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OLSONSMITHJORDANCOX

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BOOK 448 PAGE 75

PICKENS CO.  
 REGISTER OF DEEDS  
 STATE OF SOUTH CAROLINA  
 021690 COUNTY OF PICKENS  
 88 SEP 25 PM 1:40  
 FIRST AMENDMENT TO THE  
 DECLARATION OF COVENANTS,  
 CONDITIONS AND RESTRICTIONS  
 OF THE OUTERBANKS OF KEOWEE

RECITALS

WHEREAS, Timothy W. Revis, as Developer of the Outerbanks of Keowee Subdivision, heretofore imposed those certain Declaration of Covenants, Conditions and Restrictions of the Outerbanks of Keowee, dated 5-21-97 and recorded in Deed Book 375 at Page 167 in the Register of Deeds Office for Pickens County, South Carolina; (hereinafter referred to as the "Declaration") and:

WHEREAS, said Timothy W. Revis thereafter conveyed certain real property which was the subject of such Declaration to Outerbanks, Inc. by deed dated 9-24-97 and recorded in Deed Book 395 at Page 163 in the Register of Deeds Office for Pickens County, South Carolina; and,

WHEREAS, Timothy W. Revis and Outerbanks, Inc., Successor thereto, do hereby desire to amend said Declaration as hereinafter specified pursuant to the authority provided in Section 12.3 of said Declaration; and,

WHEREAS, the undersigned owners of lots in the Outerbanks of Keowee do hereby agree to such amendments.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS that the undersigned, Timothy W. Revis, as original Developer and "Declarant" of said Declaration, and Outerbanks, Inc., together with other owners of lots subject to said Declaration whose consent by way of their signatures appearing hereinafter, do hereby amend that certain Declaration of Covenants, Conditions and Restrictions of the Outerbanks of Keowee dated 5-21-97 and recorded in Deed Book 375 at Page 167 in the Register of Deeds Office for Pickens County, South Carolina (hereinafter referred to as "Declaration") as follows, to-wit:

1. Section 1.13 of said Declaration is hereby amended by adding the following sentence to the end thereof: "The term Plat as referred to herein shall also include that certain revised plat recorded in Plat Book 298 at Pages 4 and 5 in the Register of Deeds Office for Pickens County, South Carolina.

2. Section 7.2 of said Declaration is hereby amended by deleting therefrom the second (2nd) paragraph thereof which states as follows: "No dwelling erected upon any lot shall contain less than 1,800 square feet for a one (1) level dwelling or less than 2,200 square feet for a multi-level dwelling, with

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BOOK 448 PAGE 76

not less than 1,400 square feet on the main floor of such multi-level dwelling." And there hereby is substituted in the place thereof the following: "No dwelling erected upon any lot which is subject hereto shall contain less than 1,300 square feet of heated floor space on the main level, which main level shall include the square footage of any floor area of any open loft areas located above such main level, or less than 2,200 square feet for a multilevel dwelling, including finished basement areas, with not less than 1,300 square feet on the main level of such multilevel dwelling."

3. Section 7.5 of said Declaration is hereby amended by adding to the end of the first (1st) paragraph thereof the following: "The Architectural Committee shall be hereby specifically authorized to grant unto the owner of Lot 5 of the subdivision waivers or variances from strict adherence to provisions of this paragraph if, in the opinion of said Architectural Committee, such waivers or variances are reasonable in view of the shape and topography of said Lot 5."

4. Section 7.21 of said Declaration is hereby amended by deleting the period (.) after the end of the third (3rd) sentence of the first (1st) paragraph thereof and adding the following ", unless specifically approved in writing by Duke Power Company and the Architectural Committee.", and by adding to the end of the first (1st) paragraph thereof the following sentence: "Covered boat docks allowed hereunder shall be specifically approved by and meet the specifications imposed by Duke Power Company and the Architectural Committee and shall specifically contain a green metal roof as approved by Duke Power Company and the Architectural Committee".

5. Section 12.3 of said Declaration is hereby amended by changing the reference in the last paragraph thereof from "Section 11.3" to "Section 12.3".

6. Except as hereby amended, said Declaration of Covenants, Conditions and Restrictions of the Outerbanks of Keowee, as referred to above, shall otherwise continue in full force and effect.

7. The undersigned owners of lots which are subject to the above Declaration, including Outerbanks, Inc., do hereby agree to and consent to the foregoing amendments.

IN WITNESS WHEREOF, this First Amendment to the Declaration of Covenants, Conditions and Restrictions of the Outerbanks of Keowee is executed by the undersigned this \_\_\_\_\_ day of September, 1998, in Easley, South Carolina.

*Handwritten signatures and initials:*  
 [Signature] [Signature] [Signature] [Signature] [Signature]  
 [Initials] [Initials] [Initials] [Initials] [Initials]

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John W  
Sam D. Buzyn

Timothy W. Revis  
Timothy W. Revis

Outerbanks, Inc.  
By: Timothy W. Revis  
Its: President

John W  
Sam D. Buzyn

Ann R. Clark  
Ann R. Clark

Suzie Lewis  
Cynthia M. Mullins  
Suzie Lewis

Richard L. Finley  
Richard L. Finley  
John W. Revis by his lawful attorney  
in fact Timothy W. Revis

Cynthia M. Mullins  
John W  
Sam D. Buzyn

John W. Revis

Suzie Lewis  
Cynthia M. Mullins  
Suzie Lewis

Darren C. Hook  
Darren C. Hook

Cynthia M. Mullins  
Suzie Lewis  
Cynthia M. Mullins

Ritchie K. Hodges  
Ritchie K. Hodges

Suzie Lewis  
Cynthia M. Mullins

Greg Smith  
Greg Smith

Patricia J. Smith  
Patricia J. Smith

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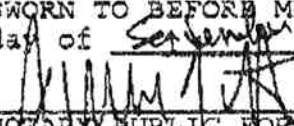
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BOOK 448 PAGE 78

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Timothy W. Revis sign, seal and as his act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of September, 1998.

  
NOTARY PUBLIC FOR S.C.

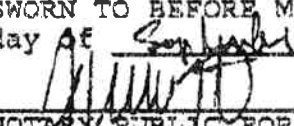


My Commission Expires: 10/20/99

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Outerbanks, Inc., by its duly authorized and acting agent and officer, sign, seal and as its act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of September, 1998.

  
NOTARY PUBLIC FOR S.C.



My Commission Expires: 10/20/99

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BOOK 448 PAGE 79

STATE OF SOUTH CAROLINA )  
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COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Ann R. Clark sign, seal and as her act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of Sept, 1998.

Cynthia M. Williams  
NOTARY PUBLIC FOR S.C.

Shirley Lewis

My Commission Expires: 6-28-2000

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Richard L. Finley sign, seal and as his act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of Sept, 1998.

Cynthia M. Williams  
NOTARY PUBLIC FOR S.C.

Shirley Lewis

My Commission Expires: 6-28-2000

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BOOK 448 PAGE 80

STATE OF SOUTH CAROLINA )  
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COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named John W. Revis, by his lawful Attorney-in-fact, sign, seal and as his act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 15<sup>th</sup>  
day of September, 1998.

[Signature]  
NOTARY PUBLIC FOR S.C.

[Signature]

My Commission Expires: 10/20/99

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Darren C. Hook sign, seal and as his act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of Sept, 1998.

[Signature]  
NOTARY PUBLIC FOR S.C.

[Signature]

My Commission Expires: 6-28-2000

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BOOK 448 PAGE 81

STATE OF SOUTH CAROLINA )  
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COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Ritchie K. Hodges sign, seal and as his act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of Sept., 1998.

Cynthia M. Mullinax  
NOTARY PUBLIC FOR S.C.

Suzie Lewis

My Commission Expires: 6-28-2000

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Greg Smith sign, seal and as his act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of Sept, 1998.

Cynthia M. Mullinax  
NOTARY PUBLIC FOR S.C.

Suzie Lewis

My Commission Expires: 6-29-2000

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BOOK 448 PAGE 82

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF PICKENS ) PROBATE

PERSONALLY appeared before me the undersigned witness who upon oath deposes and states that (s)he saw the within named Pamela J. Smith sign, seal and as her act and deed deliver the within written instrument for the purposes herein stated, and that (s)he with the other witness subscribed above witnessed the execution thereof.

SWORN TO BEFORE ME this 18<sup>th</sup>  
day of Sept., 1998.

Cynthia M. Mullins  
NOTARY PUBLIC FOR S.C.

Suzie Lewis

My Commission Expires: 6-28-2000

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DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS OF  
THE OUTER BANKS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_ 1997, by Timothy W. Revis, hereinafter referred to as "Declarant". All capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this Declaration.

STATEMENT OF PURPOSE

Declarant is the developer and owner of certain property located in Pickens County, South Carolina, which is more particularly described as Lots 1-30, inclusive, on that certain plat prepared by Robert R. Spearman, Surveyor, #3615, dated 4/24/97 and recorded in Plat Book at Page \_\_\_\_\_ in the SMC office for Pickens County, South Carolina. Declarant desires to provide for the creation on Lots 1-30, inclusive, shown on that plat a residential community of single family residences to be named THE OUTER BANKS (the "Development").

Declarant desires to insure the attractiveness of the Development, to prevent any future impairment thereof, to prevent nuisances and enhance the value and amenities of all properties within the Development. Furthermore, Declarant desires to provide for the maintenance and upkeep of certain Common Areas within the Development for the common use and benefit of all Property Owners, including, but not limited to, Street Lights (to be leased from Duke Power company), Entrance Area and Monument, and Landscaped Area and Roads (prior to acceptance by governmental authorities for public maintenance). As part of such Common Areas, Declarant desires to construct and provide for the maintenance and upkeep of a lighted Entrance Monument and Landscaped Area to be located at the entrance to the Development, which Entrance Monument and Landscaped Area will be for the common use and benefit of all owners.

Declarant desires to provide for a system whereby all owners will pay for the maintenance and upkeep of the Common Areas. All owners in the Development will pay the cost associated with leasing the Street Lights from Duke Power Company and the cost of maintenance and upkeep of the Entrance Monument and Landscaped Area, and Roads (prior to their acceptance for public maintenance) and such other Common Areas as such owners are entitled to use and enjoy.

To these ends, Declarant desires to subject the real property described herein to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

Declarant further desires to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Areas, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created, in order to efficiently preserve, protect and enhance the values and amenities in the Development, to ensure the residents' enjoyment of the specific rights, privileges and easements in the Common Areas, and to provide for the maintenance and upkeep of the Common Areas.

To that end the Declarant has or will cause to be incorporated under South Carolina law, THE OUTER BANKS OWNERS' ASSOCIATION, INC., as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant, by this Declaration, does declare that all of the property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration, which shall run with the real property described herein and be binding on all parties owning any interest in said real property or any part thereof, successors and assigns, and shall inure to the owner thereof.

#### ARTICLE 1 DEFINITIONS

Section 1.1. "Additional Property" shall mean and refer to additional real estate contiguous or adjacent to the Property, including any portion of the Common Areas which are conveyed back to Declarant by the Association, all or a portion of which may be made subject to the terms of this Declaration in accordance with the provisions of Section 2.2 of this Declaration.

Section 1.2. "Approved Builder" shall mean and refer to one or more persons or companies, in the business of building and selling homes to individuals, selected by Declarant to buy Lots and construct homes for sale in the Subdivision.

Section 1.3. "Architectural Committee" shall mean and refer to the Committee created in Article 8 hereof which has the authority to approve plans and specifications for improvements to be constructed on the Property.

Section 1.4 "Articles of Incorporation" shall mean and refer to the Articles of Incorporation for the Association.

Section 1.5. "Association" shall mean and refer to THE OUTER BANKS OWNERS' ASSOCIATION, INC., a South Carolina non-profit corporation, its successors and assigns.

Section 1.6. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which shall be elected and shall serve pursuant to the Bylaws.

Section 1.7 "Bylaws" shall mean and refer to the Bylaws for the Association.

Section 1.8. "Common Area" or "Common Areas" shall mean and refer to the Entrance Monument and Landscaped Area, Street Lights (to be leased from Duke Power Company) and Roads (prior to their acceptance for maintenance by the Pickens County Public Works Department or other governmental entity) and medians located thereon, collectively, and any other property shown and designated on the Plat as "Common Open Space". The Common Areas shall be owned by the Association (except as otherwise provided herein) for the common use, benefit and enjoyment of the owners. The Declarant reserves the right, but not the obligation, to provide additional Common Areas within the Subdivision.

Section 1.9. "Declarant" shall mean and refer to Timothy W. Revis, and such of his heirs and assigns to whom the rights of Declarant hereunder are transferred by written instrument recorded in the RMC office of Pickens County.

Section 1.10. "Development" shall mean and refer to Lots 1-30, inclusive, of The OUTERBANKS, a residential development proposed to be developed on the Property by Declarant.

Section 1.11. "Entrance Monument" or "Entrance Monuments" and "Landscaped Area" shall mean and refer to the easement areas reserved and granted by Declarant in Section 7.9 of this Declaration, and the monuments and/or entrance signs located on such Common Area together with lighting, irrigation system, landscaping and other improvements which may be constructed on such easement area, to be used as an entryway for the Subdivision, and for the purposes set forth in Section 7.9.

Section 1.12. "Lot" or "Lots" shall mean and refer to the separately numbered parcels 1-30, inclusive, depicted on the Plat, which Lots do not include the Common Areas as described in this Declaration.

Section 1.13. "Plat" shall mean and refer to (i) the plat of The OUTER BANKS Subdivision prepared by Robert R. Spearman, Surveyor, #3615, dated 4/24/97, and recorded in Plat Book \_\_\_\_\_, at Page \_\_\_\_\_ in the RMC office for Pickens County, South Carolina, (ii) any plats of Additional Property, and (iii) any revisions of such plat or plats recorded in such Office.

Section 1.14. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.15. "Mortgage" shall mean any mortgage or deed of trust constituting a first lien on a Lot.

Section 1.16. "Mortgagee" shall mean the owner and holder of a Mortgage at the time such term is being applied.

Section 1.17. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot within the Development, including the Declarant if he owns any Lot, and including any Approved Builder if it owns a Lot, but excluding those having such interest merely as security for the performance of an obligation.

Section 1.18. "Property" shall mean and refer to Lots 1-30, inclusive, shown on the Plat.

including the Common Areas, Roads (prior to such roads being accepted for public maintenance by the Pickens County Public Works Department or other governmental entity), together with any leasehold interest or easement which the Association has or may hereafter acquire in any property adjacent to the Development (including, but not limited to, any leases of any submerged land lying within the bed of Lake Keowee).

Section 1.19. "Roads" shall mean and refer to all roads and cul-de-sacs in the Subdivision dedicated to the public as shown on the Plat, all to be maintained by the Association (subject to potential reimbursement from Declarant as set forth in Section 4.6 of this Declaration) until accepted for dedication and public maintenance by the Pickens County Public Works Department or other governmental entity.

Section 1.20. "Street Lights" shall mean and refer to those certain street lights, which are to be maintained by Duke Power Company and leased by the Association, which may be constructed upon and over the rights-of-way of the Roads.

Section 1.21. "Subdivision" shall mean and refer to Lots 1-30, inclusive, of The OUTER BANKS Subdivision, as the same is shown on the Plat.

## ARTICLE 2

### PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE ASSOCIATION

Section 2.1. Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and which is and shall be within the jurisdiction of the Association, is located in Pickens County, South Carolina, and is the Property as defined above and as more particularly described and shown as Lots 1-30, inclusive, on the Plat.

#### Section 2.2. Additions to the Property.

a) Declarant shall be under no obligation to but may cause Additional Property to be made subject to the terms and scheme of this Declaration by filing one or more Supplemental Declarations in the BMC office for Pickens County, containing a description of the Additional Property and a statement by the Declarant of its intent to extend the operation and effect of this Declaration to the Additional Property. Declarant may also cause additional Common Areas and Piers and Boatlips within or adjacent to any Additional Property to be constructed and made subject to the terms and scheme of this Declaration by the filing of one or more Supplemental Declarations describing the Common Areas and number of Piers and Boatlips to be added, and a statement by Declarant of its intent to extend the operation and effect of this Declaration to the additional Common Areas and Piers and Boatlips. Notwithstanding the foregoing, the covenants and restrictions established herein as applied to, or imposed upon, the Additional Property may be altered or modified by the filing of one or more Supplemental Declarations as provided in Subparagraph (b) below

b) Any Supplemental Declaration may contain complementary additions to the covenants and restrictions contained herein as may be necessary in the judgment of the Declarant to reflect the different character of the Additional Property. In no event, however, shall any Supplemental Declaration revoke, modify or add to the covenants and restrictions contained herein with respect to the Property, nor revoke, modify, change or add to the covenants and restrictions established by previously filed Supplemental Declarations, without meeting the requirements for Amendment set forth in Section 12.3 of this Declaration.

### ARTICLE 3

#### PROPERTY RIGHTS

Section 3.1. Ownership of Common Areas. Declarant shall convey to the Association the Common Areas to be owned and maintained by the Association. The Declarant reserves the right to construct (i) the Entrance Monuments and Landscaped Area to be located at the entrance to the Development; and (ii) the Roads (prior to acceptance by the governmental authorities), for the use and enjoyment of the owners who are entitled to the use of such Common Areas as provided in this Declaration. Notwithstanding the recordation of any Plat or any other action by Declarant or the Association, all Common Areas (except for the Roads upon acceptance by the Pickens County Public Works Department for public maintenance) shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public.

#### Section 3.2. Owners' Rights to Use and Enjoy Common Areas

Each Owner shall have the non-exclusive easement and right to use and enjoy the Common Areas, and such right shall be appurtenant to and conveyed with title to such Owner's Lot, subject to the following:

a) the right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Areas to insure the availability of the right to use the Common Areas to the Owners and the safety of all owners on the Common Areas;

b) the right of the Association to suspend the voting rights of an Owner in the Association and the right of the Association to suspend the right to use certain or all of the Common Areas by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

c) the right of the Declarant or the Association to grant utility, drainage and other easements across the Common Areas;

d) the provisions of Section 4.6 below;

e) the provisions of Article 7 of this Declaration;

Section 3.3. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas to the members of his family, his guests, invitees or tenants.

#### ARTICLE 4

#### THE ASSOCIATION

Section 4.1. Membership. Every Owner of Lots 1-30, inclusive, as shown on the Plat shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot, and shall be governed by the Bylaws of the Association.

Section 4.2. Classes of Lots and Voting Rights. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner (s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. Each Class B Lot shall entitle the Owner of said Lot to three (3) votes for each Class B Lot owned by it.

Section 4.3. Relinquishment of Control. The Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

- a) when the number of votes in the Class A membership held by owners occupying homes in the subdivision equals the total number of votes outstanding in the Class B membership and the Declarant surrenders its right to annex any Additional Property to the Property pursuant to the Bylaws; or
- b) upon the expiration of five (5) full years after the filing of this Declaration; or
- c) Declarant, in his sole discretion, elects to convert the Class B Lots to Class A Lots. Any such election, to be effective, must be in writing and recorded in the RMC Office for Pickens County, South Carolina.

Section 4.4 Availability of Documents. The Association shall maintain current copies of

the Declaration, the Bylaws and other rules concerning the Development as well as its own books, records, and financial statements available for inspection by all Owners, Mortgagees and insurers and guarantors of Mortgages that are secured by Lots. All such documents shall be available upon reasonable notice and during normal business hours. In addition, any Mortgagee may, at its own expense, have an audited statement prepared with respect to the finances of the Association.

**Section 4.5. Management Contracts.** The Association is authorized and empowered to engage the services of any person, firm or corporation to act as managing agent of the Association at a compensation level to be established by the Board of Directors and to perform all of the powers and duties of the Association. Provided, however, that the term of any such agreement with a managing agent shall not exceed one (1) year and shall only be renewed by agreement of the parties for successive one (1) year terms. Any such contract shall be terminable by the Association with or without cause upon ninety (90) days prior written notice to the manager without payment of a termination fee.

**Section 4.6. Maintenance.** The Common Areas, together with all utilities and easements located within the Common Areas and not otherwise maintained by public entities or utilities, shall be maintained by the Declarant until \_\_\_\_\_, at which time the Association shall activate the collection of the initial Annual Assessment from each owner for such maintenance to the Common Areas. Provided, however, in accordance with Section 12.1 of this Declaration, Declarant hereby reserves the right and easement, but not the obligation, to go upon any portion of the Common Areas at any time in order to repair and maintain such Common Areas where needed, in Declarant's sole discretion, to bring such Common Areas within the standards required by Declarant (including the Roads prior to acceptance for public maintenance by the Pickens County Public Works Department or other governmental authority). Should Declarant so go upon the Common Areas to perform maintenance and repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for the cost of such maintenance and repairs to the Common Areas, upon receipt of a statement for such cost from Declarant.

The Common Areas shall be maintained as more particularly described below:

a) Maintenance of the Entrance Monuments and Landscaped Area shall include maintenance, repair and reconstruction, when necessary, of the monuments, signage, irrigation, planters and lighting located thereon and providing and paying for landscaping, utility charges for irrigation and lighting of the monuments and signage located thereon, if any.

b) All Common Areas, including, but not limited to, the Roads (prior to governmental acceptance for operation and maintenance) and medians, the Entrance Monument, Landscaped Area, (and all improvements located thereon) shall be clean and free from debris and maintained in an orderly condition, together with the landscaping thereon (if any) in accordance with the highest standards for private parks, including any removal and replacement of any landscaping, utilities, or improvements located thereon.

c) Prior to acceptance for public maintenance, the Roads shall be maintained by the Association, provided that the Declarant, in his sole discretion, has the right but not the obligation to reimburse the Association for maintenance costs until the Roads are accepted for maintenance by the Pickens County Public Works Department or other governmental entity. Such maintenance shall include repair and reconstruction, when necessary. Maintenance of the

Roads shall conform to the standard of maintenance (if one is ascertainable) which would be required by the Pickens County Public Works Department or other governmental entity before it would accept such Roads for maintenance. In this regard, the Association may elect to continue maintenance of said Roads as Private Roads or elect to dedicate the same to Pickens County whereupon said Roads would become Public Roads.

d) The Association shall not be responsible for the maintenance of any Lot or any portion of any Lot or the improvements within the boundaries thereof. The Owners of such Lots shall be responsible for same.

Section 4.7 Reserve Fund. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements located on all Common Areas and the Roads (prior to acceptance) which the Association is obligated to maintain and in order to fund unanticipated expenses of the Association or to acquire equipment or services deemed necessary or desirable by the Board of Directors. Such reserve fund shall be collected and maintained out of the Annual Assessments, as hereinafter defined, and as set forth in Section 5.2(g).



ARTICLE 5  
COVENANT FOR ANNUAL AND SPECIAL ASSESSMENTS

Section 5.1. Creation of the Lien and Personal Obligation for Annual Supplemental Annual, Special and Special Individual Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association Annual Assessments, Supplemental Annual Assessments, Special Assessments and Special Individual Assessments, as hereinafter defined, established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such assessment or charge, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 5.2. Purpose of Annual Assessments. The assessments to be levied annually by the Association against each Lot ("Annual Assessments") shall be used as follows:

a) to repair, maintain, reconstruct (when necessary) and keep clean and free from debris, the Common Areas and any amenities and improvements located thereon, including, but not limited to, the Entrance Monument(s) and Landscaped Area, street lights, and Roads (prior to acceptance by local governmental authorities) including any medians and any improvements associated therewith, and to maintain landscaping thereon in accordance with the highest standards for private parks, including any necessary removal or placement of landscaping, as more particularly set forth in Article 4 of this Declaration;

b) to maintain and repair or cause to be maintained the Roads to the standards of the maintenance (if one is ascertainable) which would be required by the County of Pickens Public Works Department or other governmental entity before it would accept such Roads for County maintenance, as more particularly set forth in Article 4;

c) to pay all costs associated with the lease of the Street Lights from Duke Power Company, including but not limited to, monthly lease payments and utility costs;

d) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association and any improvements located thereon, and any other property owned in connection therewith;

e) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws;

f) to pay all legal, accounting and other professional fees incurred by the Association

in carrying out its duties as set forth herein or in the Bylaws.

- g) to maintain contingency reserves as to the amounts described in subsections a) through c) above for the purposes set forth in Section 4.7 hereof in amounts as determined by the Board of Directors.

Section 5.3. Payment of Annual Assessments: Due Date. The Annual Assessment provided for herein shall commence as of \_\_\_\_\_. The Annual Assessment for the calendar year beginning \_\_\_\_\_, shall be \_\_\_\_\_ Dollars per Lot, which amount shall be due and payable in advance no later than January 31 of the year in which such Annual Assessment is due, and pro-rated on a calendar year basis. The Annual Assessment for each and every year beginning January 1 thereafter shall be in an amount as set by the Board of Directors, in accordance with Section 5.4 and shall be due and payable in two (2) equal installments on January 31 and July 31 of each such calendar year. The Board of Directors shall fix the amount of the Annual Assessment as to each Lot for any calendar year at least thirty (30) days prior to January 1 of such calendar year, and the Association shall send written notice of the amount of the Annual Assessment, as well as the amount of the first installment due, to each owner on or before January 1 of such calendar year. Failure of the Association to send, or of an owner to receive, such notice shall not relieve any owner of its obligation to pay Annual Assessments. Notwithstanding the foregoing, the Board of Directors may alter the dates of the fiscal year for setting the Annual Assessments and may increase or decrease the frequency of collection of Annual Assessment installments in any reasonable manner.

Section 5.4. Maximum Annual Assessment.

a) For years following the first Annual Assessment and thereafter, the Board of Directors, by a vote in accordance with the Bylaws, without a vote of the Members, may increase the Annual Assessment each year by a maximum amount equal to the previous year's Annual Assessment times the greater of (i) ten percent (10%) , or (ii) the annual percentage increase in the Consumer Price Index, All Urban Consumers, United States, All Items (1982-84 = 100) (hereinafter "CPI") issued by the U.S. Bureau of Labor Statistics for the most recent 12-month period for which the CPI is available. If the CPI is discontinued, then there shall be used the index most similar to the CPI which is published by the United States Government indicating changes in the cost of living. If the Annual Assessments are not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the Annual Assessments may be increased by that amount in a future year, in addition to the maximum increase permitted under the terms of the preceding sentence for such future year, by a vote of the Board of Directors, without a vote of the Members.

b) From and after the first year of Annual Assessments, the maximum annual assessment may be increased above the maximum amount set forth in subparagraph (a) of this Section 5.4 by a vote of two-thirds (2/3) of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

- c) The Board of Directors may fix the Annual Assessment at an amount not in excess

of the maximum set forth in Subparagraph (a) of this Section 5.4 (the "Maximum Annual Assessment"). If the Board of Directors shall levy less than the Maximum Annual Assessment for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by vote in accordance with the Bylaws, levy a Supplemental Annual Assessment ("Supplemental Annual Assessment"). In no event shall the sum of the Annual and Supplemental Annual Assessments for any year exceed the applicable Maximum Annual Assessment for such year other than as set forth in Section 6.2 hereof.

Section 5.5. Special Assessments for Capital Improvements. In addition to the Annual Assessment authorized above, the Association may levy, in any assessment year, a special assessment ("Special Assessment") applicable to that year only for the purpose of defraying, in whole or in part, the cost of (i) the construction of any Common Area improvements which are not originally constructed by Declarant; or (ii) the reconstruction, repair or replacement of the common Areas, including but not limited to, the Roads (prior to acceptance for public maintenance by governmental authorities), Street Lights or Entrance Monument(s) and Landscaped Area including all improvements located thereon, including fixtures and personal property related thereto. Provided that any such assessment must be approved by a vote of no less than two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5.6. Special Individual Assessments. In addition to the Annual Assessments and Special Assessments authorized above, the Board of Directors shall have the power to levy a special assessment applicable to any particular Lot owner ("Special Individual Assessment") (i) for the purpose of paying for the cost of any construction, reconstruction, repair or replacement of any damaged component of the Common Areas, including, but not limited to, the Roads (prior to their acceptance for public maintenance) Entrance Monument(s) and Landscaped Area, and Street Lights, including all improvements located thereon, whether occasioned by any act or omission of such Lot Owner(s), members of such Lot Owner's family, or such Lot owner's agents, guests, employees or invitees and not the result of ordinary wear and tear; or (ii) for payment of fines, penalties or other charges imposed against any particular Lot Owner relative to such Lot owner's failure to comply with the terms and provisions of this Declaration, the Bylaws or any rules or regulations promulgated by the Association or the Declarant pursuant to this Declaration or the Bylaws. Provided, however, that Declarant shall not be obligated to pay any Special Individual Assessment except with Declarant's prior written approval. The due date of any Special Individual Assessment levied pursuant to this Section 5.6 shall be fixed in the Board of Directors resolution authorizing such Special Individual Assessment. Upon the establishment of a Special Individual Assessment, the Board shall send written notice of the amount and due date of such Special Individual Assessment to the affected Owner(s) at least thirty (30) days prior to the date such Special Individual Assessment is due.

Section 5.7. Assessment Rate.

a) Subject to the exception set forth in subsection (b) below, Annual, Supplemental Annual and Special Assessments must be fixed at a uniform rate for all Lots.

b) Annual, Supplemental Annual and Special Assessments for each Lot owned by Declarant and unoccupied as a residence shall be one-third (1/3) of the Annual, Supplemental Annual and Special Assessments for each other Lot in the Subdivision not owned by Declarant.

## ARTICLE 6

### GENERAL ASSESSMENT PROVISIONS

Section 6.1. Certificate Regarding Assessments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 6.2. Effect of Nonpayment of Assessments, Remedies of the Association. Any Annual, Special, Special Individual, or Supplemental Assessment (or installment thereof) not paid by its due date as set forth in Section 5.3 hereof, or any other assessment not paid by its due date, shall bear interest from such due date at the rate of eighteen percent (18%) per annum or the highest rate then permitted by law, whichever is less. In addition to such interest charge, the delinquent owner shall also pay such late charge as may have been theretofore established by the Board of Directors to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot and the right to use the Common Areas and interest, late payment charges, costs and reasonable attorney's fees related to, such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Areas or by abandoning his Lot.

Section 6.3. Subordination of the Lien to Mortgages. The lien of the assessments provided for in Article 5 of this Declaration shall be subordinate to the lien of any first Mortgage on a Lot or any mortgage or deed of trust to the Declarant. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, however, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion determine such unpaid assessments to be an Annual, Special, or Supplemental, as applicable, collectable pro rata from all Owners, including the foreclosure sale purchaser. Such pro rata portions are payable by all owners, notwithstanding the fact that such pro rata portions may cause the Annual Assessment to be in excess of the Maximum Annual Assessment or permitted hereunder. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

## ARTICLE 7 RESTRICTIONS

Section 7.1 Land Use, Building Type and Residential Restrictions. All Lots in the Subdivision shall be known and described as residential lots and shall be used only for private residential and recreational purposes. No structure shall be erected, altered, placed or permitted to remain on any Lot other than for use as a single family residential dwelling, unless otherwise provided herein, and only one single-family residential dwelling not exceeding 2 ½ stories in height above ground shall be erected or permitted to remain upon any Lot. No mobile home, modular home or shell home may be erected or permitted to remain on any Lot. A private garage, outbuildings, and floating boat dock facilities incidental to the residential use of the Lot are expressly permitted upon the condition that they are not rented, leased nor otherwise used for remuneration, subject to the other covenants and restrictions contained herein. No detached garage or outbuildings shall at any time be used as a residence. Any ownership or leasing arrangement for a Lot having the characteristics of a vacation time sharing ownership plan, a vacation time sharing lease plan or shared ownership is hereby prohibited. Furthermore, no boat (including a houseboat), whether existing on a Lot or docked at a fixed pier or floating boat dock which is appurtenant to any Property in the subdivision, may at any time be used as a residence.

Section 7.2 Dwelling Size. The square footage requirements hereinafter set forth are enclosed heated floor area and are exclusive of the area in unfinished basements, unheated porches of any type, attached or detached garages, carports, and unheated storage areas, decks or patios.

No dwelling erected upon any Lot shall contain less than <sup>1600</sup>~~1,800~~ square feet for a one (1) level dwelling or less than ~~2,200~~ square feet for a multi level dwelling, with not less than ~~1,400~~ square feet on the main floor of such multi level dwelling.

Section 7.3 Building Construction and Quality. All buildings and outbuildings erected upon any Lot shall be constructed of new material of good grade, quality and appearance and shall be constructed in a proper, workmanlike manner. No building shall be erected unless it is completely underpinned with a solid brick or brick, stone or stucco covered block foundation. The exterior surface of any building shall not be of vinyl siding, asbestos shingle siding, imitation brick or stoneroll siding, or exposed concrete or cement blocks, unless otherwise specifically approved by the Architectural Committee. The exterior surface of any garage, outbuilding or appurtenant structure or building erected on or located on any Lot shall be architecturally compatible with, and of material and construction comparable in cost and design to, the exterior surface of the dwelling located on said Lot. All buildings shall have roofs (except for dormers and other minor architectural details) of not less than 6 in 12 pitch and not less than 12 inch overhang, covered with slate, cedar shakes, tile or fiberglass shingles. Tin or rolled roofing material is ~~not~~ permitted (except for copper). The exterior of all houses and other structures must be completed within one (1) year after the commencement of construction, except where such completion is impossible due to strikes, fires, national emergency or natural calamities.

Section 7.4 Temporary Structures: Structure Materials. No residence or building of a temporary nature shall be erected or allowed to remain on any Lot, and no metal, fiberglass,

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Section 7.2 Dwelling Size. The square footage requirements hereinafter set forth are enclosed heated floor area and are exclusive of the area in unfinished basements, unheated porches of any type, attached or detached garages, carports, and unheated storage areas, decks or patios.

No dwelling erected upon any Lot shall contain less than 1,800 square feet for a one (1) level dwelling or less than 2,200 square feet for a multi level dwelling, with not less than 1,400 square feet on the main floor of such multi level dwelling. <sup>6</sup> w/ full basement

Section 7.3 Building Construction and Quality. All buildings and outbuildings erected upon any Lot shall be constructed of new material of good grade, quality and appearance and shall be constructed in a proper, workmanlike manner. No building shall be erected unless it is completely underpinned with a solid brick or brick, stone or stucco covered block foundation. The exterior surface of any building shall not be of vinyl siding, asbestos shingle siding, imitation brick or stoneroll siding, or exposed concrete or cement blocks, unless otherwise specifically approved by the Architectural Committee. The exterior surface of any garage, outbuilding or appurtenant structure or building erected on or located on any Lot shall be architecturally compatible with, and of material and construction comparable in cost and design to, the exterior surface of the dwelling located on said Lot. All buildings shall have roofs (except for dormers and other minor architectural details) of not less than 6 in 12 pitch and not less than 12 inch overhang, covered with slate, cedar shakes, tile or fiberglass shingles. Tin or rolled roofing material is ~~not~~ permitted (except for copper). The exterior of all houses and other structures must be completed within one (1) year after the commencement of construction, except where such completion is impossible due to strikes, fires, national emergency or natural calamities.

Section 7.4 Temporary Structures: Structure Materials. No residence or building of a temporary nature shall be erected or allowed to remain on any Lot, and no metal, fiberglass,

plastic, vinyl or canvas tent, barn, carport, garage, utility building, storage building, or other metal, fiberglass, plastic, vinyl or canvas structure shall be placed or erected on any Lot or attached to any residence. Provided, however, that nothing herein shall prohibit Declarant or an Approved Builder from erecting or moving temporary buildings or trailers onto the Lots owned by them, to be used for storage or for construction or sales offices.

**Section 7.5. Building..Setback..Lines.** No building on any Lot (including any stoops, porches, or decks) shall be erected or permitted to remain within the front street right-of-way or side abutting right-of-way (for a corner Lot) building setback lines as noted on the Plat. Notwithstanding any rear setback restrictions noted on the Plat, no building, including stoops, porches or decks (whether attached or unattached), shall be erected or permitted to remain nearer than fifty (50) feet to the rear (waterside) lot line of any Lot adjoining the waters of Lake Keowee. For purposes of this restriction, the waterside lot line shall mean the contour line of Lake Keowee as noted on the Plat. Boathouses, piers and dock facilities are exempt from the rear setback restrictions provided they comply with the provisions set forth in **Section 7.21**. The foregoing notwithstanding, gazebos or similar minor aesthetic improvements may encroach within the rear setback, including the fifty-foot waterside setback, provided that they (i) are single story, (ii) contain less than one hundred fifty (150) square feet, and (iii) are not enclosed by walls or other surfaces unless such surfaces meet the openness test established for perimeter fencing in **Section 7.10**. Similarly, front, side or rear entryways which (i) are connected to the residence and (ii) are not covered or enclosed in any manner, may encroach within the front, side, rear, or fifty-foot waterside setback.

In the event any zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation applicable to a Lot shall prescribe greater setbacks, then all buildings erected during the pendency of that zoning or subdivision ordinance, floodway regulations or other ordinance, law or regulation shall conform to said requirements. No masonry mailboxes or other structures or improvements may be constructed or placed within the right-of-way of any Road so as to prevent such Road from being accepted for maintenance by the Pickens County Public Works Department or other applicable governmental entity.

Declarant hereby reserves the right and easement, benefitting Declarant and the Association and burdening the Property, to go upon any Lot or other portion of the Property in order to remove any mailboxes or other structures or improvements constructed within the right-of-way of any Public Road so as to prevent such Road from being accepted for maintenance by the Pickens County Public Works Department or other applicable governmental entity. Should Declarant or the Association exercise its easement rights pursuant to the terms of this Section 7.5 the Owner of the nonconforming Lot shall reimburse Declarant or the Association (as applicable) within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or nonexercise of the easement rights contained in this Section 7.5 shall be subject to the discretion of the Declarant and the Association and neither Declarant nor the Association shall have the obligation to exercise such rights.

The Association shall have the authority but not the obligation, in its sole discretion, to assess penalties against an owner who fails to abide by the terms of this **Section 7.5**. The penalties authorized by this **Section 7.5** as well as the expenses to be reimbursed Declarant or

the Association shall be considered Special Individual Assessments against the respective Owner's Lot, entitling the Association to the assessment collection remedies specified in Article 6 of this Declaration.

Section 7.6. Minor Setback Violations. In the event of the unintentional violation of any of the building setback covenants set forth above, in the amount of ten percent (10%) or less of the setback covenant in question, the Association or the Declarant reserves the right, but is not obligated, to waive in writing such violation of the setback covenants upon agreement of the Owner of the Lot upon which the violation occurs, provided that such change is not in violation of any zoning or subdivision ordinance or other applicable law or regulation. Notwithstanding the foregoing, so long as Declarant owns a Lot in the Subdivision, all such waivers must be consented to in writing by Declarant.

Section 7.7. Combination or Subdivision of Lots. Except as otherwise set forth herein, no Lot shall be subdivided by sale or otherwise so as to reduce the Lot area shown on the Plat. However, an owner of a Lot may combine with a portion of or all of another contiguous Lot so long as the parcel or parcels which result from such combination do not violate any applicable zoning ordinance or other applicable law or regulation. In the event that two or more Lots are completely combined so as to create one parcel, the resulting parcel shall be considered as one Lot for the purposes of this Article 7, but shall continue to be considered as two Lots for all other purposes (including voting and assessments). Furthermore, the Owner of any Lot which combines with all or a portion of a contiguous Lot shall be solely responsible for any costs which may result from such combination, including the costs of relocating any existing easements. Notwithstanding the foregoing, Declarant reserves the right to change the boundaries or dimensions of any Lots still owned by Declarant or an Approved Builder as may be needed to meet septic system requirements or for any other reason and any Lot or Lots which result from such change shall not be subject to any additional assessment.

Section 7.8. Utility Easements. Declarant hereby reserves easements for the installation and maintenance of utilities (electricity, septic system, sewer, water, gas, telephone, cable t.v., etc.) and drainage facilities over the front and rear ten (10) feet of each Lot (with the exception of the waterfront Lots, which will not have a ten [10] foot easement over the rear [i.e., waterside) and five (5) feet in width along each side lot line of each Lot. Additional drainage easements and utility easements are reserved as more particularly shown and delineated on the Plat and in other recorded easement documents. Within such easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may interfere with drainage and the flow of water within the easement areas. The Owner of each Lot shall maintain that portion of the Lot lying within the easement areas as defined herein and shall maintain any improvements located thereon, except those improvements installed and maintained by a public authority or utility company. Declarant reserves the right to create and impose additional easements over any unsold Lot or Lots for street drainage, utility and entry signage installation purposes by the recording of appropriate instruments, and such shall not be construed to invalidate any of these covenants.

Section 7.9. Entrance Monument(s) and Landscaped Area Easement. Declarant hereby



reserves a non-exclusive perpetual easement for the purpose of landscaping and maintaining the entryway and erecting and maintaining the Entrance Monument(s) for the Subdivision. An easement is hereby reserved by Declarant for himself, his successors in interest and assigns, and granted to the Association over portions of the "Reserved Areas" shown on the Plat at the entrance of the subdivision, abutting South Carolina Hwy # 183 (the "Easement Tract").

Declarant or the Association shall have the right to enter, landscape and maintain the Easement Tract as an entryway to the Subdivision. Further, Declarant or the Association shall erect and maintain one or more monuments, with an entrance sign thereon (collectively, the "Entrance Sign") bearing the name of the Subdivision and Declarant, which Entrance Sign(s) shall be built to the applicable governmental standards for signs; and declarant may, in his discretion, erect and maintain lighting for the Entrance Sign(s), planters and other improvements typically used for an entryway (the Easement Tract, the Entrance Sign(s), lighting, landscaping, irrigation and other improvements to be constructed on the Easement Tract are herein collectively referred to as the "Entrance Monument Easement" ).

Section 7.10 Fences and Walls. Fences and walls may be constructed of wood, brick or stone. Chain link or other metal fencing is not permitted, except that 2" x 4" metal mesh may be used with split rail fencing to contain animals or children within rear or sideyards only. Perimeter fencing shall not have more than seventy percent (70%) of any of its surface closed as viewed from a point on a line of sight perpendicular to the line of the fence. A wall constructed of brick or stone and used in lieu of a fence is exempt from the openness test. No fences or walls greater than six (6) feet in height are permitted.

No fence or wall facing the street shall be erected on a Lot nearer the street right of way line than the front face of the dwelling located on such Lot, except for split-rail fencing or fencing not higher than 30" in height. In the case of a corner Lot, no sideyard fence or wall shall be erected nearer the street right of way line than the side of the dwelling located on such Lot, except for split-rail fencing or fencing no higher than 30" in height. Provided, however, that the Restrictions described in this Section 7.10 shall not apply to any improvements originally installed by Declarant on any Common Area.

Section 7.11 Signs. No signs of any kind may be displayed to the public view on any Common Area other than the Entrance Monument as set forth in Section 7.9 above. No signs of any kind may be displayed to the public view on any Lot with the following exceptions which may not exceed 18" X 24" in size: a) one sign (on the Lot only) advertising the property for sale; and b) one sign (on the Lot only) used by an Approved Builder to advertise the Lot during the construction and sales period; and c) temporary political signs. These restrictions shall never apply to permanent Entrance Monument(s), or to temporary entry signs or advertising by Declarant, or an Approved Builder, or "for sale" signs installed by Declarant, Approved Builder or its agents prior to the sellout of the Subdivision.

Section 7.12 Antennas, Satellite Dishes or Discs. No freestanding radio or television transmission or reception towers, antennas, discs or satellite dishes which exceed eighteen inches in diameter may be erected or maintained on any Lot. Provided, however, that (a) customary roof-mounted antennas which may extend not more than ten (10) feet above the

highest roof line ridge of the house are permitted and (b) satellite discs or dishes which are eighteen inches (18") in diameter or less are permitted provided they are not visible from the Roads or the waterside lot line of any Lot adjoining the waters of Lake Keowee.

**Section 7.13. Lot Maintenance; Trash Disposal.** Each Owner shall keep his Lot in a clean and orderly condition and shall keep the improvements thereon in a suitable state of painting and repair, promptly repairing any damage thereto by fire or other casualty. No clothes line may be erected or maintained on any Lot. No Lot shall be used in whole or in part for storage of trash of any character whatsoever and no trash, rubbish, stored materials or similar unsightly items shall be allowed to remain on any Lot outside of an enclosed structure, except when temporarily placed in closed, sanitary containers pending collection by trash collection authorities or companies.

**Section 7.14. Off-Street Parking; Off-Water Boat Storage.** Each Lot Owner shall provide a concrete or asphalt driveway which provides space for parking two automobiles off the street prior to the occupancy of any dwelling constructed on the Lot. No truck or commercial vehicle in excess of one-ton load capacity, or any vehicle under repair, or any trailer or wrecked or junked motor vehicle shall be parked upon or permitted to remain on any Lot, or any Common Area. No trailer, motor home, recreational vehicle, camper or boat shall be used as a residence either permanently or temporarily, or be parked upon or be permitted to remain on any Lot for a period exceeding 24 hours or off the street and not within the front or side yard setbacks of the Lot. All trucks, trailers, campers, boats, motor homes and recreational vehicles must have a current license plate affixed and must be parked in an enclosed garage. All other automobiles must have a current license plate affixed and must be parked in a carport, enclosed garage, or on a concrete or asphalt driveway. Trailers of any type and boats on trailers shall be kept inside an enclosed structure and not within the fifty foot (50') waterfront setback.

**Section 7.15. Sewage Disposal.** Every dwelling unit erected on any Lot shall be served by an approved septic system for the disposal of sewage, or connected to a private or public sewage disposal system. All septic systems or other private sewage disposal systems shall be approved by, and constructed and maintained in accordance with all the regulations and requirements of, all governmental authorities and regulatory agencies having jurisdiction. Declarant does not make any representations regarding the future availability of municipal sewer service.

**Section 7.16. Nuisances.** No noxious or offensive trade or activity shall be carried on upon any Lot or in any residential dwelling or outbuilding, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No substance, thing or material shall be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace and quiet of the occupants of surrounding property. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot or in any residential dwelling or outbuilding except that dogs, cats, or other household pets, which may be kept or maintained provided they are not kept, bred, or maintained for commercial purposes. The number of household pets kept or maintained, per Lot, shall not exceed three (3) in number except for newborn offspring of such household pets which are under nine (9) months in age.

**Section 7.17. Diligent Construction.** All construction, landscaping or other work which has

been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot, except during such reasonable time period as is necessary for completion. The exterior of any building must be completed within one (1) year from the date of commencement of construction. No construction materials of any kind may be stored within any Roads. Any damage to any street, curb or sidewalk or any part of any Common Area or any utility system caused by Declarant, Owner or Approved Builder shall be repaired by such responsible party. Declarant, Approved Builders and all Owners shall at all times keep contiguous public and private areas free from any dirt, mud, garbage, trash or other debris which is occasioned by construction of improvements on any Lot or Common Area. Declarant or the Association may provide for the cleaning of public and private areas due to the activities of the responsible party and may assess the responsible party a reasonable charge not to exceed the actual cost for such cleaning. Declarant and each Owner or Approved Builder shall, consistent with standard construction practices, keep all portions of their Lots and the Common Areas free of unsightly construction debris and shall at all times during construction either provide dumpsters for the containment of garbage, trash or other debris which is occasioned by construction of improvements on a Lot or Common Areas, or take other measures consistent with standard construction practices necessary to keep the Lot and all Common Areas free of such garbage, trash, or other debris. Declarant, any Approved Builder and each Owner shall be responsible for erosion control protection during any earth-disturbing operation.

Section 7.18. Community Water System; No Private Individual Wells. Declarant shall cause to be constructed a water system in order to provide water supplies necessary to serve the Subdivision (the "Water System"). All water mains, pipes and other equipment necessary for the operation and maintenance of the Water System shall be located within the Utility Easements described in Section 7.8, or within the Road rights-of-way. Upon its completion, the Water System and all mains, pipes and equipment and other personal property which is part thereof, shall become the property of The City of Pickens. The Water System shall be the sole provider of water supplies to the subdivision, and no well may be dug or constructed on any Lot for the purpose of providing domestic water supply.

Section 7.19. Removal of Trees and Other Vegetation. All trees, shrubs and ground cover within the 50' waterfront setback shown on the Plat are considered to be "protected" vegetation in that cutting and clearing generally is not permitted therein without the prior written consent of Declarant or the Board of Directors. The practical exceptions to this rule are that dead or diseased trees may be removed and poisonous plants may be removed, underbrush may be selectively cleared, understory may be thinned to provide better views, individual trees may be limbed up, and grass or ground covers may be planted.

"Mature trees" inside the fifty (50') foot waterfront setback as shown on the Plat may not be cut down or otherwise removed without the specific written approval of the Declarant or the Association. "Mature trees" for purposes of this Declaration shall mean all evergreen or deciduous trees with a caliper of six (6) inches or greater.

Furthermore, in the event that trees, shrubs or ground cover are completely removed (as opposed to thinned) in connection with the improvement of any Lot, such cleared portions of

the Lot shall be covered with grass or shall be landscaped with plants, shrubs, trees, mulch, wood chips, pine needles and/or similar landscaping improvements.

Declarant hereby reserves the right and easement benefitting Declarant and the Association to go upon any Lot or other portion of the Property to replant or order the replanting of any trees, shrubs or other vegetation removed within the Subdivision in violation of the terms of this Section 7.19. Should Declarant or the Association exercise its easement rights pursuant to the terms of this Section 7.19, the Owner of the nonconforming Lot shall reimburse Declarant or the Association (as applicable) within five (5) business days following the submission of an invoice for any costs or expenses incurred by Declarant or the Association. The exercise or nonexercise of the easement rights contained in this Section 7.19 shall be subject to the discretion of the Declarant and the Association and neither Declarant, nor the Association shall have the obligation to exercise such rights.

Declarant and/or the Association shall have the authority, but not the obligation, in their sole discretion, to assess penalties against an Owner who cuts, damages, or removes any trees, shrubs or other vegetation on any part of the Common Areas, its Lot or any other Lot or Common Area, contrary to the above provisions.

The penalties authorized by this Section 7.19, as well as all related expenses to be reimbursed, shall be considered Special Individual Assessments against the respective owner's Lot, entitling the Association to the assessment collection remedies specified in Article 6 of this Declaration.

Section 7.20. Marine Toilets. No water craft equipped with a marine toilet having a fixed or portable holding tank, or a through hull or overboard discharge toilet, shall be permitted at any waterfront Lot Owners' docks or piers, or such additional Piers and Boatslips as are added pursuant to a Supplemental Declaration as set forth in Section 2.2.

Section 7.21. Docks, Piers and Boat Houses. The owner of any Lot adjoining the waters of Lake Keowee may construct one (1) pier, provided that such Lot is not located in an area where the narrowness of a cove precludes construction of a dock or pier as determined by Duke Power Company and/or any governmental entity having jurisdiction at the time such improvements are to be constructed. Any waterfront improvement shall have a low profile and open design to minimize obstruction of neighbors' views. Neither enclosed docks or boat houses, nor multiple-level docks or boat houses, will be allowed either on the water or within the fifty foot (50') waterfront setback. Roof-covered docks are allowed provided that such docks are one level and further provided that such docks are not enclosed. Provided, however, that such additional Piers and Boatslips as are added pursuant to a Supplemental Declaration set forth in Section 2.2 shall not be covered or roofed.

The placement, construction, or use of the Piers, Boatslips, and of any other pier, dock, boatslip structures or other improvements within or upon, or the conducting of any activity altering the topography of, the hydroelectric project surrounding and encompassing the waters of Lake Keowee, is and shall be subject to each of the following:

- i) easements, restrictions, rules and regulations for construction and use promulgated by the Association;
- (ii) all laws, statutes, ordinances and regulations of all Federal, State and local governmental bodies having jurisdiction thereof, including without limitation the Federal Emergency Regulatory Commission; and
- (iii) rules and regulations, privileges and easements affecting the Property and the waters and submerged land of Lake Keowee established by Duke Power Company its successors and assigns. (Duke Power Company controls access to, and the use and level of, the waters of Lake Keowee. All Owners, the Association, the Declarant and Approved Builders must receive a permit from Duke Power (or a successor manager of Lake Keowee, under authority from the Federal Energy Regulatory Commission) prior to any alterations therein.)

**Section 7.22. Boat Ramps.** No boat ramps of any kind shall be permitted on any Lot, and no boat shall be placed in (or removed from) the waters of Lake Keowee from any Lot, provided however, small watercraft such as canoes, dinghies, and jet skis may be launched from any Lot if launched without a ramp. All other watercraft shall be launched at a public boat ramp outside the Subdivision.

**Section 7.23. Mailbox Structure Standards.** Each owner must construct and install a mailbox on his or her Lot which conforms to the community mailbox requirements reflected on Exhibit , and entitled "Standard Community Mailbox", attached hereto and incorporated herein by reference thereto.

## ARTICLE 8

## APPROVAL OF PLANS AND SPECIFICATIONS

Section 8.1 Architectural Committee. For the purposes of insuring the development of the Property as an area with a pleasing aesthetic appearance, no building, structure, fence, wall, utility area, driveway, swimming pool, boat dock or other structural improvement, regardless of size or purpose, whether attached to or detached from a main residence, shall be commenced, placed, erected or allowed to remain on any Lot, nor shall any additions to, or exterior changes in, or alterations thereto be made unless site and building plans and specifications covering the same, showing the nature, kind, shape, height, size, floor plans, site location, materials to be used and orientation on the Property, together with such other information as shall be reasonably required by the Architectural Committee, shall have been submitted to and approved in writing by the Architectural Committee hereby established. Additionally, the Architectural Committee shall have all powers and authorities elsewhere conferred upon it under the terms and conditions of these Covenants.

Specifically, prior to the commencement of any construction on lots 1-30, inclusive, in the subdivision, each owner of such lot shall submit to the Architectural Committee, in duplicate, plans and drawings, which shall have been prepared in a one-eighth (1/8th) scale or larger, and which shall contain at a minimum the following:

- a. Floor plans
- b. Front, rear and side elevations
- c. The area of heated floor space
- d. Exterior building material to include manufacturer, color and texture
- e. Exterior color trim
- f. Roofing material, color and pitch
- g. Site plans showing foundations of all structures, walks, driveways, fences and drainage plans.

Section 8.2 Committee Members. The Architectural Committee shall initially be composed of \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_. In the event of the failure or inability for any reason of a member to act, or upon any resignation of a member from the Architectural Committee, the vacancy created shall be filled permanently or temporarily, as necessary, by the remaining members of the Architectural Committee.

Section 8.3 Successors. After the sale of Lots 1-30, inclusive, in the Subdivision by the Declarant, the Architectural Committee as then constituted shall, upon presentation of a request by The Outer Banks Owners' Association, Inc., resign, and said Association shall have the right to designate members of the

Architectural Committee, and, thereafter, the Architectural Committee as so designated shall succeed to all the rights, duties and powers set out herein. Provided, however, that such request shall be made in writing, and shall be accompanied by a certified copy of the appropriate governing instrument(s) of such Association and such other documents as will show the authority of the person(s) making the demands to represent the Association. Provided, further, that if no such demand is made within one (1) year after the sale of all of lots 1-30, inclusive, owned by the Declarant in the Subdivision, the Architectural Committee shall designate three (3) owner-residents, subject to such owner-residents' consent, who shall then serve with all powers, duties and responsibilities as set out herein, until such time as a request, as contemplated herein, shall be made by the Association.

Section 8.4 Standards of Disapproval. The Architectural Committee shall have the absolute and exclusive right to refuse to approve any building plan, site plan, specification, materials, design, lot grading or landscaping plan of any thing or structure which in the opinion of the Architectural Committee are not suitable or desirable for any reason whatsoever, including purely aesthetic reasons and reasons connected with the future development plans of the Declarant of contiguous lands. In passing upon such matters the Architectural Committee may take into consideration the suitability of proposed materials, the quality of proposed workmanship, harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties.

Section 8.5 Failure to Approve and Disapprove. In the event that the Architectural Committee fails to approve or disapprove any matters within the scope of its authority within thirty (30) days after the same have been submitted to it, or in any event, if no suit to enjoin such matter or thing has been commenced prior to completion or the doing of such matter or thing, such prior approval shall not be required and this Covenant shall be deemed to have been fully complied with and no suit or claim shall thereafter be available to the architectural Committee, to the owner of any Property, or the Declarant.

Section 8.6 Application Time. Applications for approval as required herein shall be made to the Architectural Committee or to any member thereof, and the date of receipt of such application shall be the time for the commencement of the running of said thirty (30) days from the date of such submission.

## ARTICLE 9 INSURANCE

Section 9.1 Board of Directors. The Board of Directors shall obtain and maintain at all times insurance of the type and kind and in no less than the amounts set forth below:

a) **Fire.** All improvements and all fixtures included in the Common Areas, including but not limited to, the Entrance Monuments and Landscaped Area, Roads (prior to acceptance for maintenance by a governmental authority) and medians located thereon, and all personal property and supplies belonging to the Association, shall be insured in an amount equal to 100% of the current replacement cost up to the amount specified in the insurance policy (exclusive of land, foundation, excavation and other normally excluded items) as determined annually by the Board of Directors with the assistance of the insurance company providing coverage. The Board of Directors shall, at least annually, review the insurance coverage required herein and determine 100% of the current replacement cost of such improvements and fixtures and personal property and supplies. Such coverage shall provide protection against loss or damage by fire, windstorm, vandalism and malicious damage and all perils covered by a standard "all risk" insurance policy. All such policies shall provide that adjustment of loss shall be approved by the Board of Directors and the insurance company. In addition to the provisions and endorsements set forth in Sections 9.3 and 9.4, the fire and casualty insurance described herein shall contain the following provisions:

i) a waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the owners and their employees, agents, tenants and invitees; and

(ii) a provision that the coverage will not be prejudiced by act or neglect of one or more owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

The property and public liability insurance policy shall not contain (and the insurance shall not be placed with companies whose charters or bylaws contain) provisions whereby: (1) contributions or assessments may be made against the Association, the Owners or the Mortgagees; (2) loss payments are contingent upon action by the carriers, directors, policy holders or members; and (3) there are limiting clauses (other than insurance conditions) which could prevent Owners or Mortgagees from collecting the proceeds.

b) **Public Liability.** The Board of Directors shall also be required to obtain and maintain to the extent obtainable, public liability insurance in such limits as the Board of Directors may, from time to time, determine to be customary for projects similar in construction, location and use to the Development, covering each member of the Board of Directors, the managing agent, if any, and each owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common Areas; provided, however, that in no event shall the amounts of such public liability insurance ever be less than \$1,000,000 per occurrence against liability for bodily injury, including death resulting therefrom, and damage to property, including



loss of use thereof, occurring upon, in or about, or arising from or relating to, the property or any portion thereof. Such insurance shall include, endorsements covering cross liability claims of one insured against another, including the liability of the owners as a group to a single owner. The Board of Directors shall review such limits annually. Until the first meeting of the Board of Directors following the initial meeting of the owners, such public liability insurance shall be in amounts of not less than \$1,000,000 per occurrence for claims for bodily injury and property damage.

c) Fidelity Coverage. The Board of Directors shall also be required to obtain fidelity coverage against dishonest acts on the part of all persons, whether officers, directors, trustees, employees, agents or independent contractors, responsible for handling funds belonging to or administered by the Association, in an amount determined by the Board of Directors in its discretion. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

(d) Other. Such other insurance coverages; including flood insurance and worker's compensation, as the Board of Directors shall determine from time to time desirable.

Section 9.2. Premium Expense. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Board of Directors and charged as a common expense to be collected from the Owners pursuant to Articles 5 and 6 hereof.

Section 9.3. Special Endorsements. The Board of Directors shall make diligent effort to secure insurance policies that will provide for the following:

a) recognition of any insurance trust agreement entered into by the Association;

b) coverage that may not be canceled or substantially modified (including cancellation for nonpayment of premium) without at least forty-five (45) days prior written notice to the named insured, any Insurance Trustee and all Mortgagees; and

c) coverage that cannot be canceled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Owner or any Mortgagee.

Section 9.4. General Guidelines. All insurance policies purchased by the Board of Directors shall be with a company or companies licensed to do business in the State of South Carolina and holding a rating of "A-10" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and shall be issued in the name of, and provide that all proceeds thereof shall be payable to, the Association. Notwithstanding any of the foregoing provisions and requirements relating to insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, who shall have exclusive authority to negotiate losses under any policy providing

such insurance.

Section 9.5. Owner's Personal Property. The Association or the Declarant shall not be liable in any manner for the safekeeping or conditions of any boat or other personal property belonging to or used by any owner or his family, guests or invitees, located on, or used at the Common Areas. Further, the Association or the Declarant shall not be responsible or liable for any damage or loss to or of any boat, or any tackle, gear, equipment or other property located thereon, or any other personal property of any owner, his family, guests or invitees located on or used at the Common Areas. Each Owner shall be solely responsible for all such boats and other personal property and for any damage thereto or loss thereof, and shall be responsible for the purchase, at such Owner's sole cost and expense, of any liability insurance or other insurance for damage to or loss of such property.

## ARTICLE 10

### RIGHTS OF MORTGAGEES

Section 10.1. Approval of Mortgagees. Unless at least seventy-five percent (75%) of the Mortgagees holding Mortgages on Lots located within the Development then subject to the full application of this Declaration have given their prior written approval, the Association shall not:

a) except as otherwise specifically provided herein, by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer any real estate or improvements thereon which are owned, directly or indirectly, by the Association (the granting of easements for utilities or other purposes and the transfer of Boatslips pursuant to the terms of this Declaration shall not be deemed a transfer within the meaning of this clause);

b) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

c) fail to maintain fire and extended coverage insurance on insurable improvements in the Common Areas on a current replacement cost basis in an amount not less than 100% of the insurable value as set forth in Article 9; or

d) use the proceeds of any hazard insurance policy covering losses to any part of the Common Areas for other than the repair, replacement or reconstruction of the damaged Common Areas or other common amenities.

Section 10.2. Additional Rights. Any Mortgagee shall have the following rights, to wit:

a) to be furnished at least one copy of the annual financial statement and

report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year:

b) to be given notice by the Association of the call of any meeting of the Associations membership, and to designate a representative to attend all such meetings;

c) to be given prompt written notice of default under the Declaration, the Bylaws or any rules and regulations promulgated by the Association by any Owner owning a Lot encumbered by a Mortgage held by the Mortgagee, such notice to be sent to the principal office of such Mortgagee or the place which it may designate in writing;

d) to be given prompt written notice of any casualty loss to the Common Areas, or loss by eminent domain or other taking of (i) the Common Areas or (ii) any Lot encumbered by a Mortgage held by the Mortgagee;

e) to be given prompt written notice of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;

f) to be given prompt written notice of any eminent domain or condemnation proceeding affecting the Property; and

g) to be given prompt written notice of any action which requires the consent of all or any portion of the Mortgagees as specified herein.

Whenever any Mortgagee desires the provisions of this Section to be applicable to it, it shall serve or cause to be served written notice of such fact upon the Association by certified mail, return receipt requested, addressed to the Association and sent to its address stated herein, identifying the Lot or Lots upon which any such Mortgagee holds any Mortgage or identifying any Lot owned by it, together with sufficient pertinent facts to identify any Mortgage which may be held by it and which notice shall designate the place to which notices are to be given by the Association to such Mortgagee.

Section 10.3. Books and Records. Any Mortgagee will have the right to examine the books and records of the Association during any reasonable business hours.

Section 10.4. Payment of Taxes and Insurance Premiums. The Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against the Common Areas and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

## ARTICLE 11 CONDEMNATION

Section 11.1. Partial Taking Without Direct Effect on Lots. If part of the Property shall

be taken or condemned by any authority having the power of eminent domain, such that no Lot is taken, all compensation and damages for and on account of the taking of the Common Areas, exclusive of compensation for consequential damages to certain affected Lots, shall be paid to the Board of Directors in trust for all Owners and their Mortgagees according to the loss or damages to their respective interests in such Common Areas. The Association, acting through the Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation and litigation of the issues with respect to the taking and compensation affecting the Common Areas, without limitation on the right of the Owners to represent their own interests. Each Owner, by his acceptance of a deed to a Lot, hereby appoints the Association as his attorney-in-fact to negotiate, litigate or settle on his behalf all claims arising from the condemnation of the Common Areas. Such proceeds shall be used to restore the Common Areas with the excess, if any, to be retained by the Association and applied to future operating expenses by the Board of Directors, in its sole discretion. Nothing herein is to prevent Owners whose Lots are specifically affected by the taking or condemnation from joining in the condemnation proceedings and petitioning on their own behalf for consequential damages relating to loss of value of the affected Lots, or improvements, fixtures or personal property thereon, exclusive of damages relating to the Common Areas. In the event that the condemnation award does not allocate consequential damages to specific Owners, but by its terms includes an award for reduction in value of Lots without such allocation, the award shall be divided between affected owners and the Association, as their interests may appear, by the Board of Directors in its sole discretion.

Section 11.2 Partial or Total Taking Directly Affecting Lots. If part or all of the Property shall be taken or condemned by any authority having the power of eminent domain, such that any Lot or a part thereof (including specific basements assigned to any Lot) is taken, the Association shall have the right to act on behalf of the owners with respect to Common Area as provided in Section 11.1 and the proceeds shall be payable as outlined therein. The Owners directly affected by such taking shall represent and negotiate for themselves with respect to the damages affecting their respective Lots. All compensation and damages for and on account of the taking of any one or more of the Lots, or improvements, fixtures or personal property thereon, shall be paid to the owners of the affected Lots and their Mortgagees, as their interests may appear. If all of the Property shall be taken such that the Association no longer has reason to exist and shall thereafter be dissolved and/or liquidated, all compensation and damages for and on account of the taking of the Common Areas shall be distributed with the other assets of the Association in accordance with the Articles of Incorporation.

Section 11.3 Notice to Mortgagees. A notice of any eminent domain or condemnation proceeding shall be sent to all Mortgagees who have served written notice upon the Association in accordance with Section 10.2 hereof.

## ARTICLE 12

### GENERAL PROVISIONS

Section 12.1 Enforcement. Declarant, being the developer of other subdivisions in the area of the subdivision, wishes to maintain a high standard in the appearance and quality of the

subdivision. Though damages would be difficult to measure, the failure of the owners and the Association to abide by the terms, covenants and restrictions contained in this Declaration would result in irreparable damage to Declarant and his reputation. Accordingly, Declarant, during the term of this Declaration as set forth in Section 12.4, as well as the Association or any owner or Owners, shall have the right, but not the obligation, to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration by proceeding at law or in equity against any person or persons violating or attempting to violate any such restriction, covenant, reservation, lien or charge, either to restrain violation thereof or to recover damages therefor. Each Owner and the Declarant shall have all appropriate remedies at law or in equity to enforce the provisions of this Declaration and the Bylaws and any duly authorized rules and regulations governing the Development against the Association.

In addition, the Association hereby covenants and agrees that it shall exercise its power of enforcement hereunder in order to maintain a first class subdivision in appearance and quality, and that it shall, upon the request of Declarant, enforce any restriction, condition, covenant or reservation contained in this Declaration deemed by Declarant, in his sole discretion, to have been violated, using all remedies available to the Association at law or in equity. The Declarant hereby reserves the right and easement, but not the obligation, to go upon any portion of the Common Areas at any time in order to repair and maintain such Common Areas where needed, in Declarant sole discretion, to bring such Common Areas within the standards required by Declarant. Should Declarant go upon the Common Areas to perform maintenance and/or repairs for such purpose, the Association hereby agrees to reimburse Declarant in full for the cost of such maintenance and/or repairs, upon receipt of a statement for such cost from Declarant. Declarant shall have the authority, but not the obligation, to exercise the easement rights set forth in this Section 12.1. Failure by Declarant, the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 12.2 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 12.3 Amendment. The covenants and restrictions of this Declaration may be amended at any time and from time to time by an agreement signed by owners holding a majority of votes appurtenant to the Lots which are then subject to this Declaration; provided, however, that such amendment must be consented to by Declarant so long as Declarant is the Owner of any Lot in the Development. Any such amendment shall not become effective until the instrument evidencing such change has been filed of record. Notwithstanding the foregoing, the consent of the Owners holding two-thirds (2/3) of each class of votes in the Association and the approval of Mortgagees holding Mortgages on Lots to which at least two-thirds (2/3) of each class of votes of the Association are appurtenant, plus the written consent of Declarant, shall be required to terminate the legal status of the Association, to withdraw land from the Development, to convey any portion of the Common Areas to any other party, to withdraw any portion of the Property from the requirements of this Declaration, or to restrict or revoke Declarant's right of enforcement hereunder provided for in Section 12.1 of this Declaration. The

consent of the owners having at least two-thirds (2/3) of each class of votes in the Association and the approval of Mortgagees holding Mortgages on Lots to which at least a majority of the votes are appurtenant shall be required to add or amend any material provision of this Declaration which establish, provide for, govern or regulate any of the following:

- a) voting;
- b) assessments, assessment liens or subordinations of such liens;
- c) reserves for maintenance, repair and replacement of the Common Areas;
- d) insurance or fidelity bonds;
- e) rights to use of the common Areas;
- f) responsibility for maintenance and repair of the Common Areas;
- g) boundaries of any Lot;
- h) the interest in the Common Areas;
- i) convertibility of Lots into Common Areas or of Common Areas into Lots;
- j) leasing of Lots;
- k) imposition of any right of first refusal or similar restriction on the right of any Lot Owner to sell, transfer, or otherwise convey his or her Lot; and
- l) any provisions which are for the express benefit of Mortgagees or insurers or guarantors of Mortgages.

An addition or amendment to the Declaration shall not be considered material if it is for the purpose of correcting technical errors or for clarification only. A Mortgagee who receives a request to approve non-material additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Notwithstanding anything in this Section 11.3 to the contrary, Declarant may, at Declarant's option, amend this Declaration without obtaining the consent or approval of any other person or entity if such amendment is necessary to cause this Declaration to comply with the requirements of FHA, VA, the Federal National Mortgage Association or other similar agency.

Section 12.4. Term. The covenants and restrictions of this Declaration are to run with the land (unless otherwise specified herein) and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date this Declaration is recorded; after which time said covenants and restrictions shall be automatically extended for

successive periods of ten (10) years unless an instrument signed by two-thirds (2/3) of the then owners of the Lots, plus Declarant, has been recorded, agreeing to terminate said covenants and restrictions in whole or in part. Provided, however, that the residential use restrictions set forth in Section 7.1 of this Declaration shall run with the land and shall be binding upon all parties and all persons claiming under them in perpetuity.

Section 12.5. FHA/VA Approval. As long as there is a class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of Additional Property, dedication of additional Common Areas, and amendment of this Declaration.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed, all the day and year first above written.  
WITNESSES:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
TIMOTHY W. REVIS, DECLARANT

STATE OF SOUTH CAROLINA    )  
  )  
COUNTY    OF    PICKENS    )            PROBATE

PERSONALLY appeared before me the undersigned witness, who on oath deposes and states that (s)he saw the within named TIMOTHY W. REVIS, sign the within written Declaration of Covenants, Conditions and Restrictions of The Outer Banks for the uses and purposes set forth therein, and (s)he with the other witnesses subscribed above witnesses the execution thereof.

SWORN to before this \_\_\_\_\_  
day of \_\_\_\_\_, 1997 \_\_\_\_\_

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_