# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for WYNBROOKE and MASTER DEED for WYNBROOKE HORIZONTAL PROPERTY REGIME

THIS DECLARATION AND MASTER DEED is made this 27th day of March, 2001, by PORTRAIT HOMES-MYRTLE BEACH, L.L.C., an Illinois limited liability company, (hereinafter referred to as the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the real properties located in Horry County, South Carolina, shown on recorded maps of **WYNBROOKE**, more particularly described in Article I below and desires to create thereon an exclusive residential community of residential units to be named **WYNBROOKE**; and

WHEREAS, Declarant desires to submit a portion of the real properties to the provisions of the South Carolina Horizontal Property Act, S.C. Code. Ann. § 27-31-10 et seq., as amended (Act), pursuant to the terms and provisions of the Declaration and Master Deed, to be known as WYNBROOKE Horizontal Property Regime. The Master Deed portions of this Declaration and Master Deed shall only be applicable to the real properties subject to the Act; and

WHEREAS, Declarant desires to insure the attractiveness of the community, to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within the community and to provide for the maintenance and upkeep of all residential units as provided herein, the Common Area, and Common Elements as hereinafter defined; and to this end, desires to subject the real properties described hereinbelow in Article I, Section One, to the coverage of the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said properties described below, and each owner thereof; and

WHEREAS, Declarant has deemed it desirable for the efficient preservation, protection and enhancement of the values and amenities in the community to provide for the maintenance and upkeep of all residential units as provided herein, the Common Area and Common Elements and to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the Common Area; maintaining and administering the Common Elements; maintaining the residential units; administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and complying with the Act as it applies to WYNBROOKE Horizontal Property Regime and

WHEREAS, Declarant has incorporated or will incorporate under South Carolina law, **WYNBROOKE HOMEOWNERS ASSOCIATION, INC.**, as a non-profit corporation for the purpose of exercising and performing the aforesaid functions.

NOW, THEREFORE, Declarant hereby declares that all of the properties described in Article I, Section One and Section Two below, and such additions thereto as may be hereafter made pursuant to Article I, Section Three hereof, shall be held, sold and conveyed subject to the

following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real properties and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

## ARTICLE I

### PROPERTIES SUBJECT TO THIS DECLARATION

Section One: Properties. The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, but not the Act, and within the jurisdiction of the Association is located in Horry County, South Carolina, and is described as follows:

> All that certain piece, parcel or tract of land lying and being in Horry County, South Carolina, and being more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference.

Section Two: Master Deed Properties. The property which is and shall be held, transferred, sold, conveyed and occupied subject to the Declaration and the Master Deed provisions and subject to the Act as horizontal property, and within the jurisdiction of the Association, is located in Horry County, South Carolina and is described as follows:

> All that certain piece, parcel or tract of land lying and being in Horry County, South Carolina, and being more particularly described in Exhibit "B", which is attached hereto and incorporated herein by reference.

Section Three: Additions to Existing Property. Additional property may be brought within the scheme of this Declaration and the Master Deed provisions in the following manner:

(a) Additional land described in Exhibit "C" which is attached hereto and incorporated herein by reference may be annexed to the existing property under Section One or Section Two by Declarant, in future stages of development, without the consent of any other Lot or Unit Owner(s) or any mortgagee, provided that said annexations must occur within six (6) years after the date of this instrument.

(b) The additions authorized under Article I, Section Three shall be made by filing of record a Supplement to Declaration of Covenants, Conditions and Restrictions and Master Deed with respect to the additional properties, which shall extend the scheme of this Declaration and the Master Deed provisions to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein.

(c) The Declarant reserves the right to add additional covenants with respect to the land owned by the Declarant described herein in Exhibit "C".

## ARTICLE II

## DEFINITIONS

Section One. "Association" shall mean and refer to **WYNBROOKE HOMEOWNERS ASSOCIATION, INC.**, its successors and assigns and a copy of the Articles of Incorporation and By-Laws of the Association are attached hereto as Exhibits "D" & "E" respectively and incorporated herein by reference.

Section Two "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee or fee interest to any Lot or Unit which is a part of the Properties, including contract sellers, but excluding those having any interest merely as security for the performance of an obligation.

Section Three. "Properties" shall mean and refer to that certain real property hereinbefore described in Article I, Section One and Section Two and such additions thereto as may hereafter be brought within the jurisdiction of the Association and be made subject to this Declaration and Master Deed.

Section Four. "Lot" shall mean and refer to any plot of land shown upon an approved site plan or any recorded subdivision map of the Properties covered under Article I, Section One, with the exception of the Common Area, and shall include all improvements thereon.

Section Five. "Declarant" shall mean and refer to **PORTRAIT HOMES - Myrtle Beach, L.L.C.**, an Illinois Limited Liability Company, its successors and assigns, if such successors or assigns should acquire all of the Declarant's interest in the Properties.

Section Six. "Common Area" shall mean all real property owned by the Association and all other improvements for the common use, benefit and enjoyment of the Owners. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats of **WYNBROOKE** recorded or to be recorded in the County Public Registry and designated thereon as "Common Areas", but shall exclude all Lots as herein defined, all Units as herein defined, Common Elements as herein defined, and all publicly dedicated streets. "Common Area" shall include all private roads and drives shown on said plats as now recorded as shall be hereinafter recorded in the County Public Registry covered under Article I, Section One. It is the intent of the Declarant to develop a planned unit residential community, including a horizontal property regime.

Section Seven. "Common Elements" shall mean the area and property subject to the Master Deed provisions of this Declaration and Master Deed, but not included within the boundaries of a Unit, as more particularly set forth herein, which shall be owned as provided in the Act but shall be subject to an easement for use and enjoyment of all Owners as herein defined.

Section Eight. "General Common Elements" shall mean all portions of the Common Elements which are not assigned as Limited Common Elements.

Section Nine. "Limited Common Elements" shall mean a portion of the Common Elements reserved for the exclusive use of one or more, but less than all, Units, as more particularly set forth in this Master Deed, and further, not subject to an easement for use and enjoyment by any Lot Owners.

Section Ten. "Master Deed" shall mean the provisions of this Declaration and Master Deed establishing the Wynbrooke Horizontal Property Regime over the real estate set forth in Exhibit "B."

Section Eleven. "Unit" shall mean that portion of the Properties intended for individual ownership and use as described herein under the Master Deed and shall include a percentage interest in the undivided ownership of the Common Elements. See Exhibit "F" for the plot plan and building plan for the Units (Floor Plans).

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

Section Thirteen. "Member" shall mean and refer to an Owner who holds membership in the Association pursuant to Article IV of this Declaration.

Section Fourteen. "County Public Registry" shall mean and refer to the office of the Register of Deeds of Horry County, South Carolina.

## ARTICLE III

## PROPERTY RIGHTS

Section One. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and Common Elements, which shall be appurtenant to and shall pass with the title to every Lot and Unit, subject to the following provisions:

(a) The right of the Association to charge a reasonable admission and other fees for the use of the Common Area and Common Elements and any recreational facility situated thereon;

(b) The right of the Association to suspend the voting rights and right of use of the Common Areas and Common Elements by an Owner: (1) during any period for which the Owner is delinquent in the payment of assessments and (2) for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed by the Members;

No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Members agreeing to such dedication or transfer has been recorded;

(d) The right of individual owners to the exclusive use of driveways and parking spaces as provided in this Article;

(e) The right of the Association to limit the number of guests of Members;

(f) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area facilities and in aid thereof to mortgage said properties, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners and respective mortgagees hereunder;

(g) The right of the Association to adopt, publish, and enforce reasonable rules and regulations as provided in Article IX;

(h) The right of the Association to enter any Lot, Unit, Common Area, and Common Element in order to perform any maintenance, alteration, or repair required herein to be performed by the Association, and the Owner of such Lot or Unit shall permit the Association or its representative to enter for such purpose at reasonable times and with reasonable advance notice;

(i) The right of the Association or its representative to enter any Lot or Unit in the case of any emergency threatening such Lot or Unit or any other Lot or Unit for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate;

(j) The easement rights of the Declarant reserved in Article X of this Declaration and Master Deed;

(k) The rights of the Declarant reserved in Article XI of this Declaration and Master Deed.

Section Two. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area depicted on such maps of Wynbrooke from time to time recorded in the office of the Register of Deeds for Horry County to the Association, free and clear of all encumbrances and liens, except those set forth in this Declaration, and any easements of record. Following the conveyance of Common Area to the Association, Declarant shall be entitled to a proration credit for all expenses of the Association incurred by Declarant (including insurance and real estate taxes) which have not theretofore been reimbursed to Declarant. The Common Area shall be conveyed without any express or implied warranties, which warranties are hereby expressly disclaimed by Declarant.

Section Three.

(a) Units and Boundaries. The Master Deed property described in Exhibit "B" is divided into four separate Units, the Limited Common Elements and the Common Elements. Each Unit consists of a dwelling and its appurtenant percentage of undivided interest in the Common Elements as herein provided. Each Unit shall be conveyed as a separately designated and legally described freehold estate subject to the Act and the Master Deed. Each Purchaser is entitled to exclusive possession of his or her Unit together with an interest in and right to use the Common Elements and an exclusive right to use Limited Common Elements assigned to his or her Unit, if applicable. The Units are depicted on the Plat of Survey and the Floor Plans. Each Unit includes that part of the structure which lies within the following boundaries:

(1) Horizontal (Upper and Lower):

(i) The upper horizontal boundary of each Unit is the plane formed by the uppermost, unexposed surface of the wallboard or other material comprising a part of the ceiling in the uppermost story of the Unit.

(ii) The lower horizontal boundary of each Unit is the plane formed by the finished surface of the concrete slab or uppermost surface of the subflooring on which the lowermost story of the Unit is constructed.

(2) Vertical (Perimetric or Lateral): The vertical boundaries of each Unit are the planes formed by the outermost, unexposed surface of the wallboard or other surface comprising the perimeter walls enclosing the Unit.

(3) Notwithstanding the description of the boundaries set forth above, the Units shall be deemed to include the following: all portions of the plumbing, heating, electrical, and air conditioning systems (including furnaces, compressors, construction pipes, wires, conduits, ducts and the like) serving only that Unit even if partially outside the boundaries of the Unit; all windows, glass surfaces, and doors (including window and door frames) serving the Unit; all window screens and screens on any screened porch; and all portions of any deck, patio, or balcony serving the Unit, whether or not such deck, patio, or balcony is enclosed. In interpreting deeds and plans, the existing physical boundaries of a Unit as originally constructed or of a Unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds expressed in any deed or plan, regardless of settling or lateral movement of the building in which the Unit was located, and regardless of minor variance between the boundaries shown on the Floor Plans or in a deed and those of the Unit.

The ownership of each Unit shall include, and there shall pass with each Unit as an appurtenance thereto whether or not separately described in the conveyance thereof that percentage of the right, title and interest in the Common Elements attributable to such Unit, together with membership in the Association and an undivided interest in the funds and assets held by the Association with all other Owners. Every portion of a Unit and all

Limited Common Elements contributing to the support of all abutting Units shall be burdened with an easement of support for the benefit of such abutting Unit.

(b) Limited Common Elements

(1) The Limited Common Elements and the Unit(s) to which they are assigned are:

(i) the building exterior, foundation (including concrete slab, if any), roof, roof decking and supports, load-bearing walls, party walls, lobby, hallways and stairways serving more than one (1) unit, elevators, basement, and all other Common Elements within a building which are designed for the use of occupants or more than one Unit shall be assigned as Limited Common Elements of all Units in the building;

(ii) any mailbox, driveway and parking spaces designated for use by the occupants of a Unit are assigned as a Limited Common Element of the Unit it serves;

(iii) to the extent that a deck, patio, or balcony serving a Unit is not part of the Unit, such deck, patio, or balcony is assigned as a Limited Common Element of the Unit having direct access to such deck, patio, or balcony;

(iv) any doorstep or stoop providing access to a Unit or to a deck, patio, or balcony is assigned as a Limited Common Element of the Unit to which access is provided or of the Unit served by the deck, patio, or balcony;

(v) that portion of the Common Elements on which there is located any part of the air conditioning or heating system exclusively serving a particular Unit or Units is assigned as a Limited Common Element of the Unit or Units so served;

(vi) any gas or electric meter which serves only one Unit is assigned as a Limited Common Element of the Unit so served; and

(vii) that portion of the landscaped areas adjacent to the boundaries of the Unit as depicted on the Floor Plans and Plat.

(c) Common Elements. The Common Elements include all parts of the Properties listed on Exhibit "B" and additions thereto not considered a part of a Unit and include the Limited Common Elements. Each Unit Owner and occupant shall have a right and easement of use and enjoyment in and to the Common Elements (including the right of access, ingress and egress to and from his or her Unit over those portions of the Property designated for such purpose), and such easement shall be appurtenant to and shall pass with the title to such Unit, subject to the rights of the Unit Owners to the exclusive use of the Limited Common Elements assigned to their respective Units and to the right of the Association, to control the use and enjoyment of the Common Elements as provided by the terms of this Master Deed. All Members of the Association shall have the right and

easement of use and enjoyment in and to the Common Elements, excluding the Limited Common Elements.

(d) Undivided Interest in Common Elements. Pursuant to Section 27-31-60 of the Act, each Unit is allocated a percentage of undivided interest in the Common Elements as set forth in Exhibit "G" of this Master Deed.

The percentages of undivided interest in the Common Elements appurtenant to each Unit may be altered only by the consent of all Unit Owners and Mortgagees (or such lesser number of Unit Owners and Mortgagees as may hereafter be prescribed by the Act) expressed in a duly recorded amendment to this Master Deed. The percentage of undivided interest of each Unit Owner in the Common Elements is appurtenant to the Unit owned by the Owner and may not be separated from the Unit to which it appertains and such appurtenance shall be deemed to be conveyed or encumbered or to otherwise pass with the Unit whether or not expressly mentioned or described in a conveyance or other instrument describing the Unit. The Common Elements shall remain undivided and no Owner nor any other person shall bring any action for partition or division of the whole or any part thereof except as provided in the Act. Except as provided for Limited Common Elements or as otherwise provided herein, each Owner and the Association may use the Common Elements for the purposes for which they are intended, but no such use shall interfere with or encroach upon the lawful rights of the other Owners.

No changes shall be made in the size or number of Units within each phase, the respective percentage of common interest of the Unit within each phase or in the amount or quality of Common Elements, other than as provided in Article XIII, Section 9, except by amendment to the Floor Plans and to this Master Deed with the consent of all Unit Owners directly affected if this Master Deed is filed prior to such change.

Section Four. Parking Rights. Ownership of each Lot or Unit shall entitle the Owner or Owners thereof to the use of not more than two (2) automobile parking spaces, which shall be as near and convenient to said Lot or Unit as reasonably possible, together with the right of ingress, egress and regress in and upon said parking areas. The automobile parking spaces for Lots or Units having garages shall be the garage and appurtenant driveway.

Section Five. TV Antennas and Cablevision. The Association may provide one or more central television antennas for the convenience of the Members and may supply Cablevision and the cost of these may be included in annual or special assessments.

## ARTICLE IV

## MEMBERSHIP AND VOTING RIGHTS

Section One. Every Owner of a Lot or Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Unit.

Section Two. The Association shall have three classes of voting membership:

Class A. Class A Members shall be all Owners of a Lot with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Members shall be all Owners of a Unit with the exception of the Declarant and shall be entitled to one (1) vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

Class C. Class C Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot and/or Unit owned. The Class C membership shall cease and be converted to Class A or B membership, whichever is applicable, on the happening of either of the following events, whichever occurs later:

(a) When the total votes outstanding in Class A and B membership equal the total votes outstanding in Class C membership; or

(b) Five years from the date of recording this Declaration or any Supplement adding additional land under Article I, whichever is later.

Section Three. Declarant shall be entitled to appoint the entire Board of Directors while Class C membership exists.

Section Four. To the extent the Act grants statutory rights which may not be waived or overridden, the Class B membership shall be entitled to call meetings and to conduct votes among the Class B Members to exercise such statutory rights as they pertain to the Properties subject to the Master Deed. This right only applies to those statutory rights which may not be waived or overridden, and all remaining provisions of this Declaration and Master Deed shall not be entitled to be amended and shall apply in full force and effect to the Units and the Master Deed, to the extent that such provisions are not inconsistent with the Act.

## ARTICLE V

## COVENANT FOR ASSESSMENTS

Section One. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot and/or Unit owned within the Properties, hereby covenants, and each Owner of any Lot and/or Unit 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: (1) annual assessments or charges, (2) special assessments, such assessments to be established and collected as hereinafter provided, and (3) specific assessments against a Lot(s) or Unit(s) as provided in this Declaration and Master

Deed The annual, special and specific assessments, together with interest, late charges, costs and reasonable attorney's fees, shall be a charge on the Lot and/or Unit and shall be a continuing lien upon the properties against which each such assessment is made. Each such assessment, together with interest, late charges, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner If a lien has been properly filed in the Register of Deeds' Office for Horry County, it may be foreclosed as further described hereafter in Article V, Section Ten.

Section Two. To the extent not inconsistent with the Act, any expenses incurred by the Association for the benefit of less than all of the Lots or Units may be specially assessed equitably among all of the Lots or Units which are benefited according to the benefit received. Any Association expenses occasioned by the conduct of less than all of those entitled to occupy all of the Lots or Units, or by the licensees or invitees of any such Lots or Units, may be specifically assessed against the Lots or Units whose occupant, licensee or invitee occasioned any such Association expenses. To the extent not inconsistent with the Act, any Association expenses which significantly disproportionately benefit all Lots or Units may be assessed equitably among all Lots or Units according to the benefit received.

Section Three. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents of the Properties, including the following: (1) the improvement, repair and maintenance of the Common Areas and Common Elements; (2) the improvement, repair and maintenance of the exterior, roof and structure of the dwellings; (3) the maintenance, repair, and reconstruction of private water and/or sewer lines (and any meters or lift stations associated therewith), private drives, driveways, walks, and parking areas situated on the Common Area and Common Element; (4) the cutting and removal of weeds and grass, the removal of trash and rubbish, or any other maintenance of the Common Areas and Common Elements and the landscaped areas on the Lots and/or Units; (5) the payment of taxes and public assessments assessed against the Common Area and Common Element; (6) the procurement and maintenance of insurance in accordance with this Declaration and Master Deed; (7) the employment of attorneys and accountants to represent the Association when necessary; (8) the provision of adequate reserves for the replacement of capital improvements, including, without limiting the generality of the foregoing, roofs, paving, and any other major expense for which the Association is responsible; and (9) such other needs as may arise

Section Four. Maximum Annual Assessment. The Assessments against the Lots and/or Units shall be based upon annual estimates of the Association's cash requirements to provide for payment of all estimated expenses arising out of the Association's obligations under this Declaration and Master Deed. Such estimated expenses may include, among other things, the following: expenses of management; taxes and special assessments; premiums for all insurance that the Association is required or permitted to maintain hereunder; repairs and maintenance; wages for Association employees, including fees for a Manager (if any); utility charges; legal and accounting fees; any deficit remaining from a previous period; creation of a reasonable contingency reserve, surplus, and/or sinking fund; and any other expenses and liabilities which may be incurred by the Association under or by reason of this Declaration and Master Deed. Such expenses shall constitute the Common Expenses. Until January 1 of the year immediately following the conveyance of the first Lot or Unit to an Owner, the maximum annual assessment shall be $1680.00 per Lot or Unit (except that pursuant to Section Eight of this Article, the maximum

annual assessment for Lots or Units owned by Declarant which are not occupied as a residence shall be $420.00 per Lot or Unit).

(a) From and after January 1 of the year immediately following the conveyance of the first Lot or Unit to an Owner, the maximum annual assessment may be increased by the Board of Directors effective January 1 of each year without a vote of Membership, but subject to the limitation that any such increase shall not exceed the greater of twenty percent (20%) or the percentage increase in the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for all cities over preceding twelve (12) month period which ended on the previous October 1.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot or Unit to an Owner, or until increased as provided for in (b) or (c) below, whichever last occurs, the maximum annual assessment may be increased above the increase permitted in Section 4(a) above 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 monthly assessment at an amount not in excess of the maximum annual assessment.

Section Five. Special Assessments. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only for the purpose of supplying adequate reserve funds for the replacement of capital improvements; defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any part of the improvements and Properties under this Declaration and Master Deed; obtaining appropriate insurance; and paying any unusual, unforeseen and non-reoccurring expenses of the Association. Should the Association, by and through, its elected or appointed Board of Directors, as the case may be, at any time determine, in the sole discretion of said Board of Directors, that the annual assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Association, whether it be having reserve funds for the repair, maintenance or replacement of capital improvements or otherwise, said Board of Directors shall have the authority to levy such special assessments as it shall deem necessary.

Section Six. Annual Budget. The annual assessments shall be determined on a calendar year basis. On or before December 1 of each year, the Association shall prepare or cause to be prepared an operating budget for the upcoming calendar year. The budget shall itemize the estimated expenses of the Association for such calendar year, anticipated receipts (if any), and any deficit or surplus from the prior operating period. The budget shall serve as the supporting document for the assessments for the upcoming fiscal year and as the major guideline under which the Association shall be operating during such annual period.

Section Seven. Reserves. The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements to the Lots, Units, Common Areas and Common Elements and those other portions of the Properties which the Association may be obligated to maintain, repair or replace. Such reserve fund is to be established, insofar as is practicable, out of regular assessments for Common Expenses. Separate reserves may be maintained for the Units and Lots.

Section Eight. Uniform Rate of Assessment. Both annual and special assessments shall, except as herein otherwise specifically provided, be fixed at a uniform rate for all similar Lots and of a uniform rate for all similar Units and shall be collected on a monthly basis. For purposes of this Declaration and Master Deed, all Units which are a part of Exhibit "B" have the same value, and thus, the pro-rata contribution according to percentage interest as specified in Section 27-31-60 and Section 27-31-190 of the Units shall be equal, which shall be substantially equal to the assessments against the Lots. Provided, however, that the annual and special assessments for Lots and/or Units owned by Declarant which have not been transferred to non-related third parties and are not occupied as a residence, shall at all times be twenty-five percent (25%) of the annual or special assessments for other Lots and/or Units. Instead of paying twenty-five percent (25%) of all assessments, Declarant shall have the option, in its sole discretion, of funding the deficiency in the operating budget of the Association.

It is the intention of this Declaration and Master Deed that all Lots and Units shall have substantially equal assessments since all Lots and Units require essentially the same maintenance and reserves, and all Lots and Units shall have equal rights to use and enjoy the Common Areas and Common Elements. To the extent the Units may be assessed differently as required under the Act, all Owners of Units agree to pay to the Association any costs and expenses to maintain, repair and replace the Common Areas for the Unit Owner's right to use the Common Areas subject to this Declaration.

Section Nine. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each building on the day of the month on which the first residential unit in such building is conveyed by Declarant. Such annual assessments shall be paid ratably on a monthly basis. The Board of Directors shall fix the amount of the annual assessment against each Lot and/or Unit at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot and/or Unit have been paid.

Section Ten. Effect of Nonpayment of Assessments: Remedies of the Association: The payment of any assessment or installment thereof due to the Association shall be in default if such assessment, or any installment thereof, is not paid to the Association on the due date for such payment. A late charge of Fifteen dollars ($15.00) shall be added to any assessment not paid within fifteen (15) days after the due date, together with interest from the due date at eight percent (8%) per annum. The late charge penalty will be added for each month the payment is delinquent.

In the event of non-payment by an Owner of assessments, the Association is granted a lien upon the Lot and/or Unit, which shall secure all monies due for all assessments now or hereafter levied and which shall also secure interest payments, late penalties, and costs and expenses, including a reasonable attorney's fee, which may be incurred by the Association in enforcing the lien.

The lien granted to the Association may be foreclosed in the same manner as mortgages may be foreclosed in the State of South Carolina, and in any suit or foreclosure of said lien, the Association shall be entitled to rental from the Owner of a Lot and/or Unit from the date on which the payment of any assessment became delinquent and shall be entitled to the Appointment of a Receiver to collect said rentals

No Owner may exempt himself or herself from liability for any assessment levied against such Owner and his or her Lot and/or Unit, by waiver of the use or enjoyment of the Common Area or Common Element or by abandonment of his or her Lot and/or Unit or in any other manner.

The Association in the event of any default hereunder by an Owner may proceed to enforce and collect the assessment against the Owner in any manner provided herein, including the right of foreclosure and sale. In any action instituted by the Association to enforce the provisions of this Declaration, including but not limited to, non-payment of assessments, the offending or defaulting Owner shall be responsible for all the costs of collection, including a reasonable attorney's fee incurred by the Association.

Section Eleven. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot and/or Unit shall not affect the assessment lien. However, the sale or transfer of any Lot and/or Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot and/or Unit from liability for any assessments thereafter becoming due or from the lien thereof.

Section Twelve. Working Capital Fund. At the time of closing of the sale of each Lot and/or Unit, a sum equal to at least two monthly installments of the annual assessment for each Lot and/or Unit shall be collected from the Purchaser and transferred to the Association to used for working capital. The purpose of said capital is to insure that the Association will have adequate cash available to meet unforeseen expenses and to acquire additional equipment or services deemed necessary or desirable. Amounts paid shall not be considered advance payment of any assessments.

Section Thirteen. Taxes. Taxes assessed against the Unit or Lot shall be the responsibility of the Owner but taxes separately assessed against the Common Elements and/or Common Areas shall be an expense of the Association and shall be paid by the Association.

## ARTICLE VI

## MAINTENANCE AND PARTY WALLS

Section One. In addition to maintenance of the Common Area and Common Elements, the Association shall provide exterior maintenance upon each Lot and/or Unit which is subject to assessment hereunder, as follows: paint and/or stain the exterior and repair, replace and care for roofs, exterior building surfaces, structural components, trees and shrubs (excluding those planted by an Owner), grass, walks, mailboxes, fences installed by Declarant or the Association, exterior

post lights (excluding electricity therefor), and other exterior improvements. Such exterior maintenance shall not include glass surfaces but shall include screens. Further, the Owner of any Lot and/or Unit may, at his or her election, plant flowers in the front and rear beds established by Declarant in developing the Lot and/or Unit; provided, that such maintenance by the Owner does not hinder the Association in performing its maintenance of the exterior of the townhouse and the remaining yard spaces. No such maintenance by a Owner shall reduce the assessment payable by ~~him or her to the Association. The Owner shall not plant any vegetation in the front yard except~~ with the prior written approval of the Association.

(As a matter of information to future Members of the Association, the Declarant desires to make it known that due to differing amounts of exposure to the elements and other factors, some dwellings may require more maintenance than others and that it is in the best interests of the entire Association that all Lots and Units be properly maintained and that the Association shall be required to provide such maintenance provided for herein and make a uniform charge without regard to the actual cost of maintenance of each dwelling.)

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his or her family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot and/or Unit is subject. The Association is hereby granted an easement right of access to go upon any Lot and/or Unit for performance of repairs or maintenance, the responsibility of which is the Association's hereunder.

Section Two. Party Walls.

(a) General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for properties damage due to negligence or willful acts or omissions shall apply thereto. No alterations may be made to any party wall other than alterations to the interior surfaces.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

(c) Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the

elements shall bear the whole cost of furnishing the necessary protection against such elements and of repairing any damage resulting from such exposure.

(e) Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

(f) Arbitration. In the event of any dispute arising concerning a party wall or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

Section Three. Maintenance by the Owner. Except to the extent otherwise provided below, each Owner shall have the obligation to maintain and keep in good repair all portions of his or her Unit or his or her Lot. This responsibility shall include maintenance, repair and replacement (except for painting or staining of exterior services) of all glass surfaces, windows, window frames, and all doors, door frames, and hardware that are part of the entry system of the Lot or Unit, the air conditioning compressor serving the Lot or Unit, all pipe lines, ducts or conduits or other apparatus which serve only the Lot or Unit, whether located within or outside the Unit's boundaries (including all gas, electricity, water, sewer or air conditioning pipes, lines, ducts, conduits or other apparatus serving only the Unit).

Section Four. Maintenance by the Association. The Association shall perform its maintenance responsibilities within this Declaration and Master Deed in a manner consistent with the community-wide standard. It is the intent of the Association to maintain the Units according to the Act and this Declaration and Master Deed (to the extent not inconsistent) and further, to maintain the Lots in the exact same manner.

## ARTICLE VII

## ARCHITECTURAL CONTROL

No building, fence, signs, wall, antenna or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein (including, but not limited to, color or painting or the exterior and type of exterior finish, any existing or builder-installed construction material, plant material or ground cover) be made, except in exceptional cases, when in such case, three copies of the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board (said committee being hereinafter referred to as the "Architectural Control Committee"). Absent such approval, the proposed improvement may not be commenced.

In the event an Owner of any Lot and/or Unit in the Properties shall make unauthorized changes to the premises and the improvements situated thereon in a manner unsatisfactory to the

said Board of Directors or the Architectural Control Committee, said Board of Directors or the Architectural Control Committee shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and/or Unit and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance and any other costs or attorney's fees incurred in the enforcement of the rights under these provisions shall be added to and become a part of the assessments to which such Lot and/or Unit is subject. ~~Any approval by the said Board of Directors or the Architectural Control Committee shall be in~~ accordance with the requirements set forth hereafter.

## ARTICLE VIII

## INSURANCE

Section One. Insurance coverage on the Properties shall be governed by the following provisions:

(a) Ownership of Policies. All insurance policies upon the Properties shall be purchased by the Association for the benefit of the Association and the Owners and their mortgagees as their interests may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of Owners. Owners may, at their option, obtain insurance coverage, at their own expense, upon their own personal properties and for their personal liability and living expense and such other coverage, as they may desire.

(b) Coverage. All buildings and improvements upon the Properties and all personal properties of the Association included in the Common Areas and Common Elements and facilities shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:

(i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement;

(ii) Such other risks as from time to time shall be customarily covered with respect to buildings on the land; and

(iii) Such policies shall contain clauses providing for waiver of subrogation.

(c) Liability. Public liability insurance shall be secured by the Association with limits of liability of no less than One Million Dollars ($1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.

(d) Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and shall be included as part of the annual assessment described in Article V above.

(e) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Owners and their mortgagees, as their interests may appear and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration and Master Deed. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purpose stated herein or stated in the Bylaws and for the benefit of the Owners and their mortgagees in the following shares:

(i) Proceeds on account of damage to Common Areas and Common Elements and facilities held for the Association;

(ii) Proceeds on account of damage to Lot and/or Units shall be held in undivided shares for the Owners of damaged Lot and/or Units in proportion to the cost of repairing the damage suffered by each Owner, which cost shall be determined by the Association; and

(iii) In the event a mortgagee endorsement has been issued for any Lot and/or Unit, the share of the Owner shall be held in trust for the mortgagee and the Owner, as their interests may appear.

Section Two. Distribution of Insurance Proceeds. Proceeds of insurance policies received by the Association as insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(a) Expense of the Trust. All expenses of the insurance trustee shall be first paid or provisions made therefor; and

(b) Reconstruction or Repair. The remaining proceeds shall be paid to defray the cost of repairs. Any proceeds remaining after defraying such cost shall be distributed to the beneficial Owners as above provided.

Section Three. Fidelity Insurance or Bond. All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association or those held in trust, shall first be bounded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties in an amount equal to six (6) months' assessments, plus reserves accumulated.

## ARTICLE IX

## USE RESTRICTIONS

Section One. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the units for residential occupancy, the yard space of each Lot and the Common Areas and Common Elements. Such rules and regulations may provide for imposition of fines or

penalties for the violation thereof or for the violation of any of the covenants and conditions contained in this Declaration and Master Deed.

Section Two. Antennas. No outside radio transmission tower, receiving antenna or satellite dish shall be erected by an Owner within the restricted properties without the prior written approval of the Architectural Control Committee.

Section Three. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on or upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

Section Four Dwelling Unit Size. The total square footage of the main structure located on a Lot and/or Unit, exclusive of one-story open porches, shall not be less than 900 square feet.

Section Five. Nuisances. No activity deemed noxious or offensive by the Architectural Control Committee shall be carried on upon any Lot and/or Unit or within the Common Area and Common Elements, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood as determined by said Architectural Control Committee. Examples of such offensive activities shall include, but to be limited to, the origination or emission of any loud or disturbing noise or vibrations, the maintenance of an auto repair site, the maintenance of unsightly outdoor storage of personal properties (including toys, motorcycles or other motor vehicles, tricycles, bicycles, wood piles or other miscellaneous items) on porches, patios, terraces or yards, or similar unsightly activity not in keeping with the aesthetic character and high level of appearance of the community. The Architectural Control Committee, with the approval of the Board of Directors, may establish reasonable rules and regulations for enforcing the provisions of this Section Five.

Section Six. Parking of Vehicles and Use of Properties No house trailer, boat, boat trailer, camper, tent, shed, or any other such vehicle, trailer, vessel or temporary structure shall be permitted to be parked or placed within the Properties except within area(s) which may be specifically designated for such purposes by the Association; provided, however, temporary buildings and other structures shall be permitted during the construction period of the townhouses or as a temporary real estate sales office of Declarant for the sale of Lot and/or Units. No garage, outbuilding, or other appurtenant structure shall be used for residential purposes, either temporarily or permanently, nor shall any portion of the properties (except as expressly stated in the preceding sentence) be used, except for residential purposes and for purposes incidental or necessary thereto.

Section Seven. Signs. With the exception of signs erected by Declarant pursuant to Article XI hereof, no sign of any kind whatsoever shall be erected upon or displayed or otherwise exposed to view on any Lot and/or Unit or any improvement thereon without the prior written consent of the Board of Directors of the Association.

Section Eight. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot and/or Unit; provided, however, dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes and provided facilities for such pets, and pets themselves do not create a nuisance as determined by

the Board of Directors or its designated committee, in which case the nuisance will immediately be abated upon request of said Board of Directors or its designated committee.

Section Nine. Control of Dogs. Every person owning or having possession, charge, care, custody or control of any dog shall keep such dog exclusively upon his own premises; provided, however, that such dog may be off the premises if it is under the control of a competent person and restrained by a chain, leash or other means of adequate physical control. Also, all excrement from such dog must be promptly cleaned up by Owner.

Section Ten. Garbage and Refuse Disposal. No Lot and/or Unit shall be used or maintained as a dumping ground for rubbish, and all trash, garbage or other waste shall be stored in sanitary containers in accordance with the rules and regulations of any health or public safety authority having jurisdiction over the properties. All incinerators or other equipment shall be kept in clean and sanitary condition. No trash, garbage or other waste may be placed within the Common Area and Common Elements, except in containers approved by the Board of Directors. All garbage receptacles shall be located and stored in such a place as to be not visible from any ground level on the Properties, excepting those days of garbage collection, and when emptied returned to the place described above.

Section Eleven. Oil and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot and/or Unit or within the Common Area and Common Elements, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon any Lot and/or Unit or within the Common Area and Common Elements. No derrick or other structure designated for use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot and/or Unit or within the Common Area and Common Elements.

Section Twelve. Except for the Declarant's rights, each Lot and/or Unit shall be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Lot or Unit or any part of the Properties, except that the Owner may conduct such business activities within the Lot and/or Unit so long as (i) the existence or operation of the business activity is no apparent or detectible by site, sound or smell from the exterior of the Lots and/or Unit; (ii) the business activity does not involve persons coming onto the Lot or Unit who do not reside within the Properties; (iii) the business activity conforms to all zoning requirements for the Properties; and (iv) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance or hazardous or offensive use. The terms "business" or "trade" as used in this Declaration and Master Deed, shall be construed to have the ordinary, generally accepted meetings. Leasing of Unit shall not be considered a business activity violative of this paragraph.

Section Thirteen. Personal Property. No household furnishings, equipment, lawn furniture or related personal property, including childrens' play objects, grills, bicycles, and lawn ornaments, of the Owner shall remain outside the residential unit or garage overnight, meaning it must all be removed from the front yards, front porches and placed out of the view of the public. Reasonable arrangements of seasonal flower pots and hanging baskets are permitted.

Section Fourteen. Heating of Lots and Units in Colder Months. In order to prevent breakage of water pipes during colder months of the year resulting in damage to Units, Lots and Common

Areas and Common Elements, increase Common Expenses and increase insurance premiums or cancellation of insurance policies due to numerous damage claims, the thermostats within all Lots and/or Units shall be maintained with the heat in an on position and at a minimum of 50 degrees Fahrenheit, during the months of October, November, December, January, February, March, and April, and whenever the temperature is forecasted to or does reach 32 degrees Fahrenheit or below.

Section Fifteen. Sales. No carport sale, garage sale, flea market, or similar activity shall be conducted on any portion of the Properties.

## ARTICLE X

## EASEMENTS

All of the Properties, including Lots and/or Units and Common Areas and Common Elements, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, and electric power lines and other public utilities as shall be established by the Declarant or by its predecessors in title; and the Association shall have the power and authority to grant and establish upon, over, under, and across the Common Areas conveyed to it and Common Elements, such further easements as are requisite for the convenient use and enjoyment of the Properties. In addition, there is hereby reserved to the Declarant and its agents and employees an easement and right of ingress, egress, and regress across all Common Areas and Common Elements, now or hereafter owned by the Association, for the purpose of construction of improvements within the Properties, including the right of temporary storage of construction materials on said Common Areas and Common Elements.

So long as Declarant owns any properties described on Exhibits "A," "B" or "C," Declarant reserves blanket easements and the right to grant such specific easements over all Lots and/or Units and Common Areas and Common Elements, as may be necessary in conjunction with the orderly development of the properties described on Exhibits "A," "B" or "C" or any adjacent properties (including without limitation the planning, construction, marketing, leasing, management and maintenance of improvements) for access, construction and maintenance of public or private utilities and storm drainage (whether subsurface or surface). No such easements may be located within the area beneath any building located thereon.

All Lots and/or Units shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots and/or Units by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves and walls.

Declarant reserves access easements over all Lots and/or Units for construction, either for that Lot and/or Unit or any adjacent properties and easements for the installation of public or private utilities and storm drainage (whether subsurface or surface).

There are reserved cross-easements in favor of owners of Lots and/or Units that comprise a building for access to and from each other Lot and/or Unit comprising the building and the Common Area and Common Element adjacent to the Lots and/or Units comprising the building, including, but not limited to the transportation of roll-out garbage containers and reasonable access to mailboxes; however, this does not include access to approved decks, patios or areas with approved fences. All rights and easements reserved under this Declaration and Master Deed shall also be reserved to the assigns and successors in the interest of the Declarant.

## ARTICLE XI

## DECLARANT'S RIGHTS

The right is reserved by Declarant, or its agents, to place and maintain on the Properties all model homes, sales offices, advertising signs and banners and lighting in connection therewith and other promotional facilities at such locations and in such forms as shall be determined by Declarant. There is also reserved unto Declarant, its agents and prospective purchasers and tenants, the right of ingress, egress and transient parking in and through the Properties for such sales purposes. Declarant also reserves the right to maintain on the Properties without charge (a) a general construction office for Declarant's contractors and (b) appropriate parking facilities for the employees of Declarant's agents and contractors. Notwithstanding anything to the contrary, no model homes or sales offices shall be subject to an assessment of any type. Notwithstanding any provision herein to the contrary, the rights and easements created under this Declaration and Master Deed are subject to the right of Declarant to execute all documents and do all other acts and things affecting the premises, which in the Declarant's opinion are required to implement any right of Declarant set forth in this Declaration and Master Deed (including the making of any dedications or conveyances to public use), provided any such document or act is not inconsistent with the then existing properties rights of any Owner. All rights and easements reserved under this Declaration and Master Deed shall also be reserved to the assigns and successors in interest of the Declarant.

In any event, Declarant reserves the right and power, and each Owner by acceptance of a deed to a Lot or Unit is deemed to and does give and grant to Declarant a power of attorney, which right and power is coupled with an interest and runs with the title to a Lot or Unit and is irrevocable (except by Declarant), without the consent, approval or signature of each Owner, to (i) amend the Declaration and Master Deed and all attachments, to the extent necessary to confirm to the requirements then governing the purchases or insurance of mortgages by The Mortgage Corporation, Federal National Mortgages Association, Governmental National Mortgages Association, Federal Home Loan Mortgage Corporation, Mortgage Guaranty Insurance Corporation, Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, or any other similar agency or organization, (ii) induce any such agencies or entities to make, purchase, sell, insurance or guarantee first mortgages covering Lot or Unit ownership, (iii) to correct typographical errors, surveyor errors in descriptions or otherwise, or obvious factual errors or omissions, the correction of which would not impair the interest of any Owner or mortgagee, (iv) bring this Declaration and Master Deed into compliance with the Act or otherwise replace this Declaration and Master Deed, with

substantially similar provisions, such that the Act is complied with, (v) to amend any Exhibits, or (vi) to exercise any Special Declarant Rights or development rights; and further provided that if there is an Owner other than the Declarant, the Declaration and Master Deed shall not be amended to increase the scope or the period of control of the Declarant. Each deed, mortgage, other evidence of obligation, or other instrument affecting a Lot and Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of, the power of Declarant to vote in favor of, make, execute and record any of the foregoing amendments. The rights of Declarant under this Section shall terminate at such time as Declarant no longer holds or controls title to a Lot or a Unit and the right of Declarant to add the Additional Property has expired.

## ARTICLE XII

## DISPUTE RESOLUTIONS AND LIMITATIONS ON LITIGATION

Section One. Agreement to Avoid Costs of Litigation and to Limit Rights to Litigate Disputes. The Association, Declarant, all Persons subject to this Declaration and Master Deed, and any Person not otherwise subject to this Declaration and Master Deed who agrees to submit to this Article (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving the Properties in order to avoid the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that all claims, grievances or disputes between such Bound Party and any other Bound Party involving the Properties including, without limitation, claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Declaration and Master Deed, the By-Laws, the Association rules, or the Articles (collectively "Claim"), except for those Claims authorized in Section Two, shall be resolved using the procedures set forth in Section Three, in lieu of filing suit in any court or initiating proceedings before any administrative tribunal seeking redress or resolution of such Claim.

Section Two. Exempt Claims. The following Claims ("Exempt Claims") shall be exempt from the provisions of Section Three hereinbelow:

(a) Any suit (including the filing of a delinquent assessment lien) by the Association against any Bound Party to enforce the provisions of Article V (Assessments);

(b) Any suit by the Association to obtain a temporary restraining order (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Article VII (Architectural Control) and Article IX (Use Restrictions);

(c) Any suit between Owners (other than Declarant) seeking redress on the basis of a Claim which would constitute a cause of action under federal law or the laws of the State of South Carolina in the absence of a claim based on the Declaration and

Master Deed, By-Laws, Articles or rules of the Association, if the amount in controversy exceeds $5,000.00;

(d) Any suit arising out of any written contract between Owners or between the Declarant and any builder, which would constitute a cause of action under the laws of the State of South Carolina in the absence of the Declaration and Master Deed, By-Laws, and Articles of the Association; and

(e) Any suit in which all parties are not Bound Parties.

(f) Any suit brought under Section 27-31-170 of the Act.

Any Bound Party having an Exempt Claim may submit it to the alternative dispute resolution procedures set forth in Section Three, but there shall be no obligation to do so. The submission of an Exempt Claim involving the Association to the alternative dispute resolution procedures of Section Three shall require the approval of the Association.

Section Three. Mandatory Procedures for All Other Claims. All claims other than Exempt Claims shall be resolved using the following procedures:

(a) Notice. Any Bound Party having a claim ("Claimant") against any other Bound Party ("respondent"), other than an Exempt Claim, shall notify each respondent in writing of the Claim (the "Notice"), stating plainly and concisely:

1. The nature of the Claim, including date, time, location, persons involved and Respondent's role in the Claim;

2. The basis of the Claim (i.e., the provisions of this Declaration, the By-Laws, the Articles or rules or other authority out of which the Claim arises);

3. What Claimant wants Respondent to do or not to do to resolve the Claim; and

4. That Claimant wishes to resolve the Claim by mutual agreement with Respondent and is willing to meet in person with Respondent at a mutually agreeable time and place to discuss in good faith ways to resolve the Claim.

(b) Negotiation.

1. Each Claimant and Respondent (the "Parties") shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

2. Upon receipt of a written request from any Party, accompanied by a copy of the Notice, the Board may appoint a representative to assist the Parties in resolving the dispute by negotiation, if in its discretion it believes its efforts will be beneficial to the Parties and to the welfare of the community.

(c) Mediation

1. If the Parties do not resolve the Claim through negotiation within 30 days of the date of the Notice (or within such other period as may be agreed upon by the Parties) ("Termination of Negotiations"), Claimant shall have 30 additional days within which to submit the Claim to mediation under the auspices of any dispute resolution center or other such independent agency providing similar services in the Horry County, specifically including, but not limited to the National Association of Realtors Alternate Dispute Resolution System (NAR ADR) and in accordance with generally accepted mediation procedures.

2. If Claimant does not submit the Claim to mediation within 30 days after Termination of Negotiations, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

3 If the Parties do not settle the Claim within 30 days after submission of the matter to the mediation process or within such time as determined reasonable or appropriate by the mediator, the mediator shall issue a notice of termination of the mediation proceedings ("Termination of Mediation"). The Termination of Mediation notice shall set forth when and where the Parties met, that the parties are at an impasse, and the date that mediation was terminated.

4 Each Party shall, within ten days of the Termination of Mediation, make a written offer of settlement in an effort to resolve the Claim. The Claimant shall make a final written settlement demand ("Settlement Demand") to the Respondent. The Respondent shall make a final written settlement offer ("Settlement Offer") to the Claimant. If the Claimant fails to make a Settlement Demand, Claimant's original Notice shall constitute the Settlement Demand. If the Respondent fails to make a Settlement Offer, Respondent shall be deemed to have made a "zero" or "take nothing" Settlement Offer.

(d) Final and Binding Arbitration.

1 If the Parties do not agree in writing to accept either the Settlement Demand, the Settlement Offer, or otherwise resolve the Claim within 15 days of the Termination of Mediation, the Claimant shall have 15 additional days to submit the Claim to arbitration in accordance with the Rules of Arbitration contained in the S.C. Arbitration Statute or the Claim shall be deemed abandoned, and Respondent shall be released and discharged from any and all liability to Claimant arising out of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to Persons not a Party to the foregoing proceedings.

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

Section Four. Allocation of Costs of Resolving Claims.

(a) Each Party shall bear its own costs incurred prior to and during the proceedings described in Section Three (a), (b) and (c), including the fees of its attorney or other representative. Each Party shall share equally all charges rendered by the mediator(s) pursuant to Section Three (c).

(b) Each Party shall bear its own costs (including the fees of its attorney or other representative) incurred after the Termination of Mediation under Section Three (c) and shall share equally in the costs of conducting the arbitration proceeding (collectively, "Post Mediation Costs"), except as otherwise provided in subsection Section Four (c).

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

Section Five. Enforcement of Resolution. If the Parties agree to a resolution of any Claim through negotiation or mediation in accordance with Section Three and any Party thereafter fails to abide by the terms of such agreement, or if any Party fails to comply with the terms of any Award following arbitration, then any other Party may file suit or initiate administrative proceedings to enforce such agreement or Award, without the need to again comply with the procedures set forth in Section Three. In such event, the Party taking action to enforce the agreement or Award shall be entitled to recover from the non-complying Party (or if more than

one non-complying Party, from all such Parties pro rata) all costs incurred in enforcing such agreement or Award, including, without limitation, attorneys fees and court costs.

Section Six. Commencement of Litigation. Any litigation by the Association other than the "Exempt Claims" set out in Section Two of this Article shall require an affirmative vote of 66 2/3% of the Members of each class prior to the institution of such litigation.

## ARTICLE XIII

### GENERAL PROVISIONS

Section One. Enforcement. The Association, Declarant, or any Owner, shall have the right to enforce, by proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration and Master Deed. Failure by 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 Two. 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 Three. Amendment. The covenants and restrictions of this Declaration and Master Deed shall run with and bind the land, for a term of twenty (20) years from the date this Declaration and Master Deed is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration and Master Deed may be amended during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot and/or Unit Owners, and thereafter by an instrument signed by not less than sixty-six and two-thirds percent (66 2/3%) of the Lot and/or Unit Owners.

Section Four. Management and Contract Rights of Association. Declarant shall enter into a contract with a Management Company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the Properties. Declarant contemplates that the initial manager may be the Declarant or a firm affiliated with the Declarant. No such management contract shall be binding upon the Association except through express adoption or ratification of the terms and conditions of such contract. Any such contract or lease entered into by Declarant or by the Association while Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract, without justification or penalty, upon ninety days notice after transfer of management by Declarant to the Association.

Section Five. FHA/VA Approval. As long as there is a Class C membership, the following actions will require the prior written approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties not included in Exhibit "C," dedication of Common Area, and amendment of this Declaration of Covenants, Conditions, and Restrictions and Master Deed.

Section Six. Rights of Noteholders. Any institutional holder of a first mortgage on a Lot and/or Unit will, upon request, be entitled to (a) inspect the books and records of the Association during normal business hours, (b) receive an annual financial statement of the Association within ninety (90) days following the end of its fiscal year, (c) receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage, (e) receive written notice of any sixty-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association, (g) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, and (h) be furnished with a copy of the master insurance policy.

Section Seven. Notices. Any notice required or desired to be given under the provisions of this Declaration shall be deemed to have been properly delivered when deposited in the United States mail, postage prepaid, directed to the last known Mortgage Holder or other party entitled to notice, at the last known address for each such party, all as shown on the books and records of the Association at the time such notice is given.

Section Eight. Default by Association. Upon default by the Association in the payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Areas and Common Elements, which default shall continue for a period of six (6) months, each owner of a Lot and/or Unit in the development shall become personally obligated to pay to the jurisdiction a portion of the taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of Lot and/or Units in the development. If the sum is not paid by the owner within thirty (30) days following receipt of the notice of the amount due, the sum shall become a continuing lien on the properties of the owner, his heirs, devisees, personal representatives, and assigns. The taxing or assessing jurisdiction may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the owner.

Section Nine. Expansion Option. The Declarant expressly reserves the option and right, but not the obligation, to expand the Wynbrooke Horizontal Property Regime and Master Deed application; and, subject to this Master Deed and the Act, to submit to the Wynbrooke Horizontal Property Regime all or any portion of the additional property described on Exhibit "C"; including any improvements thereon. Except as contained in this Paragraph, there are no limitations upon this option to expand. No property shall hereafter be made subject to this Master Deed without being subject to the Declaration.

(a) This option to expand shall expire seven (7) years from the date of recording this Master Deed, unless all of the additional property shall have been subjected to this Master Deed before that time; provided that the time may be extended by the affirmative vote or written consent, or any combination of affirmative vote and written consent, of two-thirds (2/3) of the Class B Members of the Association, excluding any

votes held by Declarant, at any time during the year preceding the time the option would otherwise expire.

(b) The property in Exhibit "B" and "C" may be developed in phases, with each phase being submitted to this Master Deed in stages. The property within each additional phase shall be submitted to this Master Deed, if at all, within seven (7) years after the filing of this Master Deed or within seven (7) years after the filing of the most recent amendment submitting a portion of the Additional Property to this Master Deed. The percentage interest of each Unit Owner at each stage of development, if an election is made to proceed with all stages of development, shall be calculated in accordance with Exhibit "F." The additional property within any phase may be added as a whole at one time or in one or more portions at different times in accordance with the terms herein, or it may never be added. The property submitted to this horizontal property regime need not be contiguous and the failure to exercise the option as to any portion of the additional property shall not bar the further exercise of the option as to any other portions of the additional property.

(c) There are no limitations on the locations or dimensions of improvements to be located on the additional property. No assurances are made as to what, if any, further improvements will be made by Declarant on any portion of the additional property.

(d) The maximum number of Units that may be created in the horizontal property regime is One Hundred Forty (140) and the maximum number of the Units that may be created on the additional property is One Hundred Thirty-Six (136).

(e) The Additional Property, when and if subjected to this Master Deed and Declaration, shall be subject to all use restrictions contained in this Declaration and Master Deed or subsequently promulgated in accordance herewith.

(f) No representations are made that any structures and improvements placed, constructed, replaced, or reconstructed on the additional property, if subjected to this Master Deed, will be compatible with or the same as or similar to the existing Units as to quality of construction and architectural style. No assurances are made with respect to materials to be used in improvements placed on the additional property.

(g) No assurances are made that Units constructed on the additional property will be substantially identical to those constructed on the properties described in Exhibit "B."

(h) The Declarant shall have the unlimited right to assign some of the additional property as Limited Common Elements.

(i) If the option to expand the horizontal property regime is exercised, the undivided interest in the Common Elements, the liability for Common Expenses, and votes in the Association shall be reallocated according to the formula set forth in Exhibit "F."

(j) This option to expand shall be exercisable unilaterally by the Declarant and the consent of Owners shall not be required. Declarant shall have the unilateral right to reallocate percentages of undivided interests in the Common Elements, liability for payment of Common Expenses, and allocation of votes in the Association, all to be done in accordance with the limitations described above. The Declarant shall exercise the option by its adoption, execution, and recordation of an amendment to this Master Deed and by recording such plats, certifications, and plans as may be required by the Act:

Section Ten. Agreement Regarding Assessments. This Declaration and Master Deed constitutes the unanimous Agreement among all Owners regarding the system of assessments set forth herein. The Owners expressly intend that any provision of this Declaration and Master Deed that is determined to be in conflict with the Act shall be given its full force and effect to the extent the Act may be modified by unanimous agreement of the Owners.

Section Eleven. Notice. All activities on or over and all uses of any submerged land or other critical areas are subject to the jurisdiction of the South Carolina Department of Health and Environmental Control, including, but not limited to, the requirement that any activity or use must be authorized by the South Carolina Department of Health and Environmental Control. Any Owner is liable to the extent of his or her ownership for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning any submerged land, coastal waters or any other critical area.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed pursuant to the authority of its Members, the day and year first above written.

Signed, Sealed and Delivered
in the presence of:

PORTRAIT HOMES-Myrtle Beach, L.L.C., an Illinois limited liability company

Witness

By: John J. Giampoli
Its: Vice President

Witness

STATE OF ILLINOIS

COUNTY OF COOK

I, Paloma Y. G. Riordan, a Notary Public in and for said County do hereby certify that JOHN J. GIAMPOLI, personally appeared before me this day and acknowledged that he is the Vice President of PORTRAIT HOMES - Myrtle Beach, L.L.C., an Illinois limited liability company and that by authority duly given and as the act of the limited liability company, the foregoing instrument was signed in its name by its Vice President.

Witness my hand and official seal this 27th of March, 2001.

Notary Public

My Commission Expires: 5-19-03

(SEAL)

"OFFICIAL SEAL"
Paloma Y.G. Riordan
Notary Public, State of Illinois
My Commission Expires 5/19/03

## EXHIBIT "A"

## PROPERTY SUBJECTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WYNBROOKE

All and singular, that certain piece, parcel or tract of land located in Socastee Township, Horry County, South Carolina, being a 23.48 acre tract of land, shown and depicted upon a survey entitled "23.48 acre portion of 48.24 acres owned by Portrait Homes- Myrtle Beach, LLC" and prepared by ETS Engineering and Technical Services, Inc., dated February 14, 2001, and recorded on April 11th, 2001, in Plat Book 176 at Page 64, in the Office of the Register of Deeds, for Horry County, South Carolina. Said 23.48 acre tract specifically does not include the proposed Phase Sites (6.04 acres) nor the area designated Future Development Tract (18.72 acres), which are depicted as unshaded areas on the aforesaid survey.

Declarant, pursuant to Exhibit "B", will subject Phase II-E to the Declaration of Covenants, Conditions and Restrictions for Wynbrooke and Master Deed for Wynbrooke Horizontal Property Regime ("Declaration") and reserves the right, as set forth in the Declaration, to submit the remaining Proposed Phases and the Future Development tract to the terms and provisions of the Declaration by filing duly executed amendments.

## EXHIBIT "B"

## PROPERTY SUBJECTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WYNBROOKE AND MASTER DEED FOR WYNBROOKE HORIZONTAL PROPERTY REGIME

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All and singular, that certain piece, parcel or tract of land located in Socastee Township, Horry County, South Carolina being shown and depicted upon a plat entitled "As-Built Survey of Building No. 2, Units 201-204, Phase II-E, Wynbrooke Horizontal Property Regime for Portrait Homes - Myrtle Beach, LLC, located in Socastee Township, Horry County, South Carolina", prepared by ETS - Engineering and Technical Services, Inc., dated April 5, 2001, and recorded in Plat Book 176 at Page 65, in the office of the Register of Deeds for Horry County, South Carolina, which is by reference made a part of this description.

## EXHIBIT "C"

## ADDITIONAL PROPERTIES THAT MAY BE SUBMITTED TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WYNBROOKE AND MASTER DEED FOR WYNBROOKE HORIZONTAL PROPERTY REGIME

All and singular, those certain pieces, parcels or tracts of land situate, lying and being in Socastee Township, Horry County, South Carolina, containing 24.76 acres, more or less, being shown and described as Proposed Phases A through O (shaded areas), containing 6.04 acres (Future Villa Sites) and Future Development Tract, containing 18.72 acres, (shaded areas) on that certain plat entitled "24.76 acre portion (Future Development) of 48.24 acres owned by Portrait Homes - Myrtle Beach, LLC" prepared by ETS - Engineering and Technical Services, Inc., dated February 14, 2001 and recorded April 11th, 2001 in Plat Book 176 at Page 66, in the Office of the Register of Deeds for Horry County, South Carolina, which is by reference made a part of this description.

Declarant by virtue of this Declaration of Covenants, Conditions and Restrictions for Wynbrooke and Master Deed for Wynbrooke Horizontal Property Regime ("Declaration") has caused all other areas of the 48.24 acre tract to be subject to the Declaration reserving the right to submit the Proposed Phase Sites (shaded area) and the Future Development tract (shaded area) as shown on the aforesaid plat, at some future point in time to the Declaration.

EXHIBIT "D"

# ARTICLES OF INCORPORATION
# OF
# WYNBROOKE HOMEOWNERS ASSOCIATION, INC.

In compliance with the requirements the South Carolina Nonprofit Act §33-31-10 et seq. Code of Laws of South Carolina (1976), as amended, the undersigned, a natural person of full age, has this day executed these Articles of Incorporation for the purpose of forming a non-profit corporation and hereby certifies:

## ARTICLE I
## NAME

The name of the corporation is **WYNBROOKE HOMEOWNERS ASSOCIATION, INC.**, hereinafter called the "Association."

## ARTICLE II
## REGISTERED OFFICE AND INITIAL AGENT

The principal office and the office of the registered agent of the Association is located at 11947 Grand Haven Drive, Unit N, Murrells Inlet, South Carolina 29576. The location of the registered office may be changed by a majority vote of the Board of Directors. The name of the initial registered agent at the above address is **David Trimmer**. The principal office and the office of the registered agent is located in Horry County, South Carolina.

## ARTICLE III
## PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate a pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation, and architectural control of the Lots and/or Units and Common Areas and Common Elements within that certain tract of property described in Article I of the Declaration of Covenants, Conditions and Restrictions for Wynbrooke and which is incorporated herein by reference, and to promote the health, safety, and welfare of the Owners within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association, and for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions, and Restrictions recorded in or to be recorded in the County of Horry Public Registry, applicable to the above described property, as

the same may be amended from time to time, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect, and enforce payment by any lawful means all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use, or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of members entitled to at least two-thirds (2/3) of the votes appurtenant to each Lot and/or Unit, mortgage, pledge, deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the property rights of the members of the Association, as provided in Article III of the Declaration;

(e) dedicate, sell, or transfer all or any part of the Common Area to any public agency, authority, utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class A, Class B and Class C Members, agreeing to such dedication, sale, or transfer;

(f) participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the consent of the members as provided in paragraph (d) above; and

(g) have and to exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation Act of the State of South Carolina §33-31-101 et seq. Code of Laws of South Carolina (1976), as amended, may now or hereafter have or exercise.

## ARTICLE IV
## FINANCE

This corporation is a non-stock corporation and no part of the profits (if any) of the corporation shall inure to the pecuniary benefit of its members or to any other person. This corporation is a mutual benefit corporation.

## ARTICLE V
## MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot and/or Unit which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot and/or Unit which is subject to assessment by the Association.

## ARTICLE VI
## VOTING RIGHTS

The Association shall have three classes of voting membership:

Class A. Class A Members shall be all Owners of a Lot with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B Members shall be all Owners of a Unit with the exception of the Declarant and shall be entitled to one (1) vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be Members. The vote for such Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Unit.

Class C. Class C Member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot and/or Unit owned. The Class C membership shall cease and be converted to Class A or B membership, whichever is applicable, on the happening of either of the following events, whichever occurs later:

(a) When the total votes outstanding in Class A and B membership equal the total votes outstanding in Class C membership; or

(b) Five years from the date of recording this Declaration or any Supplement adding additional land under Article I, whichever is later.

## ARTICLE VII
## BOARD OF DIRECTORS

The affairs of this Association shall be managed by an initial Board of six (6) Directors who need not be members of the Association. Declarant shall appoint the Directors until the ~~Class C membership ceases. The number of Directors may be changed by amendment of the By-~~ laws of the Association.

## ARTICLE VIII
## DISSOLUTION

The Association may be dissolved only upon the signed written assent of the members entitled to not less than three-fourths (3/4) of the votes appurtenant to each Class A, Class B and Class C Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was credited. In the event that such dedication is refused, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust, or other organization to be devoted to such similar purposes.

## ARTICLE IX
## DURATION

The period of existence of this Corporation is unlimited

## ARTICLE X
## AMENDMENTS

Amendment to these Articles shall require the assent of the members entitled to at least three-fourths (3/4) of the entire vote of the membership.

## ARTICLE XI
## FHA/VA APPROVAL

As long as there is a Class C membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: annexation of additional properties, mergers and consolidations, mortgaging of Common Areas, public dedication of Common Areas, and dissolution and amendment of the Articles.

## ARTICLE XII
## INCORPORATOR

The name and address of the incorporator is as follows:

David Trimmer
3471 Phillis Blvd.
Myrtle Beach, South Carolina 29577

**IN WITNESS WHEREOF**, I, the undersigned incorporator have hereunto set my hand and seal, this the 28th day of MARCH, 2001.

(SEAL)
**DAVID TRIMMER , Incorporator**

STATE OF SOUTH CAROLINA )
)
COUNTY OF HORRY )

I, James Taylor, a Notary Public in and for said County and State aforesaid, do hereby certify that **DAVID TRIMMER** personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial seal, this the 28th day of March, 2001.

Notary Public for South Carolina
My Commission Expires: 1-7-2009

## Exhibit "F"

### Plot Plan, Floor Plan, Unit and General and Limited Common Element Description

Exhibit "F" incorporates into this Master Deed an As-Built Survey showing the location of the building, units and other improvements being submitted herein and a set of Floor Plans of the buildings and Units, which collectively show graphically the dimensions, area and location of the units Limited Common Elements and the common elements appurtenant thereto and affording access to each Unit. These documents are hereinafter collectively called the Regime Plans. The Floor Plans are recorded in Condominium Plat Book D, at Page 6, records of Horry County, South Carolina and the As-Built survey is recorded in Plat Book 176 at Page 67, records of Horry County, South Carolina.

The As-Built Survey was prepared by ETS Engineering and Technical Services, Inc., dated March 5, 2001 and the Floor Plans were prepared by James Wentling - Architect, dated April 18, 2000 and last revised February 06, 2001. The aforesaid Floor Plans include a cover page entitled "Wynbrooke Villas Series Condominium for Portrait Homes Construction Co.", page B-1.1.1 entitled "Building Type 4A - Reverse Building Plan" and Page B-2.1, entitled "Building Type 4A - Reverse Elevations". Also specifically incorporated within the Floor Plans by reference are the documents listed under the contents portion on the cover page, referenced hereinabove.

The As-Built Survey shall control as to the location of the building and the Floor Plans shall control as to the dimensions of each building and the Units contained therein. Said Exhibit further includes the following: Within Phase I there is one building which contains four Units. Each Unit is also designated as either *A*(Ashton), *B*(Berkley), *D*(Devonshire), and *E*(Elgin) on the Floor Plans. All Units with the same letter designations shall have similar floor plans and square footage. The letter designation of the Units as shown on the Floor Plans will not be used to identify or describe legally or otherwise the Unit, but, rather, is used to identify the type of Unit.

As set forth above, all units are designated as either an *A, B, D* or *E* type unit on the Floor Plans. Within Phase I, there are two (2) Type *A* units (201 and 204) and two (2) Type *B* Units (202 and 203). An *A* type Unit contains a master bedroom, a second bedroom/sitting room, a third bedroom/den, two (2) bathrooms, closets, a kitchen, a dining room, a family room, a two (2) car garage and a covered patio and porch, all graphically shown on the Floor Plans referenced hereinabove. An *B* type Unit contains a master bedroom, a second bedroom, a den, two (2) bathrooms, closets, a kitchen, a dining room, a family room, a two car garage and a covered patio and porch, all graphically shown on the Floor Plans referenced hereinabove.

Each Unit has an entrance door opening onto a walkway, as shown on the As-Built Survey and Floor Plans, which walkway is a Limited Common element to the Unit to which it is attached. Also, all landscaped areas around the exterior boundaries of the building shall constitute a Limited Common element, to the respective Units, as more fully shown and depicted on the As-Built Survey and the Floor Plans. Parking is provided in the driveways located adjacent to the Unit, as shown on the As-Built Survey and the Floor Plans. Each driveway shall constitute a Limited Common element to the Unit to which it is attached.

As to each Unit, all built in kitchen appliances, the refrigerator, air conditioning Units and condensers, and hot water heaters located in each Unit or serving each Unit are part of the Unit in which they are located and are not Common Elements. In addition, the air handling Units which

serve each Unit are part of the Unit and are not Common Elements, notwithstanding that they are located outside of the Unit. Reference to Unit or areas as Common Elements or areas as Limited Common Elements in this exhibit shall be in addition to and read in conjunction with the further designations of the word Unit, Common Elements, and Limited Common Elements, as set out in other portions of this Master Deed, and the Survey and Plans making up the balance of this Exhibit "F". This Exhibit "F" shall be amended if Phases II through XXXV, or any one or more of them, shall become part of the Horizontal Property Regime in accordance with the terms of this Master Deed.

## Exhibit "G"

### Percentage of Ownership Interest

The Schedule of percentage of undivided interest in the common elements appurtenant to the Units in Wynbrooke Horizontal Property Regime, including Phase I, and likewise if Declarant develops Phases II through XXXV, inclusive is set out below. Also, the Statutory values set out below are for statutory purposes only and have no relationship to the actual value of each Unit.

PHASE I

| UNIT NUMBER | UNIT TYPE | VALUE FOR STATUTORY PURPOSE | PERCENTAGE OF INTEREST IN THE COMMON AREA |
|---|---|---|---|
| 201 | A | $150,000.00 | 25.0% |
| 202 | B | $150,000.00 | 25.0% |
| 203 | B | $150,000.00 | 25.0% |
| 204 | A | $150,000.00 | 25.0% |
| Total | | $600,000.00 | 100 % |

In addition to Phase I, which contains four (4) units, up to an additional thirty-five (35) phases may be added as Phases II through XXXV, or any of them for a total of 140 units or additional real estate annexed pursuant to Article I section 3 of the Declaration. Declarant anticipates submitting one (4) unit building in each Phase, but reserves the right to submit more than one building in a phase. In any event, the maximum number of Units that the Declarant may construct is 140 units. As each phase is added, the total statutory value of all phases submitted and comprising Wynbrooke Horizontal Property Regime and the percentage interest of each Unit shall be determined. To determine the percentage interest of each Unit utilize a formula with the statutory value of each Unit set forth in the chart below as the numerator with the total statutory value of Wynbrooke Horizontal Property Regime at that time, (including the phase being submitted and any phases previously submitted) as the denominator. The resulting fraction shall then be expressed as a percentage rounded to the nearest .0001 (i.e. If Phase II is added submitting four additional units valued at $150,000.00 each, then the percentage ownership interest for each Unit in Phase I and II shall be 12.5 percent)

The percentage as determined above shall be the percentage of undivided interest appurtenant to each Unit in Phases I through XXXV. In the event the Declarant elects to proceed with the development of Phases II through XXXV, or so many of said phases as it might elect, then, as of the date of the recording of the amendment incorporating each additional phase, the percentage interest, appurtenant to each Unit in the Common Elements, will automatically be the percentage set forth in the chart which Declarant must record as part of its election to construct Phases II through XXXV, or so many of said Phases as Declarant might elect. Said percentage is to be determined by the ratio of the statutory value of the individual Unit as the same bares to the statutory value of the property of the whole property. The assigned values to be reflected in the chart for the Units in additional phases shall have values as provided in the following chart depending on the type of Unit involved:

| Type | Statutory Value |
|---|---|
| A | $150,000.00 |
| B | $150,000.00 |
| D | $150,000.00 |
| E | $150,000.00 |

The Declarant may construct in Phases II through XXXV any combination of A, B, D & E type Units, provided that the Declarant specifies, in the chart amending this Exhibit "G", the percentage of interest of each Unit in Phase I and so many additional phases as might have at that time been incorporated hereunder, using the values of the different type Units assigned above.

Each additional phase shall have a minimum total statutory value based on the sum of all statutory values of the Units within the phase of $600,000.00. The statutory value for additional phases set forth above assumes that four Units are submitted as an additional phase and that each Unit has a statutory value of $150,000.00. The maximum statutory value for all the additional phases assumes that the maximum number of Units, one hundred forty (140) are being submitted and that each of those Units has a statutory value of $150,000.00. Therefore, the percentage interest of each Unit within Phase I, at any time during the development and submission of additional phases to Wynbrooke Horizontal Property Regime, may be determined by the use of the formula hereinafter provided.

The actual percentage interest of each Unit may be computed in accordance with the following formula with the result obtained from such formula being then expressed as a percentage:

$$\frac{\text{Statutory Value of the Unit}}{\text{Total Statutory Value of all Units submitted to the Horizontal Property Regime.}} = \text{Percentage Interest of the Unit (Expressed as as a Percentage)}$$

James Wentling/Architect

100 South Broad Street Suite 2110
Philadelphia, Pennsylvania 19110-1023
215/977-8440

James W Wentling, AIA

February 21, 2001

## ARCHITECT'S CERTIFICATION

The attached floor plans and elevations consisting of three (3) sheets numbered cover (most recently revised July 19, 2000), B-1.1.1 (dated February 6, 2001) and sheet B-2.1 (most recently revised February 6, 2001) prepared by James Wentling/Architect show graphically the layout, dimensions, area, Unit numbers and the location of the Unit therein; and the dimensions, area and location of the common elements affording access to each Unit.

James W. Wentling, AIA
Principal
James Wentling/Architect

