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**AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF THE ASSOCIATION OF LANDOWNERS
OF PORT ROYAL PLANTATION, INC.**

THIS DECLARATION, made this 10th day of March, 1999 by The Association of Land Owners of Port Royal Plantation, Inc., a South Carolina non-profit corporation, hereinafter called "Association."

WITNESSETH:

WHEREAS, on or about March 1, 1973, The Hilton Head Company, a South Carolina Corporation, made its Declaration of Covenants, Restrictions, Easements, Charges and Liens, which included Protective Covenants and Restrictions (hereinafter collectively referred to as "Declaration") encumbering certain real property located on Hilton Head Island, Beaufort County, South Carolina, and more particularly described therein; and

WHEREAS, the Declaration was recorded in the Office of the Clerk of Court for Beaufort County, South Carolina on March 4, 1973 in Deed Book 209 at Page 631; and

WHEREAS, the Declaration was amended by an instrument recorded in the Office of Register of Deeds for Beaufort County, South Carolina, ("RD Office") in Deed Book 338 at Page 789 and subsequently amended by an instrument recorded in the RD Office in Deed Book 369 at Page 177; and

WHEREAS, the declarant rights reserved by The Hilton Head Company, Inc., have been assigned to the Association by instrument recorded in the RD Office in Deed Book 517 at Page 1765; and

WHEREAS, Plans Approval Board functions were assigned to the Association by an instrument recorded in the RD Office in Deed Book 517 at Page 1770; and

WHEREAS, the Declaration as amended provides that the terms thereof, other than the provisions of the 1973 Protective Covenants and Restrictions, may be amended by an affirmative vote of two-thirds (2/3) of the total membership of the Association; and

WHEREAS, pursuant to the Declaration and the By-Laws of the Association a Special Referendum was called for the purpose of permitting the Members of the Association to vote on additional amendments to the Declaration, which voting closed at midnight, December 31st, 1998; and

WHEREAS, pursuant to an affirmative vote of two-thirds (2/3) of the total membership by said Special Referendum the Association approved, ratified and adopted the Amended and Restated Declaration, as herein set forth.

NOW, THEREFORE, the Association declares that the real property described in Article II and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the declaration of covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations and liens (hereinafter sometimes referred to as the "Amended and Restated Declaration") hereinafter set forth.

ARTICLE I

DEFINITIONS:

Section 1. The following words and terms when used in this Amended and Restated Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to The Association of Land Owners of Port Royal Plantation, Inc., a South Carolina non-profit corporation, its successors and assigns.

(b) "Board" shall mean the Board of Directors of the Association.

(c) "Plantation" shall mean and refer to all properties including lots, homesites and common areas as are subject to or to be made subject to this Amended and Restated Declaration.

(d) "Residential Lot" shall mean any unimproved parcel of land located within the Plantation which is intended for use as a site for one single family attached dwelling unit or one single family detached dwelling unit, as shown upon any recorded final subdivision map of any part of the Plantation. A parcel of land shall be deemed to be unimproved until the slab or foundation of the approved Family Dwelling Unit is in place.

(e) "Family Dwelling Unit" shall mean and refer to any one lot in the Plantation with improvements thereon constituting a single family dwelling.

(f) "Owner" shall mean and refer to the title holder as shown by the real estate records in the RD Office whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot, Family Dwelling Unit or Golf Course, but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall Owner mean or refer to any lessee or tenant of an Owner. In the event that there is recorded in the RD Office, a long-term contract of sale covering any Residential Lot or Family Dwelling Unit, the Owner shall be the purchaser under said contract so long as it remains in force and effect and the Association is provided with a copy of the recorded contract, unless the contract expressly provides to the contrary. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond 9 months from the date of the contract, and where the purchaser does not receive title to the property until such payments are made although the purchaser is given the use of said property.

(g) "Member" shall mean and refer to all those Owners who are Members of the Association as provided in Section 1 of Article III hereof.

(h) "Non-Member Owner" shall mean and refer to the owners of the lots as defined in ARTICLE II, Section 2 hereof.

(i) "Plat" shall mean the plat recorded in the RD Office, in Plat Book 31 at Page 104.

(j) "Common Areas" shall mean and refer to those areas designated as such on the Plat, and such other areas as may be designated from time to time by the Board as Common Areas

(k) "Referendum" shall mean and refer to the power of the Members to vote by mailed ballots on certain actions of the Association as provided elsewhere.

(l) "Golf Course" shall mean and refer to that area or any portion thereof shown and labeled as such on the Plat. All of such area shown on the Plat as Golf Course shall be used for golf course purposes only and The Hilton Head Company, Inc., as the then owner, has agreed that such restriction shall be a covenant running with the land.

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(m) "Golf Course Hole" is the term used to refer to each of the 36 holes of the two golf courses located within the Plantation.

(n) "In good standing" shall mean in full compliance with the contents of this Amended and Restated Declaration and current on all assessments levied by the Association.

(o) "Single Family Residential" as used herein shall refer not only to types of dwelling construction but also to the type of use as more fully described in ARTICLE VII, Section 3 hereof.

(P) "Association Property" shall mean and refer to all real property owned by the Association.

(q) "By-Laws" shall mean the By-Laws of the Association of Land Owners of Port Royal Plantation, Inc.

ARTICLE II

THE PLANTATION:

Section 1. The Plantation. The Plantation shall mean and refer to all properties including lots, homesites and common areas as are subject to or to be made subject to this Declaration.

Section 2. Addition to the Plantation by Others. The owners of any unimproved parcel of land adjacent to or within The Plantation which is intended for use as a site for a single family dwelling ("lot") or such a lot with a single family dwelling thereon ("dwelling unit") or common area which is not encumbered by the Declaration, as amended, may subject the lot, dwelling unit or common area to this Amended and Restated Declaration by executing an Acknowledgment of Assent with the express written consent of the Board and recording the same in the RD Office. By the execution and recordation of the Acknowledgment of Assent, a lot becomes a Residential Lot and dwelling unit becomes a Family Dwelling Unit, as both are defined herein.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION:

Section 1. Membership. Every person who is an Owner (as defined in ARTICLE I) shall be a member of the Association.

The owner or owners of fee simple title to any Residential Lot or any attached or detached Family Dwelling Unit shall also be members of the Association as and when said Residential Lots or Family Dwelling Units are finally platted of record.

Section 2. Voting Rights. The Members of the Association shall be entitled to one (1) vote for each Residential Lot, Family Dwelling Unit or Golf Course hole which he owns.

When any property entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, or in any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, their acts with respect to voting shall have the following effect:

- (a) If only one vote, in person or by proxy, his act binds all;
- (b) If more than one vote, in person or by proxy, the act of the majority so voting binds all;
- (c) If more than one vote in person or by proxy, but the vote is evenly split on any particular matter, each fraction shall be entitled to its proportionate share of the vote or votes;
- (d) If the instrument or order so filed shows that any such tenancy is held in unequal interest, a majority or even split for purposes of this paragraph shall be a majority or even split in interest.
- (e) The principles of this paragraph shall apply, insofar as possible, to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum and participation in Referendums as herein provided.

The voting rights of any Owner may not be assigned except by proxy to another Owner or spouse of an Owner.

Section 3. Board of Directors. The Association shall be governed by the Board consisting of twelve (12) members, as provided for in the By-Laws of the Association.

Section 4. Referendum. Where specifically provided for herein, the Members shall have the power in a referendum to approve or reject certain actions proposed to

be taken by the Association by Referendum including, without limitation, the levy by the Association of any Special Assessment, and the addition or deletion of functions or services which the Association is authorized or required to perform.

ARTICLE IV

PROPERTY RIGHTS IN THE COMMON AREAS:

Section 1. Member's Easement of Enjoyment. Subject to the further provisions of this ARTICLE IV, every Member in good standing shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Residential Lot, Family Dwelling Unit or Golf Course hole within the Plantation except as otherwise limited or modified herein. Lessees shall have all of the rights of this Section (i.e., the use and enjoyment of the Common Areas) belonging to an Owner, with the exception that they are not permitted to vote and are not required to pay any assessment since the vote and the assessment remain with the Residential Lot, Family Dwelling Unit or Golf Course Owner.

Section 2. Extent of Member's Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with the By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Areas, and providing services authorized herein and in aid thereof to mortgage said properties; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Areas against foreclosures; and

(c) The right of the Association, as provided in the By-Laws to suspend the voting and other rights and easements of enjoyment of any Member or lessee or guest of any Member for any period during which the payment of any assessment against property owned by such Member remains delinquent, and for any period not to exceed one hundred eighty (180) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment, and provided that the Association shall not suspend the right to use the roads belonging to the Association for purpose of ingress and egress to the Member's lot, subject to the rules, regulations and fees, if any, established by the Association for such use.

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Areas, and any facilities included therein, including a reasonable toll for the use of the roadways on the basis of equal fees to all users, provided that such rights of the Association shall not be construed to impair or qualify an Owner's rights of ingress and egress to his property.

(e) The Board shall have full discretion to determine the amount of the fee or toll for use of said roadways; provided, however, that such fee or toll shall be limited to an amount which generates sufficient sums to the Association to cover the cost of the operation of entry control security stations; to repair, rehabilitate, resurface and otherwise maintain said roadways; to provide for the maintenance and clean-up of right-of-ways; to provide drainage along said roadways and to provide for motorized security patrols. The Board shall further have the power to place any reasonable restrictions upon the use of the Association's roadways, subject to an Owners' and Non-Member Owners' rights of ingress and egress, if applicable, including but not limited to the types and sizes of vehicles permitted to use said roads, the maximum and minimum speeds of vehicles using said road, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using said road. The fact that such restrictions on the use of the roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Plantation shall not make such restrictions unreasonable. This paragraph (e) establishes a maximum charge restriction on fees which may be charged for road entry and use of roads. The Board may supplement, with an allocation of a portion of the receipts from the annual assessment on the property, the funds (if any) received from road use fees or tolls, to carry out the functions and activities as described in this paragraph (e).

(f) The right of the Association by its Board to dedicate or transfer to any public or private utility, utility easements on any part of the Common Areas.

(g) The right of the Association to give or sell a portion or part of the Common Areas, including lease-hold interests, to any public agency, authority, public service district, or public or private utility or private concern for such purposes and subject to such conditions as may be established by the Board; provided that no such gift or sale or determination as to the purposes or as to the conditions thereof as to the conveyance to a private concern shall be effective unless such dedication, transfers and determinations as to purposes and conditions shall be authorized by a Referendum requiring the affirmative vote of two-thirds (2/3) of the total Membership in such Referendum. A true copy of such resolution which is adopted by such Referendum together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instru-

ment of dedication or transfer affecting the Common Areas prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

Section 3. Easement of Enjoyment by Owners of the Golf Course or Courses.

The owners of one or both of the Golf Courses shall be entitled to four (4) use permits per Golf Course to the Common Areas which use permits shall carry with them the use by guest and the Golf Course's principal executive officers the same rights and privileges as those enjoyed by Members.

ARTICLE V

COVENANTS FOR ASSESSMENTS:

Section 1. Creation of the Lien and Personal Obligations of Assessments.

Each Owner of any Residential Lot, Family Dwelling Unit or Golf Course hole and each Member whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and to pay to the Association: (1) annual provisions of this Amended and Restated Declaration and assessments or charges; and (2) special assessments or charges for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments together with such interest thereon and costs of collection therefore as hereinafter provided, shall be a charge and continuing lien on the Residential Lot, Family Dwelling Unit or Golf Course hole and improvements thereon against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment first became due and payable. In the case of co-ownership of a Residential Lot, Family Dwelling Unit or Golf Course hole, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment.

Section 2. Purpose of Assessment.

The annual assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, enlargement, security and operation of the Common Areas, and to provide services which the Association is authorized to provide. In carrying out these duties, the Association may make payment of taxes and insurance thereon, make improvements on Common Areas, pay the cost of labor, equipment, materials, management, supervision, accounting, and Member information services, maintain offices and equipment, repay any loans made to the Association, and take such other action as is necessary to carry out its authorized functions.

Section 3. Application of Regular Annual Assessment. The regular annual assessment shall be levied by the Board so that the important and essential functions of the Association may be properly funded, but the annual assessment shall not be more than the applicable maximum regular annual assessment, as set forth in the schedule hereinbelow. If the Board shall determine that the important and essential functions of the Association can not be funded by the regular annual assessment, the Board may levy a supplemental assessment but in no event shall the sum of the regular annual assessments and the supplemental assessments for that year exceed the applicable maximum regular annual assessments.

The maximum regular annual assessment amount shall be the sum calculated in accordance with the following schedule as may be increased in each instance by an inflation adjuster as set forth in this Article V, Section 3 (e) hereinbelow.

	Maximum Regular Annual Assessment
(a) Each Family Dwelling Unit and each Golf Course Hole	\$1,427.00 per unit or hole
(b) Each Residential Lot	85% of the regular annual assessment for each Family Dwelling Unit and each Golf Course Hole.

(c) For purposes of these assessments hereunder, a property will be classed as a Residential Lot, and not as a Family Dwelling Unit, until the slab or foundation is in place, and assessment at the improved property rate shall begin on the next January 1st thereafter.

(d) The assessments charged by the Association shall be rounded off to the next nearest dollar.

(e) Beginning January 1 1998, maximum regular annual assessment may be increased each year by the Board by an amount not in excess of ten (10%) percent per year, or the percentage increase between the first month and the last month on an annual assessment period in the Consumer Price Index, U. S. City Average, all Items (1967=100) (hereinafter referred to as "CPI") issued by the U. S. Bureau of Labor Statistics in its monthly report for November of the preceding calendar year entitled "The Consumer Price Index, U. S. City Average and Selected Areas" whichever of these two percentage figures is larger, unless two-thirds (2/3) of the votes cast at a duly called meeting of the Association, subject to the quorum requirement established by the By-Laws, vote against such increase or vote to increase said annual assessment by a greater amount or to decrease the maximum regular annual assessment. In the event

that the CPI referred to above shall be discontinued, there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living. Notwithstanding anything contained herein to the contrary, the Board is not obligated to charge the maximum regular annual assessment.

Any increase or decrease in the fixed amount of the annual maximum regular assessment shall be made in such a manner that the percentage increase or decrease in such maximum assessment is the same for Owners of Residential Lots, Family Dwelling Units and Golf Course holes

Section 4. Special Assessments for Improvements and Additions. In addition to the annual regular maximum assessments authorized by Section 3 hereof, the Association may levy special assessments, for the purpose of construction or reconstruction, repair or replacement of capital improvements upon the Common Areas including the necessary fixtures and personal property related thereto, or for additions to the Common Areas to provide for the necessary facilities and equipment to offer the services authorized herein, and repay any loan made to the Association to enable it to perform the duties and functions authorized herein, provided that such assessment shall have received the assent of a majority of the votes of the Members voting in a mail Referendum within thirty (30) days of mailing, with such mail Referendum to include a statement prepared by the Directors of the Association favoring such assessments stating the reasons therefor, together with a statement prepared by the Directors dissenting from such assessment. This provision shall be interpreted to mean that the Association may make in any one year a regular annual assessment up to the maximum set forth in Section 3 of this **ARTICLE V** plus an additional special assessment which additional special assessment may not exceed the amount set for the maximum regular annual assessment on any particular class or type property. The fact that the Association has made a regular annual assessment for an amount up to the permitted maximum shall not affect its right to make a special assessment during the year.

The proportion of each special assessment to be paid by the owners of the various classifications of assessable property shall be equal to the sum of the total applicable regular maximum annual assessments of all property in that class for the assessment year during which such special assessments are approved, expressed as a percentage of the sum of the total applicable maximum regular annual assessments on all property within the Plantation for the year during which such special assessment is approved. Such special assessment in any one year may not exceed a sum equal to the amount of the maximum regular annual assessment for such year except for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

The Association may establish reserve funds equal to 10% of its receipts from its regular annual assessments each year to be accumulated and held in reserve in an interest drawing account or investments as a reserve for (a) rehabilitation or repairs, and (b) for emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss.

Section 5. Date of Commencement of Annual Assessments. Due Date. Notwithstanding anything in the foregoing to the contrary, the regular annual assessments provided for herein shall commence on January 1, 1998. Unless otherwise provided herein, property shall be assessed according to its character as of January 1 of the assessment year, i.e., Residential Lot, Family Dwelling Unit or Golf Course hole. An assessment shall be deemed past due if payment is not received by the Association by January 31 of the year.

Section 6. Duties of the Board The Board shall fix the amount of the assessment against each Residential Lot, Family Dwelling Unit or Golf Course hole within the maximum regular assessment range as provided hereinabove, and shall at that time direct the preparation of an index of the properties and assessments applicable thereto which shall be kept in the office of the Association and which shall be open to inspection by any Owner. Written notice of assessment shall thereupon be sent to every Owner subject thereto.

The Association shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid.

Section 7. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; the Lien; Remedies of Association. If the assessment is not paid on or before the past-due date specified in Section 5 hereof, then such assessment shall become delinquent and shall be subject to a late charge not to exceed one and one-half (1 1/2%) percent per month from the date of delinquency, compounded monthly, until the date of payment, together with the cost of collection thereof as hereinafter provided, and such assessment, late charge and costs of collection, including reasonable attorney's fees, shall become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, in the hands of the then Owner or in the event of the death of such Owner, the successor in interest to the property.

If the assessment is not paid within thirty (30) days after the past due date, the Association may bring an action at law against the Owner personally and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include late charges as above provided and a reasonable attorney's fee to be fixed by the court together with the costs of the action.

Section 8. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding or deed in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments accruing after conveyance to the mortgagee or by the mortgagee to a subsequent owner.

Section 9. Exempt Property. The following property, individuals, partnerships or corporations, subject to this Declaration shall be exempted from the assessment, charge and lien created herein:

- (a) The grantee in conveyances made for the purpose of granting utility easements;
- (b) All Common Areas;
- (c) Property which is used for the maintenance and service of facilities within the Plantation.

Section 10. Annual Statements. Copies of the Annual Financial Statements of the Association shall be sent to Members in good standing upon request. The President, Treasurer, or such other officer as may have custody of the funds of the Association shall annually, within ninety days after the close of the fiscal year of the Association, prepare and execute under oath a general itemized financial statement showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the name of any creditor of the Association, provided however, that this requirement shall be construed to apply only to creditors of more than \$3,000. Such officer shall furnish to each Member of the Association who may make request therefor in writing, a copy of such statement, within thirty days after receipt of such request. Such copy may be furnished to the Member either in person or by mail.

ARTICLE VI

FUNCTIONS OF ASSOCIATION:

Section 1. Ownership and Maintenance of Common Areas. The Association shall be authorized to own and maintain Common Areas, equipment, furnishings, and improvements devoted to the following uses:

(a) for roads or roadways, and parkways along said roads or roadways throughout the Plantation;

(b) for sidewalks, walking paths or trails, and bicycle paths throughout the Plantation;

(c) for police and fire protection including police stations, maintenance building and/or guardhouses police equipment and fire stations and fire fighting equipment; and buildings used in maintenance functions;

(d) for providing any of the services which the Association is authorized to offer under Section 2 of this Article;

(e) for lakes, lagoons, play fields, tennis and golf facilities, swimming pools, Member's beach house, historic parks, wildlife areas, fishing facilities, and other recreational facilities of any nature and for community meeting facilities serving the Plantation;

Section 2. Services. The Association shall provide the following services:

(a) cleanup and maintenance of all Common Areas;

(b) landscaping of roads and parkways, walking paths and any other Common Areas;

(c) lighting of roads, sidewalks and walking paths throughout the Plantation;

(d) protection and security, including but not limited to the employment of security officers, maintenance of electronic and other security devices and control centers for the protection of persons and property within the Plantation, and assistance in the apprehension and prosecution of persons who violate the laws of South Carolina within the Plantation;

(e) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board to supplement the service provided by the state and local governments;

(f) maintenance of all lakes, lagoons and ditches within the Common Areas;

(g) to take any and all actions necessary to enforce all covenants and restrictions affecting the Plantation and to perform any of the functions or

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services delegated to the Association in any covenants or restrictions applicable to the Plantation;

- (h) to set up and operate an architectural review board;
- (i) to provide administrative services including but not limited to: legal; accounting and financial; and communication services informing Members of activities, notice of meetings, Referendums, incident to the above listed services;
- (j) to provide liability and hazard insurance covering improvements and activities on the Common Areas;

Section 3. Except as provided herein elsewhere, the Association shall be authorized but not required to provide the following services:

- (a) the services necessary or desirable in the judgment of the Board to carry out the Association's obligations and business under the terms of this document;
- (b) improvement of fresh and salt water fishing available to Members within the Plantation;
- (c) to conduct recreation, sport, craft, and cultural programs of interest to Members, their children and guests;
- (d) to provide legal and scientific resources for the improvement of air and water quality within the Plantation;
- (e) to provide safety equipment for hurricane or storm emergencies;
- (f) to construct improvements on Common Areas for use for any of the purposes or as may be required to provide the services as authorized in this Article;
- (g) to provide, conduct, or maintain shoreline erosion abatement measures including, without limitation, maintenance and repair of shore revetments and groins, nourishment of beaches with sand reclaimed from drift deposits from the beach or adjacent areas or other sources, and the employment of consultants who are specialists in that field, as may be needed, in the judgment of the Board

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(h) cleanup and maintenance of all public properties which are located within a reasonable proximity to the Plantation such that their deterioration would affect the appearance of the Plantation as a whole.

Section 4. Obligation of the Association. The Association shall be obligated to carry out or offer those functions and services specified by the provisions of this Article provided Association resources make it reasonably possible to do so. The functions and services to be carried out and offered by the Association at any particular time shall be determined by the Board taking into consideration the funds available to the Association to the extent permissible by the maintenance assessments set forth herein, and the needs of the Members. Special assessments shall be submitted for referendum as herein provided. The functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of a majority of those voting in a Referendum conducted by the Board under the same procedures as prescribed for a special assessment.

ARTICLE VII

PROTECTIVE COVENANTS AND RESTRICTIONS:

Section 1. Architectural Approval. A Plans Approval Board ("PAB") has been established for the purpose of examining and passing upon all proposed plans for any structure or structures whatsoever and any additions thereto and remodelings thereof intended to be placed upon the lands within the Plantation. The approval of this PAB shall be required on the designs of all structures, which includes without limitation all residential buildings, club buildings, fences, signs or any other structure or structures however large or small which may be placed within the Plantation. No construction of any structure whatsoever may be commenced until the PAB has issued its approval of the proposed method of and plans for sewage disposal, the plans for drainage, the landscaping plan and the plans of the structures themselves. This PAB shall also approve the location of each structure to be built upon every Residential Lot and Family Dwelling Unit. If construction has not commenced within ninety (90) days of date of the PAB's approval notification, the plans shall be resubmitted to the PAB for full consideration, as if it were a new application. The total enclosed space exclusive of screen porches and garages for residence shall be 1700 square feet minimum. Main living floor of all residences shall have a minimum of 1500 square feet. Lots so designated on plats of subdivisions within the Plantation shall have a minimum of 2000 square feet of enclosed space exclusive of screen porches and garages. The main living floor of such residences shall be completed within one year from the time construction commences, and the failure to comply with this provision shall subject the Owner to show cause before the PAB why said construction has not been completed as scheduled. If such cause is not deemed satisfactory by the PAB to justify such delay, it shall be considered a breach of contract by the Owner such that the PAB may restudy

the plan already approved and take such action as it determines beneficial and appropriate for this Residential Lot or Family Dwelling Unit and the Plantation.

The Board may establish more specific Guidelines and Procedures not inconsistent with this Amended and Restated Declaration and require such escrows as it deems appropriate to ensure compliance with its Guidelines and Procedures.

Section 2. Plans Approval Board. The PAB shall consist of a Chairman and at least four (4) other members. All members shall be appointed by and serve at the pleasure of the Board.

Section 3. Single Family Residential Use. All Residential Lots and Family Dwelling Units shall be used for single family residential purposes only and no commercial activity of any nature whatsoever shall be conducted thereon. In the context of nature of use, "single family" as used herein shall mean a dwelling at any one time occupied by persons who are related by kinship or marriage and occasionally occupied by an unrelated guest of the principal occupant. Likewise, in the context of nature of use, short-term rentals shall be prohibited. Such rentals shall be deemed short-term if they are less than ninety (90) days in duration; provided, however, that Owners of Family Dwelling Units who as of January 31, 1983, have previously established a practice of permitting their residence to be used for non-commercial short-term rentals for a term less than ninety (90) days during calendar year 1982, shall be permitted to rent their Family Dwelling Unit for a term of less than ninety (90) days for as long as they retain title to their Family Dwelling Unit provided they submit satisfactory proof of such rental activity to the Board; provided, however, that once such Owners occupy said residence as their full time residence, such privilege of permitting short-term rentals shall terminate.

As it relates to type of building construction, no more than one attached Family Dwelling Unit or one detached Family Dwelling Unit shall be constructed on a Residential Lot. Moreover, all Family Dwelling Units within the Plantation shall be detached, single-family dwellings except for Family Dwelling Units which may be located in that area shown as the Land for Development on the Plat which may be either single-family attached or detached dwellings.

No Residential Lot or Family Dwelling Unit may be sold under or utilized for or pursuant to any timesharing, time interval or similar right-to-use program of the type covered by the Vacation Time Share Plan Act, 27-32-10 et seq., Code of Laws of South Carolina, 1976, as amended.

Section 4. Detached Structures. Any detached structure other than a residential dwelling, whether it is a building or other type of significant addition to the natural terrain, shall be constructed only upon the specific approval of the PAB. In the case of Residential Lots, there will be no new detached structures.

Section 5. Noxious or Offensive Activity Prohibited. No noxious or offensive activity shall be carried on within the Plantation which tends to cause embarrassment or discomfort or annoyance or a nuisance to the Owners. There shall not be maintained any plant, device, animal or any other thing whose normal activity or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the Plantation. "Noxious and offensive" activity or behavior shall include, but not be limited to, a public nuisance or nuisance per se and shall also include any behavior or activity which is inconsistent with both the reasonable, pleasurable use of the property by the residents of the Plantation and their reasonable expectations of residential life-style free of excessively noisy behavior unreasonably disrespecting the rights of others, flashing or excessively bright lights, racing vehicles, offensive displays of public sexuality, significantly loud radio, hi-fi stereo or other electronic music distractions, or other similar unreasonable behavior curtailing the reasonable pleasure and use of the residential property.

Section 6. Signs. No sign shall be erected on any Residential Lot, Family Dwelling Unit or Golf Course except with the written permission of the PAB. Signs shall be considered for, but not limited to, their compliance with the PAB's special sign requirements then in effect.

Section 7. Mail Boxes. Mail boxes shall be only of the style and type selected by the PAB.

Section 8. Vehicles; Trailers; Boats. No mobile home, trailer, tent, barn or similar out-building, or structure shall be placed on any Residential Lot, Family Dwelling Unit, or parcel of land within the Plantation without prior approval from the PAB, and such approval shall be limited to temporary use of such structures reasonably essential to economical, orderly and efficient construction during the construction process only. No house trailer or residence trailer may be permitted within the Plantation. No boats, boat trailers, campers, trucks or utility trailers or vehicles that are not currently licensed may be maintained in the Plantation unless or until an attractive closed or screened-in storage facility for such boats, vehicles and trailers is constructed and used for such purpose. No such screened-in storage facility may be erected or constructed within the Plantation without the approval of the PAB and none will be permitted on a Residential Lot or Family Dwelling Unit unless it is designed as a part of the residential dwelling (i.e., a garage) and otherwise complies with the normal set-back and other architectural criteria utilized by the PAB.

Section 9. Reservation of Easements. The Association reserves unto itself or its assigns alienable and reasonable easements and rights on, over and under the ground to erect, maintain and use utility service and equipment in and over the five feet of land adjacent to each side of each property line as will be shown by reference to the plats of subdivision of the Plantation.

Section 10. Reservation of Access to Residential Lot. The Association retains the right to cut bushes, shrubs, trees, make gradings of soil or cut drainways for surface water whenever and wherever such action is necessary to provide economical and safe installation of utilities and to maintain reasonable standards of health, safety and appearance.

Section 11. Temporary Structures. Temporary structures may be placed upon the Residential Lots or Family Dwelling Units during construction of buildings thereon with the written consent of the PAB; provided, however, that said temporary structures shall be removed upon completion of construction of the Family Dwelling Unit. Said temporary structures shall at no time be used for living quarters. No house trailer or trailers shall be permitted on the property at any time except such as are authorized for construction purposes for the Land For Development.

Section 12. Service Yards; Parking; Sewage Disposal. Each Family Dwelling Unit shall have one or more fenced service areas with adequate space for garbage containers, drying yard, air conditioners and other necessary equipment. No exposed drying of clothes is permitted outside the drying area. Each Family Dwelling Unit shall include parking space for at least two automobiles. Prior to plans approval as provided in Section 1 of this ARTICLE VII, each Family Dwelling Unit shall provide for connection to a sewage disposal system which has been approved by the South Carolina Department of Health and Environmental Control.

Section 13. Trees. No live trees measuring six inches or more in diameter at a height of 4 1/2 feet above ground level may be removed without the approval of the PAB.

Section 14. Changes in Lot Boundaries. No Residential Lot or Family Dwelling Unit shall be subdivided nor its boundary line changed except with the written consent of the PAB.

Section 15. Repurchase Option. If any owner of property within the Plantation should receive an offer to purchase his property, it shall be offered for sale to the Association at the same price and terms at which the highest bona fide offer has been made for the property and with full disclosure of the intended purchaser, and the Association shall have thirty days within which to exercise its option to purchase said property at this price; and should the Association fail or refuse, within thirty days after receipt of written notice of the price and the terms of sale to exercise its option to purchase said property at the offered price and upon the offered terms, then the owners of said property shall have the right to sell said property subject, however, to all covenants and restrictions herein contained and at the exact price and terms submitted to the Association.

Section 16. Maintenance of Residential Lots and Family Dwelling Units. All Residential Lots and Family Dwelling Units shall be kept free of underbrush, weeds, or other unsightly vegetation and in the event an Owner permits any underbrush, weeds, or other unsightly vegetation to grow upon any Residential Lot or Family Dwelling Unit to a height of two feet or more, agents of the Association may enter upon said land to remove the same at the expense of the Owner; provided, however, that such expense shall not be unreasonable. The Association may likewise enter upon said land to remove any trash, debris, building materials stored on the Residential Lot or Family Dwelling Unit which are not being actively used in approved construction upon the premises or other exterior bulk storage which has collected on said Residential Lots or Family Dwelling Units without such entrance for such purpose being deemed a trespass, all at the expense of the Owner; provided, however, that such expense shall not be unreasonable. This provision shall not be construed as an obligation on the part of the Association to provide garbage or trash removal services.

Section 17. Establishment of Rules and Regulations. Subject to the provisions hereof, the Board may establish reasonable rules and regulations concerning the use of easement areas and the Common Areas and facilities located thereon. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rules or regulations are specifically overruled, cancelled or modified by the Board or by the Owners in a regular or special meeting of the Owners, in person or by proxy, holding a majority of the total votes of the Association.

Section 18. Enforcement. In the event of a violation or breach of any of these restrictions, covenants, or rules and regulations, any Owner or any of them jointly or severally or the Association shall have the right to proceed at law or in equity to compel a compliance of the terms and conditions hereof and to prevent the violations or breach of said restrictions or protective covenants. In addition to the foregoing, the Association shall have the right, whenever there shall have been built on any Residential Lot, Golf Course, or Family Dwelling Unit any structure which is in violation of these restrictions, to enter upon the said property when such violation exists and summarily remove the same at the expense of the Owner if, after 30 days written notice of such violation, it shall not have been corrected by the Owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure of the Association to enforce any right, reservations, restrictions or condition contained in this instrument however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach or as to a breach occurring prior to, or subsequent thereto, and shall not bar or affect its enforcement, and the invalidation by any court of any restriction in this instrument contained, shall in no way affect any of the other restrictions, but they shall remain in full force and effect.

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ARTICLE VIII

GENERAL PROVISIONS:

Section 1. Duration. The covenants and restrictions of this Amended and Restated Declaration shall run with and bind the Plantation, and shall inure to the benefit of and be enforceable by the Association or the Owners subject to this Amended and Restated Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Amended and Restated Declaration is recorded. Upon the expiration of said twenty-five (25) year period, this Amended and Restated Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Amended and Restated Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Amended and Restated Declaration if during the last year of the initial 25 year period, or during the last year of any subsequent ten (10) year renewal period in a Referendum held for such purpose, the Members vote not to extend such restriction or any portion thereof, such restriction shall be discontinued and nullified by an affirmative vote of two-thirds (2/3) of the total membership of the Association by Referendum. Proxies shall not be used for any action by Referendum since in such instances all of the Members polled shall be provided with ballots specifically provided for voting which ballots may be executed by the Members and returned to the Association. In the event that the Association votes to terminate this Amended and Restated Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating the Amended and Restated Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be recorded in the RD Office and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Amended and Restated Declaration.

Section 2. Amendments. This Amended and Restated Declaration may be amended at any time, except where inconsistent with the 1973 Protective Covenants and Restrictions or where the text would otherwise provide, by an affirmative vote of two-thirds (2/3) of the total membership of the Association by Referendum. Proxies shall not be used for any amendments by Referendum since in such instances all of the Members polled shall be provided with ballots specifically provided for voting which ballots may be executed by the Members and returned to the Association.

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Section 3 Severability. Should any covenant or restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Amended and Restated Declaration be declared to be void, invalid, illegal, or unenforceable for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 4 Interpretation. The Board shall have the right to determine all questions arising in connection with this Amended and Restated Declaration and to construe and interpret its provisions on behalf of the Association. Nothing contained herein, however, shall limit an individual Member or group of Members from seeking a judicial determination of any questions arising in connection with this Amended and Restated Declaration. In all cases, the provisions of this Amended and Restated Declaration shall be given that interpretation or construction that will best tend to accomplish the intended purpose of the parties to this Amended and Restated Declaration as evidenced herein.

Section 5 Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board in the manner provided for in the By-Laws, unless the terms of this instrument provide otherwise.

Section 6 Termination of Association. In the event that this Amended and Restated Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof or if the Members of the Association should vote not to renew and extend this Amended and Restated Declaration as provided for in Section 1 of this ARTICLE VIII, all Common Areas owned by the Association at such time shall be transferred to a Trustee appointed by a Court of Competent Jurisdiction in South Carolina, which Trustee shall own and operate said Common Areas for the use and benefit of the Owners as set forth below:

(a) Each Residential Lot, Family Dwelling Unit, or Golf Course hole located within The Plantation shall be subject to an annual assessment which shall be paid by the Owner of each such Residential Lot, Family Dwelling Unit, or Golf Course Hole to the Trustee that becomes the successor in title to the Association. The amount of such annual assessment and its due date shall be determined solely by the Trustee but the amount of such annual assessment on any particular Residential Lot, Family Dwelling Unit, or Golf Course Hole shall not exceed the amount actually assessed against that Residential Lot, Family

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Dwelling Unit, or Golf Course Hole in the last year that assessments were levied by the Association, subject to the adjustments set forth in subparagraph (b) immediately below.

(b) The amount of the maximum regular annual assessment which may be charged by the Trustee hereunder on any particular Residential Lot, Family Dwelling Unit, or Golf Course Hole shall be automatically increased each year by either 5% or the percentage increase between the first month and the last month of the annual assessment period in the Consumer Price Index, U. S. City Average, All Items (1967-100) (hereafter "CPI") issued by the U. S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U. S. City Average and Selected Areas", whichever of these two percentage figures is larger. The actual amount of such increase in the regular maximum annual assessment on a Residential Lot, Family Dwelling Unit, or Golf Course Hole shall equal the regular maximum annual assessments on such Residential Lot, Family Dwelling Unit, or Golf Course Hole for the previous year each multiplied by the larger of the two percentage factors set forth above. If the CPI is discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living.

(c) Any past due annual assessment together with a late charge thereon at a rate of one and one-half (1 1/2%) percent per month from the due date and all costs of collection including reasonable attorney's fees shall be a personal obligation of the Owner at the time the annual assessment became past due, and it shall also constitute and become a charge and continuing lien on the lot or parcel of land and all improvements thereon, against which the assessment has been made, in the hands of the then Owner, his heirs, successors, devisees, personal representatives and assigns.

(d) The Trustee shall be required to use the funds collected as annual assessments for the operation, maintenance, repair and upkeep of the Common Areas. The Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided for. The Trustee shall not have the obligation to provide for operation, maintenance, repair and upkeep of the Common Areas once the funds provided by the annual assessment have been exhausted.

(e) The Trustee shall have the power to dispose of the Common Areas, free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by two-thirds (2/3) of the Members or in the alternative shall be found to be in the best interest of the Owners by a Court of Competent Jurisdiction of South Carolina. The proceeds of such a sale shall first be used for the payment of any debts or obligations

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**ASSOCIATION OF LANDOWNERS OF PORT ROYAL
PLANTATION, INC**

Certification of Vote

**Referendum to Amend the 1983 Amended and Restated Declaration of
Covenants and Restrictions of The Association of
Land Owners of Port Royal Plantation, Inc. and
the By-Laws of the Association of Land Owners of Port Royal Plantation, Inc.**

Total Votes Cast	<u>799</u>
Total Votes in Favor	<u>749</u>
Votes Required to Pass	<u>667</u>

**I certify the above tally to be a true vote count of the referendum ended on
December 31, 1998.**



Douglas B. Stevens, President ALOPRP

I, the undersigned Notary Public do hereby certify that D. B. Stevens
personally appeared before me this day and duly acknowledged the execution of the
foregoing instrument.

Sworn to and Subscribed before me
On this 19th Day of January 1999.



Notary Public for South Carolina
My Commission Expires: June 8, 2003

SMOOT 4861

FILED
JOHN A. SULLIVAN - RMC
BEAUFORT COUNTY, N.C.

2007

99 MAY -6 AM 11: 37

BK **1167** PG **1983**
FOLDER#