its agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement to enter upon any Lot to maintain or repair any damage to Lots caused by extreme high tides, winds, hurricanes or other natural or man-made casualties or disasters (such as oil spills). The costs of such maintenance and repair shall be levied against the affected Lots as an individual assessment in the event the Board of Directors elects to perform such maintenance or repair, which is not an obligation of the Association but which is reserved as a right of the Association.

Section 4.6 View Easements. As shown on the Plat, certain of the Lots are subject to View Easements for the benefit of the adjoining Lot Owner, the area and location of said easements being shown on said Plat. No improvements or plantings may be placed by an Owner in such View Easements which would in any way obstruct said view. The Association, and the benefitted Owner

shall have the right and easement to enter into the View Easement and to remove, trim, limb, or relocate (as appropriate) any such improvements or plantings placed within the View Easement area in violation hereof. Prior to any entry, the Association and/or the impacted Owner must request in writing that the obstructions be remedied by the Owner. No entry may be made until ten (10) days after the written notice. The costs of such removal shall be at the sole cost and expense of the violating Owner, which shall pay such costs and expenses within thirty (30) days after being notified of the cost thereof. If such payment is not made as aforesaid, the Association shall levy an individual assessment against the violating Owner, which shall include the administrative costs thereof (including reasonable legal fees), in the manner set forth in Article 9 below.

Section 4.7 Environmental Easement. There is hereby reserved for the benefit of the Association and its agents, employees, successors and assigns, an alienable, transferable and perpetual right and easement on, over and across all Lots to take any action necessary to comply with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water, and the right to dispense pesticides.

Section 4.8 Emergency Service. An easement is hereby reserved for all police, security personnel, fire protection personnel, ambulance attendants and all similar Persons performing emergency services to enter upon any Lot, Private Recreational Area, Limited Common Area, Open Space and the Restricted Common Property in the performance of their duties.

Section 4.9 Entrance House Easement. There is hereby reserved for the Association, and its agents, employees, representatives, successors and assigns, a permanent easement within the Open Space for construction, maintenance, repair and replacement of a entrance house facility or other security device or devices to control access to Ribaut Island.

Section 4.10 Archeological Easement. An easement is hereby reserved for the South Carolina Coastal Council and the South Carolina Historic Preservation Officer, or his representative, five feet (5') in width along the common boundary line between Lots 39 and 40 and extending across a portion of Lot 39 to the Limited Common Area, as more fully shown on the Plat. This easement is for the purpose of providing access to the Limited Common Area for the sole purpose of conducting archeological studies and the excavation of artifacts authorized by the S.C. Historic Preservation Officer and the South Carolina Coastal Council and approved by the Association.

Section 4.11 Insect Control Easement. The Association reserved unto the Association and/or the Hilton Head Plantation Property Owners Association, its successors and assigns, a perpetual, alienable and releasable easement and right on and over and under the Property to dispense pesticides and take other reasonable action which in the opinion of the Association and/or the Hilton Head Plantation Property Owners Association is necessary or desirable to control insects and vermin.



ARTICLE V  
MEMBERSHIP AND VOTING

Section 5.1 Membership. Every Person or entity who is a record owner of a fee or undivided fee interest in any portion of the Property shall be a mandatory member of the Association. Membership shall be appurtenant to and may not be separated from such ownership of any Lot, and ownership of a Lot shall be the sole qualification for such membership. In the event that fee title to a Lot is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to the transferee. Persons who hold an interest merely as security for the performance of an obligation shall not be entitled to membership, and the giving of a security interest shall not terminate or otherwise affect an Owner's membership in the Association. Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more Persons, shall have more than one membership per Lot owned.

Section 5.2 Voting. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a Member or a Member's spouse, but in no event shall more than one vote be cast for each Lot. However, such rights and privileges of the Member may be suspended when such Member is delinquent in payment of any properly levied assessments or fines. Such suspension shall be recorded on the voting list and reconciled whenever there is an instance of voting by the Membership. When such instances arise, the suspended Member shall be notified of such suspension by the Board ten (10) days prior to any meeting requiring voting by the Membership.

Section 5.3 Voting Certificate. When more than one Person holds an interest in any Lot, the vote for such Lot shall be exercised as those Owners of such Lot themselves determine and notify the Board prior to any meeting by a certificate in writing designating such voting member. In the absence of such certificate, the vote appurtenant to such Lot shall be suspended in the event more than one Owner seeks to exercise it. The voting weight appurtenant to each Lot or Dwelling is equal, and each Lot shall have one vote.

Section 5.4 Lot Consolidation. Any lot consolidation or deconsolidation of lots must be approved by the Board in its sole discretion, said approval not to be unreasonably withheld. In the event any Lots are consolidated, the Owner will continue to pay an assessment for each lot as though they were not consolidated and will continue to have one vote per lot as though they were not consolidated.

ARTICLE VI  
MAIN LENANCE

Section 6.1 Responsibilities of Owners. All Lots shall be maintained in a neat, clean and sanitary condition. Maintenance and repair of the Lots and Dwellings, including the driveways, lawns, landscaping, patios and decks shall be the responsibility of the respective Owners. The responsibility for such maintenance shall include the care of all exterior surfaces of the Dwellings, and in the event an Owner fails to perform proper maintenance, the Association hereby has the right but shall not be obligated to maintain the Owner's property pursuant to the easements reserved

unto it in Section 4 hereof. All such maintenance expenses will be assessed against the Owner in the method prescribed in Section 9.5.

Section 6.2 Responsibilities of Association. The Association shall maintain and keep all portions of the Open Space and Private Recreational Area in good repair, which responsibility shall include the maintenance, repair and replacement of: (i) the recreational amenities; (ii) all landscaping, walls, fences, signs and other improvements situated within the Open Space and Private Recreational Area; (iii) such utility lines, drainage facilities, pipes, plumbing, wires, conduits and related systems which are a part of the Open Space and Private Recreational Area; and (iv) the Limited Common Area, when necessary.

Section 6.3 Responsibilities of Hilton Head Plantation Property Owners Association. The Hilton Head Plantation Property Owners Association shall be authorized and obligated to maintain and keep all portions of the Restricted Common Property, if any is conveyed to them, in good repair, which responsibility shall include the maintenance, repair and replacement of all landscaping, walls, fences, signs and other improvements situated within the Restricted Common Property; and such utility lines, drainage facilities, pipes, plumbing, wires, conduits and related systems which are a part of the Restricted Common Property and which are conveyed to the Hilton Head Plantation Property Owners Association.

Section 6.4 Power and Authority of Association. In carrying out its duties and responsibilities created under this Declaration, the Association shall have the powers and authority conferred upon it in this Declaration and under the By-Laws, which shall govern the administration of the affairs of the Association.

## ARTICLE VII INSURANCE AND CASUALTY LOSSES

### Section 7.1 Insurance.

7.1.1 The Board of Directors or its duly authorized agents shall obtain and continue in effect adequate property insurance, in such form as the Board deems appropriate, for the benefit of the Association and insuring all insurable improvements in the Limited Common Area, Open Space and Private Recreational Area, excluding the community dock, against loss or damage by fire or other hazards, including without limitation extended coverage, flood, vandalism and malicious mischief. Such coverage shall be in an amount sufficient to cover the full replacement cost (without depreciation) of any repair or reconstruction in the event of damage or destruction from any such hazard subject to such deductible levels as are deemed reasonable by the Board.

7.1.2 The Board or its duly authorized agents shall obtain and continue in effect a public liability policy covering all the Limited Common Area, Open Space and Private Recreational Area and all damage or injury caused by the negligence of the Association, its members, its directors and officers, and any of its agents. Such public liability policy shall provide such coverages as are determined to be necessary by the Board of Directors.

7.1.3 The Board or its duly authorized agents shall have the authority and may obtain: (i) worker's compensation insurance to the extent necessary to comply with any applicable law; and (ii) such other types and amounts of insurance as may be determined by the Board to be necessary or desirable, including officers and directors liability insurance. The Board may require that certificates of insurance be required from all contractors and subcontractors where there is a liability for worker's compensation exposure and such contractors and subcontractors shall give the Association advance notice of cancellation.

7.1.4 All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as trustee for each of the Owners and costs of all such coverage shall be a Common Expense. Exclusive authority to adjust losses under policies obtained by the Association and hereafter in force with respect to the Property shall be vested in the Board of Directors; provided, however, that Mortgagees having an interest in such losses may not be prohibited from participating in the settlement negotiations, if any, related thereto.

7.1.5 To the extent possible, all policies shall be written with a company licensed to do business in the State of South Carolina and holding a rating of A-XI or better in such financial categories as established by A.M. Best's Insurance Reports. Insofar as permitted by law, the Association shall be required to make every effort to secure insurance policies with the provisions hereinafter set forth:

(i) Waiver of the insurer's right to cancel without first giving thirty (30) days' prior written notice of such cancellation to the Association and to any Mortgagee to which a mortgagee endorsement has been issued.

(ii) Waiver of subrogation by the insurer as to any claims against the Association, the Association's directors and officers, the Owners and their respective families, servants, agents, tenants, guests and invitees, including without limitation the Association's manager.

(iii) No policy may be canceled, invalidated or suspended on account of the conduct of one or more of the individual Owners, or their respective families, servants, agents, employees, tenants, guests and invitees, or on account of the acts of any director, officer, employee or agent of the Association or of its manager, without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect maybe cured.

(iv) Cross-liability endorsements to cover liability of the Association to an individual Owner.

7.1.6 It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, public liability, property damage, flood, title and other insurance with respect to his own Lot or Dwelling.

Section 7.2 Damage to or Destruction of Limited Common Area, Open Space and Private Recreational Area. Immediately after the damage or destruction by fire or other casualty to all or any part of the Limited Common Area, Open Space and Private Recreational Area covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance, and the Board shall 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 7, means repairing or restoring the damaged property to substantially the same condition in which it existed prior to the fire or other casualty. The Association shall restore or replace such damaged improvements, unless within sixty (60) days following any damage or destruction to all or a part of the Restricted Common Property, at least seventy-five (75%) percent of the total vote of the Association otherwise agree.

Section 7.3 Special Assessment for Repairs. If the insurance proceeds for such damage or destruction are not sufficient to defray the cost thereof, and such deficiency cannot be appropriated from a reserve fund established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote, in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional assessments may be made at any time during or following the completion of any repair or reconstruction. Any and all sums paid to the Association under and by virtue of such assessments shall be held by and for the benefit of the Association together with the insurance proceeds, if any, for such damage or destruction. Such insurance proceeds and assessments shall be disbursed by the Association in payment for such repair or reconstruction pursuant to and in accordance with such method of distribution as is established by the Board of Directors. Any proceeds remaining after defraying such costs shall be retained by and for the benefit of the Association. If it is determined that the damage or destruction for which the insurance proceeds are paid shall not be repaired or reconstructed, such proceeds shall be retained by and for the benefit of the Association, and the portions of the Limited Common Area, Open Space and Private Recreational Area damaged or destroyed by fire or other casualty shall be cleared and left in a clean, orderly, safe and sightly condition.

Section 7.4 Damage to or Destruction of Dwellings. In the event of damage or destruction by fire or other casualty to any Dwelling and if the Owner of such Dwelling elects not to repair or rebuild the damaged or destroyed Dwelling, such Owner shall promptly clear away the debris of any damaged improvements or vegetation and leave such Dwelling, and the Lot upon which it is located, in a clean, orderly, safe and sightly condition. Should such Owner elect to repair or rebuild such Dwelling or other improvements, such Owner shall repair or rebuild such Lot or Dwelling or other improvements to substantially the same condition as existed prior to such fire or other casualty, unless otherwise permitted by the DRC, and in accordance with all applicable provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations. All such work of repair or construction shall be commenced promptly following such damage or destruction and shall be carried through diligently to conclusion.

ARTICLE VIII  
CONDEMNATION

Section 8.1 Condemnation of Limited Common Area, Open Space and Private Recreational Area. Whenever all or any part of the Limited Common Area, Open Space and Private Recreational Area of the Property shall be taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof by the Board acting on the agreement of at least seventy-five (75%) percent of the total vote of the Association, the award or proceeds made or collected for such taking or sale in lieu thereof shall be payable to the Association and shall be disbursed or held as follows:

8.1.1 If the taking or sale in lieu thereof involves a portion of the Limited Common Area, Open Space and/or Private Recreational Area on which improvements have been constructed, then, unless within sixty (60) days after such taking at least seventy-five (75%) percent of the total membership of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken, to the extent practicable, on the remaining lands included in the Limited Common Area, Open Space and/or Private Recreational Area which are available therefor. If the awards or proceeds are not sufficient to defray the cost of such repair and replacement and such deficiency cannot be appropriated from a reserve fund established for such purpose, the Board of Directors may levy a special assessment against all Owners, without the necessity of a vote, in an amount sufficient to provide funds to pay such excess cost of repair or reconstruction. Such special assessment shall be levied against the Owners equally in the same manner as annual assessments are levied, and additional special assessments may be made at any time during or following the completion of any repair or reconstruction. If such improvements are not to be repaired or restored, the award or proceeds shall be retained by and for the benefit of the Association.

8.1.2 If the taking or sale in lieu thereof does not involve any improvements to the Limited Common Area, Open Space and/or the Private Recreational Area or if there are net funds remaining after any restoration or replacement of such improvements is completed, then such award, proceeds or net funds shall be retained by and for the benefit of the Association.

8.1.3 If the taking or sale in lieu thereof includes all or any part of a Lot or Dwelling and also includes any part of the Limited Common Area, Open Space and/or Private Recreational Area, then a court of competent jurisdiction shall apportion such award or proceeds and such award or proceeds shall be disbursed to the Association and the Owners so affected so as to give just compensation to the Owners for their interest in such Lot or Dwelling or the award may be apportioned by the agreement of: (i) the Board of Directors and (ii) the Owners of all affected Lots or Dwellings, together with the Mortgagees for such Lots or Dwellings.

## Section 8.2 Condemnation of Lots or Dwellings.

8.2.1 In the event that all or any part of a Dwelling is taken by any authority having the power of condemnation or eminent domain, or is conveyed in lieu thereof, and the Owner elects not to restore the remainder of the Dwelling, then such Owner shall promptly clear away any remaining improvements damaged or destroyed by such taking or conveyance and shall leave such Lot and any remaining undamaged improvements thereon in a clean, orderly, safe and sightly condition. In addition, if the size or configuration of such Lot remaining after such taking or conveyance is insufficient to permit the restoration of the remaining improvements thereon or therein to their condition prior to such taking or conveyance in compliance with all applicable standards, restrictions, and provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations, then such Owner shall have the option, after clearing away all remaining improvements or portions thereof and placing the remainder in a clean, orderly, safe and sightly condition referred to above, of conveying the remaining portion of the Lot to the Association as a part of the Open Space.

8.2.2 In the event that any part of a Dwelling is taken by any authority having, the power of condemnation or eminent domain, or is conveyed in lieu thereof, and if the Owner elects to restore the remainder of the Dwelling, the Dwelling shall be restored to the same condition it was in prior to such taking or conveyance and in accordance with all applicable provisions of this Declaration and all applicable zoning, subdivision, building and other governmental regulations. All such work of restoration shall be commenced promptly following such taking or conveyance and shall be carried through diligently to completion.

## ARTICLE IX ASSESSMENTS

Section 9.1 Purpose of Assessments. The assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Property and any part thereof, and maintaining the Limited Common Area, Open Space, the Private Recreational Area and improvements thereon, all as may be more specifically authorized from time to time by the Board of Directors.

Section 9.2 Creation of Lien and Personal Obligation of Assessments. Each Owner, by acceptance of a deed or other transfer of ownership (by devise or otherwise), is deemed to covenant and agree to pay to the Association: (a) annual general assessments; (b) special assessments; and (c) individual or specific assessments which are established pursuant to the provisions of this Declaration, including but not limited to fines as maybe imposed in accordance with Section 12 thereof. Any such assessments, together with late charges of Fifty (\$50.00) dollars plus simple interest at the rate of eighteen (18%) percent per annum, and court costs and attorneys' fees incurred to enforce or collect such assessments shall be an equitable charge and a continuing lien upon the Lot, the Owner of which is responsible for payment. Each Owner shall be personally liable for assessments coming due while he is the Owner, and his grantee shall take title to such Lot subject to the equitable charge and continuing lien therefor as joint debtor, but without prejudice to the rights of such grantee to recover from his grantor any amounts paid by such grantee therefor.

Section 9.3 Computation of Annual Assessments. It shall be the duty of the Board, at least thirty (30) days prior to the Association's annual meeting, to prepare a budget covering the estimated Common Expenses during the coming year, such budget to include a capital contribution or reserve account if necessary for the capital needs of the Association. The Board shall cause the budget and the proposed total of the annual assessments to be levied against Lots for the following year to be delivered to each Owner at least fifteen (15) days prior to such meeting. The total annual assessments against Lots shall be divided equally, so that each Lot shall be subject to equal annual assessments. The budget and the annual assessments shall become effective once approved at the annual meeting by a vote of a majority of the Owners who are voting in person or by proxy at such meeting. Notwithstanding the foregoing, in the event the proposed budget is not approved by a majority vote or the Board fails for any reason to determine the Budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and annual assessments in effect for the then current year shall be increased by ten (10%) percent, and such increased budget shall be implemented for the succeeding year, until a new budget shall have been approved as provided above. If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a special assessment as provided in Section 9.4 hereof. The Common Expenses to be funded by the annual assessments may include, but shall not necessarily be limited to, the following:

9.3.1 Management fees and expenses of administration, including legal and accounting fees;

9.3.2 Utility charges for utilities serving the Limited Common Area, Open Space and Private Recreational Area and charges for other common services including trash collection and security services, if any such services or charges are provided or paid by the Association;

9.3.3 The cost of any policies of insurance purchased for the benefit of all Owners and the Association as required or permitted by this Declaration, including fire, flood and other hazard coverage, public liability coverage and such other insurance coverage as the Board of Directors determines to be in the interests of the Association and the Owners, together with the costs of any required appraisals or other expenses to determine the adequacy of the insured value;

9.3.4 The expenses of maintenance, operation and repair of those portions of the Limited Common Area, Open Space and/or Private Recreational Area which are the responsibility of the Association under the provisions of this Declaration;

9.3.5 The expense of maintenance and repair of the Lots or Dwellings which are the responsibility of the Association under the provisions of this Declaration, if any;

9.3.6 The expenses of maintenance, operation and repair of other amenities and facilities serving the Property, the maintenance, operation and repair of which the Board, from time to time, determines to be in the best interest of the Association;

9.3.7 The expenses of the DRC which are not defrayed by plan review charges;

9.3.8 The expenses for conducting recreational, cultural or other related programs for the benefit of the Owners and their families, tenants, guests and invitees;

9.3.9 Ad valorem real and personal property taxes assessed and levied against the Limited Common Area, Open Space and Private Recreational Area;

9.3.10 Such other expenses as may be determined from time to time by the Board of Directors of the Association to be Common Expenses; and

9.3.11 The establishment and maintenance of a reasonable reserve fund or funds: (a) for maintenance, repair and replacement of the Limited Common Area, Open Space and Private Recreational Area; (b) to cover emergencies and repairs required as a result of casualties which are not funded by insurance proceeds; and (c) to cover unforeseen operating contingencies or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Board of Directors.

9.3.12 The expenses of maintenance, repair and replacement of the guard house, if constructed, or other security devices installed as described in Section 4.9 above, and the expenses of any personnel who perform security services on behalf of the Association.

Section 9.4 Special Assessments. In addition to the annual assessments authorized above, the Association, acting through its Board of Directors, may levy special assessments for Common Expenses provided that, except as otherwise permitted in Sections 7.3 and 8.1.1 hereof, any such assessment shall be approved by a majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose. The Board of Directors may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted. Such special assessments are to be prorated among the Lots equally, as provided with respect to annual assessments.

Section 9.5 Individual or Specific Assessments. Any expenses of the Association occasioned by the conduct of less than all of the Owners or by the family, tenants, agents, guests or invitees of any Owner shall be specially assessed against such Owners and their respective Lots. The individual assessments provided for in this Section 9.5 shall be levied by the Board of Directors and the amount and due date of such assessment so levied by the Board shall be as specified by the Board.

Section 9.6 Priority of Liens. The liens for assessments created by this Declaration shall be superior to all other liens and encumbrances except for (i) liens of ad valorem taxes and other liens or assessments having priority by law; and (ii) liens for all sums unpaid on a first priority purchase money mortgage or Institutional Mortgage and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. Notwithstanding the foregoing to the contrary, the subordination of assessments to the lien of such Mortgages shall only apply to such assessments which have become due and payable prior to a foreclosure or acceptance of a deed in lieu thereof.



Section 9.7 Acquisition at Foreclosure Sale. Where the mortgagee of any purchase money mortgage or Institutional Mortgage of record or other purchaser of a Lot obtains title at the foreclosure sale of such a mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the Common Expenses or assessments chargeable to such Lot accruing after the date of recording such mortgage but prior to the acquisition of title to such Lot by such acquirer. Such unpaid share of the Common Expenses or assessments shall be deemed to be Common Expenses collectible from all of the Owners, including such acquirer, his successors and assigns.

Section 9.8 Effect of Nonpayment; Remedies of the Association. Any assessments of an Owner or any portions thereof which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than thirty (30) days after the date when due shall incur a late charge of Fifty (\$50.00) dollars and shall commence to accrue simple interest at the rate of eighteen (18%) percent per annum. The lien of assessments shall attach simultaneously as the same shall become due and payable, and if an assessment has not been paid within thirty (30) days, the entire unpaid balance of the assessment may be accelerated at the option of the Board and be declared due and payable in full. The continuing lien and equitable charge of such assessment shall include the late charge established by the Board of Directors, interest on the principal amount due as aforesaid, all costs of collection (including reasonable attorneys' fees and court costs) and any other amounts provided or permitted hereunder or by law. In the event that the assessment remains unpaid after sixty (60) days from the original due date, the Association may institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Section shall be in favor of the Association, and each Owner acknowledges that the Association and its agents have the right and power to bring all actions against him personally for the collection of such assessments as a debt and to foreclose the aforesaid lien in the same manner as other liens upon real property. The Association shall have the power to bid on the Lot at any foreclosure sale and to acquire, hold, lease, mortgage and convey the same. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Limited Common Area, Private Recreational Area or abandonment of his Lot, or otherwise.

Section 9.9 Certificate. Upon the written request of any Owner, a proposed purchaser from any Owner, or any Mortgagee, the Treasurer, any Assistant Treasurer or the manager of the Association shall within ten (10) days after such request furnish a certificate in writing of the unpaid charges due from such Owner. Such certificate shall be conclusive evidence against all but the Owner of the payment of amounts assessed prior to the date of the certificate and the amount outstanding. A reasonable charge maybe made by the Board of Directors for the issuance of such certificates.

Section 9.10 Date of Commencement of Annual Assessments. The annual assessments and/or Special Assessments provided for herein shall be due and payable in such manner and on such schedule as the Board of Directors may provide.

Section 9.11 No Abatement of Assessments. No diminution or abatement of assessments shall be claimed or allowed by reason of any alleged failure of the Association to take some action or to perform some function required to be taken or performed by the Association under this Declaration, or for inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association

to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority, the obligation to pay such assessments being a separate and independent covenant on the part of each Owner.

ARTICLE X  
ARCHITECTURAL REVIEW AND APPROVAL

The following shall apply to the Property:

Section 10.1 Design Review Committee. The Board of Directors shall establish the Design Review Committee hereinafter called the DRC, as a function of the Association. The Board will establish the DRC's mission and authority. Subject to the Board's approval, the DRC will develop Design Guidelines, Review Procedures and Rules and Regulations governing all real property improvements. The DRC shall have the authority and jurisdiction to review and to approve or disapprove all plans for real property improvements. The DRC shall also have authority to assess fines subject to the Board's approval and perform other functions as designated by the Board. The DRC shall consist of five (5) members, all of whom must be Owners. The regular term of office for each member of the DRC shall be one (1) year. Any DRC member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and any successor appointed to fill such vacancy shall serve the remainder of the term of the former member. The DRC shall elect a chairman and he, or in his absence the vice chairman, shall be the presiding officer at its meetings. The DRC shall meet at least once every three (3) months, as well as upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. A majority of the members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority of those present at a meeting shall constitute the action of the DRC on any matter before it. The DRC is authorized to retain the services of consulting architects, landscape architects, designers, engineers, inspectors, and attorneys in order to advise and assist it in performing its function set forth herein. The DRC may promulgate application policies and procedures for general distribution to Owners, contractors and builders who seek to construct improvements upon any portion of the Property, who shall be governed thereby.

10.1.1 Design Standards and Review Guidelines. The DRC shall prepare Design Guidelines, Review Procedures and Rules and Regulations for Board approval in addition to the restrictions set forth in the Declaration which shall be applicable to all construction activities within the Property. These guidelines may contain general provisions applicable to the Property, including application procedures as well as specific provisions which may vary from one portion to another depending on the location. The DRC may also recommend amendments from time to time, subject to Board approval. Such amendments shall only apply to projects submitted for approval after the adoption. Guidelines and amendments shall be made available to all Owners and contractors seeking application for real property improvement.

10.1.2 Design Standards May Change Over Time. Each Owner acknowledges that the membership on the Board and the DRC and their views on how to best protect and enhance the Property may change over time. Accordingly, the type, nature, interpretation, application, and enforcement of the design standards may vary over time. The approval of either the Board or the

DRC of any proposals, plans, specifications, or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the Board or the DRC shall not be deemed to limit or constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans, specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

## Section 10.2 Architectural Approval.

10.2.1 To preserve the architectural and aesthetic appearance of the Property, no construction of improvements, addition or alteration of any nature whatsoever shall be commenced or maintained by any Owner with respect to the construction or exterior of any Dwelling or with respect to any other portion of the Property, including, without limitation, the construction or installation of residences, guest suites and accessory buildings, courtyards, gazebos, sidewalks, driveways, parking lots, mail boxes, signage (including construction signage and house number), exterior refurbishing (including restraining), vertical flagpoles, satellite dishes and antennas, decks, patios, porches, courtyards, swimming pools, bulkheads, docks, piers, boardwalks, greenhouses, exterior landscaping, playhouses, sited play equipment, portable or permanent regulation size basketball backboards, utility sheds, viewing platforms, yard ornamentation, awnings, shutters, hurricane shutters, walls, privacy walls, fences, roofing, exterior lights, garages or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including without limitation painting or staining of any exterior surface), unless and until six (6) copies of the plans and specifications, tree survey, landscaping plans, and related data required under the Design Guidelines, Review Procedures and Rules and Regulations adopted by the DRC showing the nature, color, type, shape, height, materials and location of the same shall have been submitted to and approved by the DRC. The DRC shall examine and approve or disapprove all required site plans and specifications, exterior finishes, landscaping plans, tree conservation plans, fill plans and construction schedules for initial construction, additions, alterations, or exterior maintenance work on any property.

10.2.2 Within thirty (30) days after receipt of such surveys, plans and specifications, the DRC will review them in order to evaluate the harmony of external design, location and appearance of the improvements to be constructed in relation to the surrounding structures and topography. Major considerations in evaluating plans for initial construction, additions, alterations or maintenance work will be siting, architectural consistency and compatibility with neighborhood residences. The DRC may withhold approval for any reason including purely aesthetic considerations. All work permitted by the DRC must conform to the Design Guidelines, Review Procedures and Rules and Regulations adopted by the DRC and in compliance with all applicable Town of Hilton Head requirements. After such review, the DRC shall either approve, approve with conditions, or disapprove the construction of the proposed improvements. One copy of such plans, specifications and related data so submitted shall be retained in the records of the DRC, and the other copy shall be returned to the Owner marked approved, approved with conditions, or disapproved. If disapproved, the applicant shall be informed of the reasons therefor and advised of the corrective measures or changes which must be taken or made to obtain the Board's approval.

10.2.3 Upon approval of the Board, the DRC, in the exercise of its design review and approval powers hereunder, may adopt a schedule of nonrefundable review fees which shall be shown on the DRC application. The Board shall require that an Owner deposit with the Association a sum of money, the amount to be determined by the Board, to assure completion of all improvements according to construction and landscaping plans and schedules approved by the DRC. Said funds shall be paid to the Association after approval of the proposed plans and specifications and prior to the commencement of any construction or landscaping within the Lot. Such deposit shall bear no interest. The deposit will be returned when the construction is completed in accordance with the approved plans.

10.2.4 The DRC, in its sole discretion, may require that any contractor and/or subcontractor for any planned improvements within the Property post payment and/or performance bonds with the DRC to assure that such contractor or subcontractor shall satisfactorily complete such improvements, such bonds to be in the name of the Association and to be in form and amount satisfactory to the DRC. Furthermore, the DRC, in its sole discretion, may require that an owner place in escrow with the DRC a sum to be determined by the DRC in order to assure the completion of all improvements, including landscaping. Any such sums so held in such escrow shall at the discretion of the DRC, not be invested-to as to earn interest. The deposit will be returned when the construction is completed in accordance with the approved plans.

10.2.5 Notwithstanding the foregoing, an Owner may make the interior improvements and alterations within his Dwelling, and the Association may make interior improvements or alterations within or to the interior of any building or structure which it owns or maintains, without the necessity of approval or review by the DRC.

10.2.6 (a) The DRC shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association.

10.2.6 (b) If the DRC disapproves any application or part thereof for any construction or exterior renovation of an existing structure on a Lot, including landscaping or hardscape or any other improvements, the Owner has the right to appeal the DRC decision to the Board. The Board shall rule on the appeal within forty-five (45) days of receiving written notice by certified mail requesting the appeal; and the Board shall have the final authority to approve, conditionally approve, or disapprove the application of the Owner. If the Board does not receive written notice by certified mail requesting an appeal within fourteen (14) days from the date of the DRC's notice to the Owner of its decision, the decision of the DRC shall become final and all rights of appeal shall terminate and thereafter be void.

10.2.7 Following approval of any plans and specifications by the DRC, representatives of the DRC shall have the right during reasonable hours to enter upon and inspect any Lot or Dwelling or other improvements with respect to which construction is underway to determine whether or not approved plans and specifications are being followed. In the event the DRC shall determine that such plans and specifications have not been approved or are not being complied with, the DRC shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with the approved plans and specifications.

10.2.8 In the event that the DRC fails to approve or disapprove in writing any proposed plans and specifications within sixty (60) days after such plans and specifications shall have been submitted to the DRC, such plans and specifications will be deemed to have been expressly approved. Upon approval of the plans and specifications, no further approval under this Paragraph shall be required with respect thereto, unless such construction has not substantially commenced within six (6) months after the approval of such plans and specifications or unless such plans and specifications are materially altered or changed. Rejection of plans and specifications may be based upon any ground which is consistent with the objectives and purposes of this Declaration, including purely aesthetic considerations, so long as such grounds are not arbitrary or capricious. No approval expressly granted or deemed granted pursuant to the foregoing shall be inconsistent with these covenants or the Design Guidelines unless a variance has been granted pursuant to this Article or the Design Guidelines

10.2.9 All projects must begin within six (6) months of the issuance of DRC approval. Failure to do so will require a new application and appropriate fee. Initial residential construction and landscaping must be completed within twelve (12) months from the date of issuance of the building permit and alterations or additions within sixty (60) days of DRC approval, except when a strike, national emergency, or natural calamity intervenes. An exception to the time limits may be made prior to the completion deadline upon submission of a written request and acceptable justification. Residences may not be occupied until the Town issues a Certificate of Occupancy and the DRC conducts a satisfactory final compliance inspection, unless an extension is granted by the DRC.

Section 10.3 Approval Not a Guarantee. The approval of plans and specifications and the publication of the Design Guidelines, Review Procedures and Rules and Regulations by the DRC shall not be construed as representing or implying that such plans, specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither the Association nor the DRC shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved pursuant to the terms of this Article X, or any defects in construction performed pursuant to such plans and specifications.

#### Section 10.4 Construction of Improvements.

10.4.1 To assure that Dwellings and other structures will be located so that the optimum view, privacy and breeze will be available to each Dwelling or structure, Dwellings and structures will be located with regard to the topography of each Lot taking into consideration the location of trees and vegetation and other aesthetic and environmental considerations, as well as the precise site and location of any other Dwellings or structures within the Property.

10.4.2 Dwellings may not be temporarily or permanently occupied until the exteriors thereof have been completed, and no temporary house, shack, trailer, tent, barn or other outbuilding shall be permitted on any Lot at any time except for temporary structures for social functions as may be permitted by the rules and regulations promulgated by the Board. During the continuance of construction by an Owner, such Owner shall require its contractors to maintain the

Lot and Dwelling in a reasonably clean and uncluttered condition and, to the extent possible, all construction trash and debris shall be kept within refuse containers. Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools and construction material and debris from the Lot and Dwelling.

Section 10.5 Service Yards. Each Owner shall provide a service yard of adequate size to contain all outside equipment and storage, including but not limited to heat pump compressors, electric meter, water treatment equipment, propane tanks, swimming pool equipment, exposed piping, irrigation system controls, two (2) thirty (30) gallon trash receptacles and any equipment not otherwise stored within enclosures. The service yard shall have a concrete floor and visually solid enclosing walls not less than six (6) feet in height above the service yard floor or of such a height that the contents within the service yard are not visible, be of the same color as the adjacent house siding and have latched access door.

Section 10.6 Building Restrictions. All dwellings shall have a minimum of three thousand six hundred (3,600) square feet of enclosed heated living space, exclusive of decks, patios, porches, garages, carports and accessory buildings. The minimum square footage of the first floor of all dwellings shall be controlled by the design guidelines adopted by the DRC, as amended from time to time.

## ARTICLE XI USE RESTRICTIONS

Section 11.1 Use of Lots and Dwellings. Each Lot shall be used for single family residential purposes only, and no trade or business of any kind may be carried on therein. The use of a portion of a Dwelling as a personal office by an Owner or his tenant shall not be considered to be a violation of this covenant if such use creates no customer, client, or employee traffic.

Section 11.2 Clotheslines. Except within screened service yards, outside clotheslines or other outside facilities for drying or airing of towels or clothes, etc. are specifically prohibited and shall not be erected, placed or maintained, nor shall any clothing, towels, rugs or other item be hung on any railing, fence, hedge or wall.

Section 11.3 Signs. Except as may be required by legal proceedings, no signs or advertising posters of any kind shall be maintained or permitted within any windows or on the exterior of any improvements located within the Property. In addition, the Board of Directors, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on any portion of the Restricted Common Property, Open Space, and within those easement areas established in Section 4.2 hereof.

Section. 11.4 Tents and Canopies. With Association approval, tents and/or canopies to be used for a special event such as a wedding or private party may be placed in the rear yard of a Single-Family Dwelling Unit for a period not exceeding one (1) week.

Section 11.5 Antennas. No television or radio antenna, communication dish or other similar device shall be attached to or installed on Lot or Dwelling, unless first approved by the Design Review Committee.

Section 11.6 Water Wells and Septic Tanks. No private water wells may be drilled or maintained on any Lot, and no septic tanks or similar sewage facilities maybe installed or maintained on any Lot or Dwelling so long as a private or public water and/or sewer system is available to each Lot.

Section 11.7 Fuel Storage Tanks. No private fuel tanks to store fuel oil or gasoline may be buried on any Lot without the prior approval of the Board.

Section 11.8 Energy Conservation Equipment. No equipment, including but not limited to, window or wall mounted air conditioning units, solar energy collector panels or attendant hardware or other energy conservation equipment shall be installed on any Lot or Dwelling without approval of the DRC.

Section 11.9 Pets. No animals, livestock, birds or poultry of any kind shall be raised, bred or kept by any Owner upon any portion of the Property, provided that a reasonable number of generally recognized house pets may be kept in Dwellings, subject to rules and regulations adopted by the Board of Directors, and further provided that such pet or pets are kept or maintained solely as domestic pets and not for any commercial purposes. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. No structure for the care, housing or confinement of any pet shall be constructed or maintained on any part of the Restricted Common Property, Open Space or Private Recreational Area. Pets shall be under leash at all times when walked or exercised in any portion of the Restricted Common Property, Open Space or Private Recreational Area. Owners of pets shall immediately remove pets' droppings from the Restricted Common Property, Open Space or Private Recreational Area and dispose of such in trash receptacles. Upon the written request of any Owner, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether a particular pet is a generally recognized house pet or such pet is a nuisance, and the Board shall have the right to require the owner of a particular pet to remove such pet from the Property if such pet is found to be a nuisance or to be in violation of these restrictions. The Board of Directors shall have the further right to fine any Owner (in an amount not to exceed \$50.00 per violation) for the violation of these pet restrictions by such Owner or an Occupant, and an Owner shall be liable to the Association for the cost of repair of any damage to the Restricted Common Property, Open Space or Private Recreational Area caused by the pet of such Owner or of an Occupant. Any such fine or cost of repair shall be added to and become a part of that portion of any assessment next coming due to which such Lot or Dwelling and its Owner are subject.

Section 11.10 Toys and Play Equipment. Toys, including but not limited to, bicycles, tricycles, Little Tyke type play equipment, plastic pools, Tonka type trucks, and playhouses, must be stored out of sight when not in use. Play Equipment which is installed on any part of the Property outside of the dwelling, not structurally permanent in nature, and used for recreation or play, must have approval of the DRC prior to installation. Such play equipment includes, but is not limited to basketball backboard and hoop (fixed or portable), swing set, gym set, slide or teeterboard (see-

saw), trampoline, soccer goal set, volley ball net and court, badminton net and court, horseshoe court and sandbox. If approved, play equipment may only be used during daylight hours after 7:00 a.m. After dark activity is prohibited. Play must always be mindful and respectful to neighbors. The following play equipment is prohibited: tree houses, separate playhouses and/or swimming pool diving board and/or slide.

Section 11.11 Nuisances. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Property, nor shall any nuisance or odors be permitted to exist or operate upon or arise from the Property, so as to render any portion thereof unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of the Property. Noxious or offensive activities shall not be carried on in any Lot or Dwelling or in any part of the Restricted Common Property, Open Space and Private Recreational Area, and each Owner, his family, tenants, guests, invitees, servants and agents shall refrain from any act or use of a Lot or Dwelling or of the Restricted Common Property, Open Space and/or Private Recreational Area which could cause disorderly, unsightly or unkempt conditions, or which could cause embarrassment, discomfort, annoyance or nuisance to the Occupants of other portions of the Property or which could result in a cancellation of any insurance for any portion of the Property, or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no exterior speakers, horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used or placed within the Property. Any Owner, his family, tenants, guests, invitees, servants or agents, who dumps or places any trash or debris upon any portion of the Property shall be liable to the Association for the actual costs of removal thereof or the sum of Twenty-Five (\$25.00) Dollars, whichever is greater, and such sum shall be added to and become a part of that portion of any assessment next becoming due to which such Owner and his Lot or Dwelling are subject. The development and construction activities for the construction of improvements on the Property shall not be considered a nuisance under this Section 11.11.

Section 11.12 Motor Vehicles, Trailers, Boats, Etc. Subject to the terms of this Section 11.12, there shall be no outside storage or parking upon any Lot or Dwelling or within any portion of the Restricted Common Property (other than areas provided therefor within the Restricted Common Property, if any), Limited Common Area, Private Recreational Area or Open Space of any mobile home, trailer (either with or without wheels), motor home, tractor, truck (other than pick-up trucks), commercial vehicles of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized go-cart or any other related forms of transportation devices. Furthermore, mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized go-carts and other similar vehicles, or any of them, are prohibited from being operated upon any portion of the Property. No Owners or other Occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Lot or within any portion of the Restricted Common Property, Limited Common Area, Private Recreational Area or Open Space, except: (i) within enclosed garages; or (ii) for emergency repairs, and then only to the extent necessary to enable the removal thereof to a proper repair facility.



Section 11.13 Parking. Each Owner of an improved Lot shall provide paved space for parking for at least two (2) vehicles off the street. Completed homes, occupied or not, may have no more vehicles parked overnight than can be parked on the paved drive and in the garage. No vehicle with commercial equipment, lettering or logos that are visible may be parked overnight on a Lot except within a garage. No parking is allowed on unimproved Lots. All vehicles must have current registration and license plate.

Section 11.14 Timesharing. No Lots or Dwellings may be owned under any timesharing, time interval or similar right-to-use programs providing for interval ownership or use.

Section 11.15 Height Restriction. No Dwelling shall be constructed on any Lot higher than forty (40') feet to the highest roof peak or ridge, measured from the lowest point of the finished grade at the foundation perimeter.

Section 11.16 Rentals. Short term rental of any Dwelling (daily or week-end) shall not be allowed. Rental to the same lessee for periods of six (6) months or longer shall be allowed so long as the Owner first delivers to the Board a copy of the lease with the name, address, and contact information of the lessee. Under no circumstances may any dwelling be leased or subleased to more than one tenant or subtenant during any six (6) month period. Rental of a Lot, for any term, is prohibited.

Section 11.17 Dock Permits. Dock Permits. During the initial planning and development of Ribaut Island, the Shorewood Corporation, as original developer and Declarant under the Covenants, applied to the South Carolina Coastal Council ("Coastal Council") for various dock permits. An original dock permit was issued by the Coastal Council on April 26, 1989, Permit Number 88-3E-306-P ("Original Permit"). Thereafter, under the Original Permit, Lot 42 was issued a permit for a dock structure by the Coastal Council on April 20, 1993.

In order to maintain compliance with the Original Permit, no additional docks will be permitted by the Associations' Board. If an Owner seeks dock renovation or replacement, the Design Review Committee will require the Owner to obtain a written Certification from the SC Department of Health & Environmental Control<sup>1</sup> that said renovation or replacement is in compliance with the Original Permit.

The Community Dock may be used to moor boats only during daylight hours and overnight mooring is prohibited.

Section 11.18 Tennis Court Lighting. No lights will be installed near or around the tennis courts for the purpose of illuminating the courts for night play.

Section 11.19 Mailboxes. Only one (1) mailbox shall be allowed for each Dwelling. The Association has the right (but not the obligation) to purchase, replace, install, maintain and/or store mailboxes. The cost of such purchase, replacement, installation, maintenance and/or storage shall be assessed against the Lot as an Individual or Specific Assessment pursuant to Article IX, Section

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<sup>1</sup> The State Agency that has replaced the Coastal Council with the Office of Ocean and Coastal Resource Management.

9.5 herein and payable by the Owner to the Association to the extent the Association assumes responsibility for the purchase, replacement, installation, maintenance and/or storage. If a common mailbox program is not implemented by the Association, and an Owner fails to properly maintain his mailbox, the Association may do so as herein provided and the costs of the same shall be assessed against the Lot as an Individual or Specific Assessment. All such assessments shall be collected by the Association as set forth in Article IX.

## ARTICLE XII RULES AND REGULATIONS

Section 12.1 Establishment of Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots, Dwellings, and Limited Common Area, Private Recreational Area, Open Space and facilities located thereon. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, canceled or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the total votes in the Association.

Section 12.2 Authority and Enforcement. Upon the violation of this Declaration, the By-Laws or any rules and regulations duly adopted hereunder, including without limitation the failure to timely pay any assessments, the Board shall have the power: (i) to impose reasonable monetary fines which shall constitute an equitable charge and a continuing lien upon the Lot owned by the violating Owner; (ii) to suspend an Owner's right to vote in the Association; or (iii) to suspend an Owner's right (and the right of such Owner's family, guests and tenants and of the Co-Owners of such Owner and their respective families, guests and tenants) to use any of the recreational amenities in the Private Recreational Area, and the Board shall have the power to impose all or any combination of these sanctions. An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests or tenants or by his Co-Owners or the family, guests or tenants of his Co-Owners or the family, guests or tenants of his Co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed thirty (30) days each for a first violation.

Section 12.3 Procedure. Except with respect to the failure to pay assessments or maintenance expenses, the Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner for violations of the Declaration, the By-Laws or any rules and regulations, unless and until the following procedure is followed:

(a) Written demand from the Board to cease and desist from an alleged violation shall be mailed, emailed, or served upon the person responsible for such violation specifying:

- (i) the alleged violation;
- (ii) the action required to abate the violation; and

(iii) a time period of not less than five (5) days during which the violation may be abated without further sanction, if such violation is a continuing one, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws or of any rules and regulations may result in the imposition of sanctions after notice and hearing.

(b) If the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs within twelve (12) months of such demand, the Board may serve such person with written notice of a hearing to be held by the Board in executive session. The notice shall contain:

- (iv) the nature of the alleged violation;
- (v) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
- (vi) an invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and

(c) The hearing shall be held in executive session of the Board pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard 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 other individual who delivers such notice. The notice requirement shall be deemed satisfied if an 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 imposed, if any.

### ARTICLE XIII GENERAL PROVISIONS

Section 13.1 Amendments. The Board specifically reserves to itself, its successors and assigns, the right to amend this Consolidated Declaration or any portion thereof, on its own motion to correct typographical errors or to eliminate scrivener's errors; provided, however, that the voting power of existing Owners is not diluted thereby, nor the amounts of assessments of such existing Owners is raised or changed in any manner which would adversely affect such Owners. As to other types of proposed amendments, the procedure for amendment shall be as follows: all proposed amendments shall be submitted to the vote of the Owners by Referendum. If any proposed amendment to this Consolidated Declaration is approved by fifty-one (51%) percent of the Owners by Referendum, the President and Secretary of the Board shall execute an addendum to this Consolidated Declaration which shall set forth the amendment, the effective date of the amendment, and the date of the Referendum by which such amendment was adopted.

Section 13.2 Enforcement. Each Owner shall comply strictly with the By-Laws and the published rules and regulations of the Association adopted pursuant to this Declaration, as either of the same may be lawfully amended from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed or other instrument of conveyance to his Lot or Dwelling, if any. Failure to comply with any of the same shall be grounds for imposing

finances, for suspending voting rights or rights of use in and to the recreational amenities, or for instituting an action to recover sums due, for damages and/or for injunctive relief, such actions to be maintainable by the Board of Directors on behalf of the Association or by an aggrieved Owner. Should the Association employ legal counsel to enforce any of the foregoing, all costs incurred in such enforcement, including court costs and reasonable attorneys' fees, shall be paid by the violating Owner. Inasmuch as the enforcement of the provisions of this Declaration, the By-Laws and the rules and regulations of the Association are essential for the effectuation of the general plan of development contemplated hereby and for the protection of present and future Owners, it is hereby declared that any breach thereof may not adequately be compensated by recovery of damages, and that the Association or any aggrieved Owner, in addition to all other remedies, may require and shall be entitled to the remedy of injunction to restrain any such violation or breach or any threatened violation or breach. No bond will be required for any injunction. No delay, failure or omission on the part of the Association or any aggrieved Owner in exercising any right, power or remedy herein provided shall be construed as an acquiescence thereto or shall be deemed a waiver of the right to enforce such right, power or remedy thereafter as to the same violation or breach, or as to a violation or breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement. No right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Association for or on account of any failure to bring any action on account of any violation or breach, or threatened violation or breach, by any Person of the provisions of this Declaration, the By-Laws or any rules and regulations of the Association, however long continued.

Section 13.3 Duration. The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of all Owners and Mortgagees and their respective heirs, executors, legal representatives, successors and assigns, and shall be and remain in effect for a period of twenty-five (25) 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 twenty-five (25) year period, this Declaration shall be automatically renewed for successive ten (10) year periods; provided, however, that there shall be no renewal or extension of this Declaration if, during the last year of the initial twenty-five (25) year period or the last year of any ten (10) year renewal period, seventy-five (75%) percent of the total votes of members of the Association are cast in favor of terminating this Declaration at the end of the then current term. In the event that members of the Association vote to terminate this Declaration, an instrument evidencing such termination shall be filed of record in the ROD Office, such instrument to contain a certificate wherein the President of the Association certifies under oath that such termination was duly adopted by the requisite number of votes. Every purchaser or grantee of any interest in the Property, by acceptance of a deed or other conveyance therefor, thereby agrees that the provisions of this Declaration shall run with and bind title to the Property as provided hereby.

Section 13.4 Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Rose Kennedy, mother of the former President of the United States of America, John F. Kennedy.

Section 13.5 Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of the Board of Directors, will best effect the intent of the plan of development of the Property. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive. The effective date of this Declaration shall be the date of its filing for record in the ROD Office. The captions of each Section and Paragraph hereof as to the contents of each Section and Paragraph are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Section or Paragraph to which they refer. This Declaration shall be construed under and in accordance with the laws of the State of South Carolina.

Section 13.6 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 13.7 Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

Section 13.8 Rights of Third Parties. This Declaration shall be recorded for the benefit of the Owners and their Mortgagees as herein provided, and by such recording, no adjoining property owner or third party shall have any right, title or interest whatsoever in the Property, except as provided herein, or in the operation or continuation thereof or in the enforcement of any of the provisions hereof.

Section 13.9 Notice of Sale, Lease or Mortgage. In the event an Owner sells, leases, mortgages or otherwise disposes of any Lot or Dwelling, the Owner must promptly furnish to the Association in writing the name and address of such purchaser, lessee, mortgagee or transferee.

Section 13.10 No Trespass. Whenever the Association, the DRC and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of the Property, the entering thereon and the taking of such action shall not be deemed to be trespass.

Section 13.11 Notices. Notices required hereunder shall be in writing and shall be delivered by hand or sent by United States mail, postage prepaid. All notices to Owners shall be delivered or sent to such addresses as have been designated in writing to the Association, or if no address has been so designated, at the addresses of such Owners' respective Lots or Dwellings. All notices to the Association shall be delivered or sent to such address as the Association may from time to time notify the Owners. Notices to Mortgagees shall be delivered or sent to such addresses as such Mortgagees specify in writing to the Association.

