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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS, EASEMENTS,  
CHARGES AND LIENS FOR  
PALMETTO HARBOR**

THIS Declaration of Covenants, Conditions, Restrictions, Easements, Charges and Liens ("Declaration") is made the 31<sup>st</sup> day of May, 2006, by Waterway Investors, LLC, a South Carolina Limited Liability Company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property in Little River Township, Horry County, South Carolina, more particularly described in Exhibit "A", which is attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, the Declarant intends to develop on the Property a residential subdivision known as Palmetto Harbor, containing single family lots together with certain Common Area Properties as more fully described herein (the "Subdivision"); and

WHEREAS, the Declarant wishes to accomplish the following objectives for its benefit and for the benefit of Owners of property in the Subdivision by the imposition of the covenants and restrictions set forth herein:

- (a) To maintain the value and the residential character and integrity of the Subdivision and to maintain the quality and value of any Common Area Properties of the Subdivision;
- (b) To minimize or eliminate the possibility of any disruptions of the peace and tranquility of the Subdivision;
- (c) To protect and prevent the cutting, abuse or unwarranted alteration of the trees, vegetation and lakes within or adjacent to the Subdivision;
- (d) To prevent any property Owner or any other persons from building or carrying on any other activity in the Subdivision that would detract from the Subdivision or that is contrary to this Declaration; and
- (e) To maintain property values in the Subdivision; and
- (f) To maintain, improve and landscape the Common Area properties within the Subdivision as hereinafter provided;

NOW THEREFORE,

KNOW ALL MEN BY THESE PRESENTS, that the Declarant hereby declares that the property described in Exhibit "A" shall be held, mortgaged, transferred, sold, conveyed, leased, occupied and made subordinate and subject to the following covenants, conditions, restrictions, easements, charges and liens which are hereby imposed for the purpose of protecting the value and desirability of the Subdivision and which covenants, conditions, restrictions, easements,

charges and liens shall touch and concern and run with title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in said properties or any portion of them. This Declaration also binds the respective heirs, devisees, personal representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone or anything who purchases or takes any interest in real property subject to this Declaration.

## **ARTICLE I DEFINITIONS**

When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have the following meanings, and all definitions shall be applicable to the singular or plural forms of any such term(s):

- Section 1. "Approved by the Declarant" shall mean written approval issued by the Declarant signed by a designated representative.
- Section 2. "Approval by Architectural Review Board" shall mean and refer to any approval required under this Declaration to be made by the Architectural Review Board or Declarant and which shall be sought and received or denied pursuant to the provisions of this Declaration or other applicable documents.
- Section 3. "Architectural Review Board" or "Review Board" shall mean and refer to that Board formed and operated in the manner described herein or the Declarant functioning in that capacity.
- Section 4. "Assessment" shall mean and refer to any Owner's share of the Common Expenses or any other charges from time to time assessed against an Owner by the Association in the manner herein provided.
- Section 5. "Association" shall mean and refer to Palmetto Harbor Property Owners Association, Inc., its successors and assigns, provided, however, Declarant may choose not to create an Association for the Subdivision or may do so at some later date.
- Section 6. "Board of Directors" shall mean and refer to the Board of Directors of the Association and shall be the governing body of the Association.
- Section 7. "By-Laws of the Association" shall mean and refer to those By-Laws of the Association which govern the administration and operation of the Association. A copy of those By-Laws are attached hereto as Exhibit "B" and made a part hereof by reference, however, they may be amended from time to time.
- Section 8. "Common Property", "Common Area Properties" or "Common Areas" shall mean and refer to those parcels of land, with any improvements thereon, which now or hereafter are designated as Common Properties or Common Areas by the Declarant, which may hereafter be deeded or leased to the Association and designated in said deed or lease as "Common Properties" or "Common Area".

The terms shall also include any personal property acquired by the Association if said property is designated a "Common Property". "Common Properties" shall include but not necessarily be limited to: streets, roads, lakes, wetlands, landscaped areas, signs and amenity areas. The Declarant reserves the right to convey or dedicate some or all of "Common Properties" to the Association or to any other entity including a city or county. Such conveyance may be made subject to the provisions of this Declaration and shall contain such additional restrictions, reservations, liens and encumbrances as set forth in the deed of conveyance. The Declarant may add or substitute mortgages, provided the Association does not have to assume payments or obligations on any mortgage on "Common Properties" conveyed to it. As an appurtenance to such conveyances, the Association shall have all of the powers, immunities and privileges reserved unto the Declarant as well as all of the Declarant's obligations with respect to the property conveyed, including the obligation to maintain and enhance. Declarant also reserves the right to deed, or lease, other property not deemed to be Common Property, to any City, County or other public or private owner and to have such areas open to the public.

- Section 9. "Common Expense(s)" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of financial, equipment or material reserves, consistent with the provisions and intent of this Declaration.
- Section 10. "Declaration" shall mean this Declaration of Covenants and Restrictions for Palmetto Harbor and all supplements and amendments to the Declaration as filed in the Office of the Register of Deeds for Horry County.
- Section 11. "Declarant" shall mean and refer to Waterway Investors, LLC, a South Carolina Limited Liability Company, its successors and assigns. The Declarant shall have the right to assign any or all rights which it may possess, as Declarant, to Palmetto Harbor Property Owners Association, Inc., or any other person or entity, at one time or from time to time.
- Section 12. "Living Space" shall mean and refer to enclosed and covered heated and cooled areas within a dwelling on a Lot, exclusive of garages, carports, breezeways, terraces, balconies, decks, patios, porches, courtyards, greenhouses, atriums, attics and basements.
- Section 13. "Lot" shall mean and refer to any plot of land shown as a separate lot upon any recorded Subdivision Plat of the Property, with or without improvements, with the exception of the Common Properties.
- Section 14. "Member" shall refer to members of the Association and shall mean and refer to every Owner of a Lot and shall include the Declarant while it is the record Owner of any Lot.
- Section 15. "Property" or "Properties" shall mean and refer to all property which is subject to this Declaration.

- Section 16. "Owner" shall mean and refer to the record Owner (including the Declarant), whether one or more persons or entities, holding the fee simple title to any Lot, but excluding any person having such interest merely as security for the performance of an obligation.
- Section 17. "Subdivision" shall mean and refer to those tracts or parcels of land described in Exhibit "A", together with all improvements presently thereon and subsequently constructed thereon.
- Section 18. "Subdivision Plat" shall mean and refer to the plat entitled Palmetto Harbor prepared by DDC Engineers, Inc., and dated February 20, 2006 and recorded in the Office of the Register of Deeds for Horry County on May 16, 2006, in Plat Book 214 at Page 17, together with any future revisions thereof or other property as may be submitted to the terms of this Declaration, and recorded from time to time in the office of the Register of Deeds for Horry County.

## **ARTICLE II** **PROPERTY**

- Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, leased and occupied, subject to these covenants, is located within Horry County, South Carolina, and is more particularly described in Exhibit "A" which is attached hereto and incorporated herein by reference.

## **ARTICLE III** **THE ASSOCIATION: MEMBERSHIP AND VOTING RIGHTS**

- Section 1. The Association. The Declarant may establish the Association for the purpose of exercising powers of maintaining, improving and administering the Common Properties and providing common services, administering and enforcing covenants, conditions and restrictions contained herein, and levying, collecting and disbursing assessments and charges herein created. Further, the Declarant reserves the right to convey and transfer to the Association, and the Association agrees to accept, any and all of its rights and obligations as set forth herein.
- Section 2. Rules and Regulations. The Association, by and through its Board of Directors, may adopt from time to time additional reasonable rules and regulations governing the use of Common Properties and Lots within the Subdivision. This right may be limited by applicable law in the event areas of the Subdivision are dedicated to governmental authorities and the rules conflict with applicable laws. Such rules may not conflict with the provisions of this Declaration and, in the event of any such conflict, this Declaration shall prevail.
- Section 3. Membership. Every Owner of a Lot which is subject to this Declaration shall be a member ("Member") of the Association, Membership shall be appurtenant to and not be separated from ownership of any Lot which is subject to this Declaration.
- Section 4. Voting Rights. The Association shall have two classes of voting memberships.

- (a) Class A. Class A Member(s) shall be every owner, with the exception of the Declarant, and they shall be entitled to one vote for each Lot owned. Declarant may become a Class A member upon the expiration of its Class B Membership status as hereinafter set forth. When more than one person holds title to any Lot, all such persons shall be Members, and the one vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot by Class A members.
- (b) Class B. Class B Member(s) shall be the Declarant, its successors and assigns, and, for so long as the Declarant owns at least one Lot subject to this Declaration, it shall be entitled to one vote for each Lot owned plus twenty (20) votes per lot owned. The Class B Membership shall cease and be converted to Class A Membership on the happening of any of the following events, whichever occurs earlier:
- (1) when the Declarant executes and records an instrument forfeiting its Class B Membership; or
  - (2) when the Declarant, its successors or assigns, owns no lots in the Subdivision; or
  - (3) on December 31, 2011.

Section 5. Board of Directors. The Association shall be governed and the business and affairs of the Association shall be managed by a Board of Directors as more particularly set forth in the By-Laws of the Association.

#### **ARTICLE IV**

#### **RIGHTS IN THE COMMON PROPERTIES/EASEMENTS**

- Section 1. Members Easements of Enjoyment. Subject to the provisions of these Covenants and the rules and regulations of the Association, every Owner shall have a right and nonexclusive easement of enjoyment in and to the dedicated Common Properties, and such easement shall be appurtenant to and shall pass with the title to every Lot.
- Section 2. Title to and Maintenance of Common Properties. The Declarant may convey to the Association, or any other entity, or cause to be conveyed to the Association, or other entity, on or before December 31, 2011, some or all of the Common Properties, if any, shown on the Subdivision Plat or plats or otherwise designated by Declarant. The Declarant reserves the right to impose additional covenants on such Common Properties at the time of such conveyance. The Declarant also reserves the right, but not the obligation, to convey other Common Properties to the Association and the Association hereby agrees to accept such Common Properties, including, but not limited to, the streets, roads, rights-of-way, buildings, improvements and parks within or adjacent to the Subdivisions. Any Common Properties and improvements thereon so conveyed to the

Association shall be maintained and repaired by the Association and shall be kept in good repair at all times. Declarant may also dedicate some or all streets, roads, rights-of-way, and other Common Properties to applicable governmental authorities.

The Association shall at all times maintain in good repair, and shall repair or replace as often as necessary, the paving, drainage structures, gutters, street lighting, bridges, fixtures, landscaping and amenities situated on Common Properties belonging to the Association.

**Section 3. Extent of Members' Easement.** The rights and easements created hereby shall be subject to the following:

- (a) The rights of the Declarant, and of the Association to dedicate, transfer or convey all or any part of the Common Properties, with or without consideration, to any successor association, governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Properties by the Owners for their intended purposes.
- (b) The right of the Declarant, and of the Association, to grant, reserve and accept easements and rights-of-way through, under, over and across the Common Properties, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, electric, telephone, fuel oil and other utilities and services, including a cable or community antenna television system, drainage and irrigation or lawn sprinkler system and the right of the Declarant to grant and reserve easements and rights-of-way through, over and upon and across the Common Properties for ingress, egress, maintenance, construction and the completion of the Subdivision, and for the operation and maintenance of the Common Properties.
- (c) The right of Owners, visitors, invitees, to ingress and egress in and over those portions of the Common Properties that lie within the private roadways, parking lots and/or driveways (and over any other necessary portion of the Common Properties in the case of the landlocked adjacent Owners in the Subdivision) to the nearest public road;
- (d) The right of the Association, as provided in its By-Laws, to suspend the enjoyment rights of any Owner for any period during which any Assessment remains unpaid, and for a period not to exceed thirty (30) days at a time for any infraction of its published rules and regulations; and
- (e) The rights of the Declarant and the Association, as the case may be, to establish rules and regulations for the Subdivision and to prescribe reasonable fees and charges from time to time for use of any amenities which may now or hereafter be constructed on the Common Properties.

- Section 4. Easements for Declarant. During the period that Declarant owns any Common Properties, or owns any Lot primarily for the purpose of sale or has the option to add the Other Property or any portion thereof to the Subdivision, Declarant reserves for itself, its successors and assigns, and shall have, an alienable and transferable right and easement on, over, through, under and across the streets and roads, whether now constructed or built in the future, over the Common Properties, and over the Lots until sold, for the purpose of ingress and egress, and for constructing or improving Lots and improvements to the Lots or Common Properties, and for installing, maintaining, repairing and replacing such other improvements to the Subdivision (including portions of the Common Properties) as are contemplated by this Declaration or as Declarant desires, in its sole discretion, including without limitation any improvements or changes permitted and described in this Declaration, and for the purpose of doing all things reasonably necessary and proper in connection therewith, including but not limited to, transporting and storing construction materials, provided that in no event shall Declarant have the obligation to do any of the foregoing. Declarant also reserves the right of ingress and egress for its employees, agents and invitees for the purpose of selling its remaining Lots or properties. The easements reserved herein shall be in addition to and not in lieu of any other easements Declarant may have.
- Section 5. Changes in Boundaries; Additions to Common Properties. Declarant expressly reserves for itself and its successors and assigns the right to change and realign the boundaries of the Common Properties and any Lots owned by Declarant, including the realignment of boundaries between adjacent Lots and Common Properties. In addition, Declarant reserves the right, but shall not have the obligation, to convey to the Association at any time, and from time to time, any portion of the property to be conveyed to the Association as an addition to Common Properties and subject to the other provisions set forth in this Declaration.
- Section 6. Easements for Utilities. There is hereby reserved for the benefit of Declarant, the Association (on property owned by the Association) and their respective successors and assigns, the alienable, transferable and perpetual right and easement, as well as the power to grant and accept easements to and from any private or public authority, agency, public service district, public or private utility or other person upon, over, under and across:
- (a) all of the Common Properties; and,
  - (b) an area across the front, ten (10') feet in width, adjacent to the road right of way, for the purpose of installing, replacing, repairing, maintaining and using master television antenna and/or cable systems, security and similar systems, and all utilities, including but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water and sewer lines. Some lots may be subject to additional easements as shown on recorded plats. Such easements may be granted or accepted by

Declarant, its successors and assigns, or by the Board of Directors; provided, however, that for so long as Declarant owns any portion of the Common Properties, owns any Lot primarily for the purpose of sale, the Board of Directors must obtain the written consent of Declarant prior to granting or accepting any such easements. To the extent reasonably possible, all utility lines and facilities serving the Subdivision and located therein shall be located underground. By virtue of any such easement and facilities, it shall be expressly permissible for the providing utility company or other supplier or servicer, with respect to the portions of the Subdivision so encumbered:

- (i) to erect and maintain pipes, lines, manholes, pumps, and other necessary equipment and facilities;
- (ii) to cut and remove any trees, bushes or shrubbery;
- (iii) to grade, excavate or fill; or
- (iv) to take any other similar action reasonably necessary to provide economical and safe installation, maintenance, repair, replacement and use of such utilities and systems.

Within these easements, no structure of any kind, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements unless such structure, planting or other material is first approved by the Declarant or its successors or assigns.

Section 7. Drainage Easements. There is hereby reserved for the benefit of Declarant, the Association and lot owners a drainage easement over, across and upon the drainage ditches or drainage ways designated on the subdivision plat, together with any future revisions thereof. Declarant reserves the right to move any such drainage ways. Owners of lots through which any drainage feature runs may not alter or change the location or character thereof without the express written consent of the declarant or the Association. Each such Lot Owner shall keep all such drainage ways clean, open, functional and sightly, in the event of his failure to do so the Association may do the same and charge the cost to that Lot Owner.

Section 8. Easements for Association. There is hereby reserved a general right and easement for the benefit of the Association, its Directors, officers, agents and employees, including but not limited to, any property manager employed by the Association and any employees of such manager, to enter upon any Lot or any portion thereof, but not inside the buildings, in the performance of their respective duties hereunder. Except in the event of emergencies, this easement is to be exercised only during normal business hours and then, whenever practicable, only upon advance notice to and with permission of the Owner or

occupant affected.

- Section 9. Sales Offices, Rental Offices, Property Management Offices and Construction Offices. Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant, its successors and assigns, the perpetual, alienable and transferable right and easement in and to the Property for the maintenance of signs, sales offices, rental offices, model homes or sample Lots, together with such other facilities as in the sole opinion of Declarant reasonably may be required, convenient or incidental to the completion, management, rental, improvement and/or sale of Lots or Common Properties. The Declarant also reserves the right to grant to any builder or builders the right to operate and maintain builder sales offices at any location within the subdivision upon such terms and conditions as the Declarant in the Declarant's sole discretion may determine.
- Section 10. Unightly Conditions. It shall be the responsibility of each Owner and tenant thereto to prevent the accumulation of litter, trash, or rubbish or the development of any unclean, unsightly or unkempt condition of buildings or grounds on his Lot either before, during or after construction, nor to permit accumulations or excessive plant growth which shall tend to substantially decrease the beauty of the community as a whole or the specific area. The Declarant or the Association specifically has the right to take the necessary action to clean up the property with the Owner being liable for the cost thereof, including costs and a reasonable attorney's fee, if one is required to enforce this section or to collect the cost of cleanup.
- Section 11. Environmental Easement. There is hereby reserved for the benefit of the Declarant, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement on, over and across all unimproved portions for the Common Properties and Lots for the purpose of taking any action necessary to effect compliance with environmental rules, regulations and procedures from time to time promulgated or instituted by the Board of Directors or by any governmental entity, such easement to include without limitation the right to implement erosion control procedures and practices, the right to drain standing water and the right to disperse pesticides.
- Section 12. Public Easements. Fire, police, health, sanitation and other public service personnel and vehicles shall have a permanent and perpetual non-exclusive easement for ingress and egress over and across the Common Properties.

## ARTICLE V COVENANT FOR ASSESSMENTS

- Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Subdivision, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be expressed

in the deed, is deemed to covenant and agree to pay to the Association:

- (a) annual assessment charges; and,
- (b) special assessment for capital improvements or for maintenance expenses and other common expenses and emergencies and other purposes, such Assessments to be established and collected as hereinafter provided.

The annual and special Assessments, together with interest, costs and reasonable attorney's fees, shall be a charge upon the land and shall be a continuing lien on the property against which each such Assessment is made. Each such Assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time the Assessment fell due. The obligation for delinquent Assessments shall run with the land and shall pass to his successors in title. Upon reasonable request, the Association shall provide an accounting of an Owner's Assessments and any delinquency in payment thereof. The Association shall, upon demand, and for a reasonable charge, furnish to any Owner liable for an assessment a certificate in writing, signed by an Officer of the Association, setting forth whether such easement has been paid on the Owner's Lot.

**Section 2.** Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to pay all Common Expenses of the Association, to promote the recreation, health, safety and welfare of the residents of the subdivision and, in particular, for the administration, acquisition, construction, landscaping, improvement and maintenance of Common Properties, including, but not limited to, the costs of utilities, repairs, replacements and additions, the cost of labor, equipment, materials, management, maintenance and supervision, the payment of taxes assessed against the Common Properties, the procurement and maintenance of insurance in accordance with the By-Laws, the payment of charges for garbage services, water furnished and water and sewer services or other utilities rendered to the Common Properties, the employment of attorneys, accountants, employees, management companies and contractors as shall be required for the orderly and efficient discharge of its business and the operation of the Association's Common Properties, emergencies, and for all other purposes set forth in this Declaration or the By-Laws, and such other needs as may arise, or as may be required in the judgment of the Association's Board of Directors. The Association shall be authorized to establish reserve funds in such amounts and for such purposes as the Board of Directors of the Association shall determine in their best judgment.

**Section 3.** Annual Assessment. The Declarant initially, and thereafter the Board of Directors, shall fix the annual Assessment based upon the annual budget of the Association as provided herein. When the Board of Directors fixes the annual Assessment for each calendar year, the board shall at the same time, and in connection therewith, prepare or cause to be prepared, an annual budget showing the services furnished by the Association, and the costs thereof per Lot. The annual assessment for the first year, which shall begin at the recording of

the within document, shall be Five Hundred and no/100 (\$500.00) Dollars per lot. After the first year, the annual assessment may be determined by the Board of Directors of the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual Assessments authorized above, the Association may levy, in any calendar year, a special Assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties, including, but not limited to, fixtures, personal property related thereto or for any other purpose not prohibited by this Declaration, provided that any such Assessment shall have the assent of two-thirds (2/3) of the votes of Members voting in person or by proxy at a meeting called for such purpose. All special Assessments, except as those set out in Section 5 below, shall be set at a uniform amount for all Lots and may be collected on a monthly, quarterly or yearly basis.

Section 5. Special Assessments for Waterway Lots. Special assessments for the waterway lots for the completion of the seawall, docks, dredging, etc., as well as the upkeep, repair and maintenance of same, will be determined and assessed by the POA. At the time of recording this document, there has been no determination as to the amount of these assessments or when they will be assessed. Upon that determination, the Association will inform each waterway lot owner, in writing, as to pending assessments and will call for a vote of the then waterway lot owners to decide to proceed or to discontinue all plans for the proposed completion of these activities. The decision to proceed or to discontinue these activities will be made upon the vote of fifty-one (51%) percent of the then waterway lot owners voting in person or by proxy at a meeting called for such purpose.

Section 6. Uniform Assessment. Except as hereinafter provided in Section 8, all annual Assessments shall be set at a uniform amount for all Lots and shall be collected on a monthly, quarterly or yearly basis, or any other basis approved by the Board of Directors.

Section 7. Association's Working Capital. After this Declaration is recorded, and upon the conveyance of any Lot in Palmetto Harbor, the Board of Directors shall assess each Owner the sum of Five Hundred and No/100 (\$500.00) Dollars, for working capital. Such sums are separate and distinct from annual Assessments and shall not be considered advance payments of such Assessments, and shall be due and payable upon each sale and conveyance of each such Lot. Each Owner's share of the working capital fund must be collected from such Owner upon his purchase of a Lot, and must be transferred to the Association at the time of said closing of such lot purchase.

Section 8. Date of Commencement of Annual Assessment; Due Dates. The annual Assessments provided for herein shall commence as to any Lot on the day of the conveyance of such Lot by Declarant. The first annual Assessment shall be adjusted according to the number of months remaining in the calendar year and the number of days remaining in the month of conveyance. At least thirty (30)

days in advance of each annual Assessment period, the Board of Directors shall fix the amount of the annual Assessment and notify every Owner subject thereto. The due dates shall be established by the Board of Directors.

- Section 9. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate equal to the lesser of: (a) Eighteen (18.0%) percent per annum, or, (b) the maximum rate provided by applicable law. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot in like manner as a mortgage of real property, or both. Upon exercise of its right to foreclose, the Association may elect to declare the entire remaining amount of the annual Assessment due and payable and collect the same through foreclosure. Penalties, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such Assessment and lien. In the event of any such foreclosure, the Owner shall be required to pay a reasonable rental for the Lot after commencement of the foreclosure action, and the Association in such foreclosure shall be entitled to the appointment of a receiver to collect the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area abandonment of such Owner's Lot.
- Section 10. Subordination of the Lien. The lien of assessments provided for herein shall be subordinate to the lien of any first mortgage or other mortgage held by a bank savings and loan or credit union upon such Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage foreclosure or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due from the lien thereof nor shall it relieve the Owner (s) of personal liability for the sums due.
- Section 11. Exempt Property. The following Property, individuals, partnership or corporations, subject to this Declaration, shall be exempted from the Assessments, charges and liens created herein: (a) the grantees in conveyances made for the purpose of granting utility easements; (b) Owners of all Common Properties; and (c) unsubdivided land or unsold Lots owned by the Declarant, provided Declarant funds any deficit in the Association's operating expenses.
- Section 12. Reservation of Right not to Establish Association. Declarant reserves the right to not establish the Association described herein, or to collect the assessments described, or to do so at any time in the future that Declarant deems appropriate.

## **ARTICLE VI**

### **ARCHITECTURAL CONTROL AND SITING**

- Section 1. Architectural Control. Except for original and initial construction of improvements by Declarant or its agents, which construction is specifically exempt from this Section, no temporary or permanent structure, including fences and landscaping,

may be commenced, erected or maintained upon any Lot or any portion of the Property, nor may any application for a building permit for any home, building, or other structure be made or any significant landscaping done, or any addition, alteration or painting to any existing home, building or other structure be made until the proposed survey, site plan, tree survey, plans, specifications, elevations, materials and exterior color and finish, plot plans, landscape plans, irrigation plans and construction schedule have been submitted to and approved by the Declarant in writing. Declarant shall have the absolute right, in its sole discretion, to approve or disapprove, for any reason, including aesthetics, any and all such improvements or alterations. Declarant, in Declarant's sole judgment and discretion, shall have the right and option to transfer and relinquish its architectural review and siting authority herein to another entity including an Architectural Review Board (ARB) established by it or the Board of Directors of the Association (the "Designees"). This section shall be construed liberally in favor of the right of Architectural review. No construction may commence or continue unless the approval described herein has been given in writing. Declarant or its Designees may enforce this Section by injunctive relief. Declarant has prepared, and may amend from time to time, Architectural Guidelines and development criteria for use of Owners; however, that document is intended to merely be a guide and shall not diminish Declarant's discretion.

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Section 2. Fees. The Declarant and/or Architectural Review Board may establish a reasonable fee for its examination and review of plans in order to compensate any consultants it deems necessary to properly evaluate the plan.

Section 3. Siting. To assure that buildings and other structures will be located with regard to the topography of each Lot taking into consideration the location of trees and other aesthetic and environmental considerations, the Declarant reserves unto itself, its successors and assigns, the right to control and to decide solely (so long as (a) its decisions are not arbitrary and capricious, and (b) subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction) the precise site and location of any building or structures on any Lot, notwithstanding any setbacks or other matters shown on any recorded plats and as such may determine the direction of houses on corner lots. Declarant may alter or adjust setback lines as it deems necessary.

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Side yard, front yard and rear yard setbacks shall be those setbacks as promulgated by the City of North Myrtle Beach. Notwithstanding any other setbacks that may pertain to the subject property, the more restrictive setbacks shall prevail.

The location shall be determined only after reasonable opportunity is afforded the Owner to recommend a specific site.

Section 4. Landscaping. All plans for landscaping shall include irrigation plans and shall designate plant size and irrigation feature size and no change in plant size or the irrigation plan may be made once approved, without consent of the Declarant or its designees. Once plans for any improvement have been approved in writing no changes may be made without the consent of the Declarant or its Designee.

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Section 5. Responsibility and Deposit for Road Damage. It is the responsibility of each Lot Owner and his or her contractor to repair any damage caused to roads in the Property during construction. Each Owner shall place a Four Hundred and No/100 (\$400.00) Dollar deposit with the Property Owners Association to partially cover any road damage which may occur during construction and which shall be returned upon completion of construction if no damage occurs. ✖

## ARTICLE VII USE RESTRICTIONS

Section 1. Land Use and Building Type. No Lot shall be used except for private single-family residential purposes, provided, however, that nothing herein shall prevent Declarant from using any Lot, or dwelling for a model, sales office or construction office nor to prevent any Owner from conducting ordinary sales efforts to sell his house or lot.

Section 2. Dwelling Specifications. No dwelling shall be erected on any Lot unless its plans and specifications have been approved by Declarant and unless it contains no less than:

Lots fronting waterway: 2500 total square feet of Heated Living Space, with a minimum of 1400 on the first habitable floor; ✖

All other lots: 2000 square feet of Heated Living Space, with a minimum of 1100 on the first habitable floor. ✖

Section 3. Nuisance. No noxious or offensive activity shall be carried on upon any Lot or Common Properties, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood, with the exception of the business of the Declarant and the transferees of the Declarant in developing all of the Lots.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that no more than two (2) household pets (including no more than two (2) dogs or two (2) cats) may be kept or maintained provided that they are not kept for commercial purposes and provided further, that they shall not constitute a nuisance or cause any unsanitary conditions. Dogs, cats and other household pets shall be permitted in the Common Properties, subject to the rules and regulations of the Association, only if control of such pets is maintained by leashes. ✖

Section 5. Resubdivision. No lot shall be subdivided or reduced in size nor any lot lines altered without the prior written consent of the Declarant, its successors and assigns. In the event any Owner combines two (2) or more adjoining Lots to create one Lot for the construction of a single residence thereon, from that date forward the resulting lot may not be subdivided or its boundaries changed without the written consent of the Declarant or the Board, provided, however, no such combination shall be allowed without the express written consent of

Declarant and/or the ARB.

- Section 6. Temporary Structures. No structure of a temporary nature shall be erected on or allowed to remain on any Lot without written permission for the same Declarant, the ARB or the Board.
- Section 7. Vehicle Storage. No inoperative or unlicensed vehicle or vehicle in a state of noticeable disrepair shall be kept or stored upon any Lot or Common Property nor may any repair work be done to any motor vehicle, boat or trailer except for very minor repair work requiring less than one day's work.
- Section 8. Water and Sewer Systems. No individual water or sewer system shall be installed on any Lot and each Lot must be connected to a public water and/or sewer system if it is available to the Lot. Nothing herein shall be construed so as to prevent the construction and operation of a "shallow well" for lawn irrigation purposes. \*
- Section 9. Outside Antennas. No outside radio antenna, satellite dish or television antenna shall be erected on the Lots or structures unless and until approved by the Declarant in writing. Declarant may withhold such approval for any reason, including, but not limited to, purely aesthetic reasons. \*
- Section 10. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on the Lots or houses or over the deck railings of any dwelling.
- Section 11. Completion of Construction. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of the same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergency or natural calamities. House or other structures may not be temporarily or permanently occupied until the exteriors thereof have been completed and the applicable governmental authority has permitted such occupancy. During the continuance of construction the Owner shall require the contractor to maintain the Lot in a reasonably clean and uncluttered condition. Upon completion of construction, the Owner shall cause the contractor to immediately remove all equipment and tools and shall require that all construction and landscaping be completed within ninety (90) days of occupancy, or substantial completion, whichever date shall first occur. Nothing contained herein shall preclude a builder of speculative homes from leaving floors, countertops and wall coverings unfinished until sold. Failure to comply with the provisions of this Section shall result in the Owner paying a fee to the Declarant of \$100.00 per day for each day of violation. \*
- Section 12. Prohibited Work. No Owner shall do any work which would jeopardize the soundness and safety of the Property, reduce the value thereof or impair any easement or hereditament without, in every such case, unanimous written consent of all other Property Owners affected being first obtained.
- Section 13. Rebuilding Requirement. Any Dwelling or other structure on any Lot which may

be destroyed in whole or in part by fire, windstorm or by any other cause or act of God must be rebuilt or all debris removed and the Lot restored to a natural condition with reasonable promptness, provided, however, that in no event shall such debris remain longer than three (3) months. Rebuilding shall begin within four (4) months of the loss and be completed within twelve (12) months of commencement.

- Section 14. Repairing Requirement. Each Owner shall, at his sole cost and expense, repair his residence, keeping the same in a good condition comparable to the condition of such residence at the time of its initial construction, excepting only normal wear and tear.
- Section 15. Elevation and Drainage Changes. No changes in the elevation, topography or drainage characteristics of any Lot within the Subdivision shall be made without the prior written approval of the Declarant or the Association Board of Directors nor shall any fill be used to extend any Property beyond any water line of any waterfront lot.
- Section 16. Oil and Mining Operations. No oil drilling, oil development operations, mining operations of any kind, including exploration, shall be permitted upon any Lot nor shall oil wells, tanks, tunnels, mineral excavations or the construction of mining shafts be permitted upon any Lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected maintained or permitted upon any Lot.
- Section 17. Lighting. No mercury vapor or similar lights which are situate upon poles similar to street lights shall be permitted on any Lot without the prior written consent of the Declarant, the ARB or the Board which may decline such consent in its sole discretion and may, but shall not be obligated to, consider the feeling of adjoining Lot owners.
- Section 18. Tree Removal. No Trees or bushes of any kind having a diameter of four (4) inches or more (measured at a point two (2) feet above the ground level) shall be removed from any Lot without the express written authorization of the Declarant, the ARB or the Board of Directors. Declarant shall further have the authority to require any Owner removing a tree in violation of this provision to replace same at such Owner's cost.
- Section 19. Garbage Disposal. Each Owner shall provide garbage receptacles or similar facilities in accordance with reasonable standards established by the City of North Myrtle Beach or County of Horry and/or the Association, which shall be visible from the streets on garbage pick-up days only. No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage or trash on any Lot or within the Subdivision shall be permitted.
- Section 20. Certain Vehicles Prohibited from Lots. No tractor trailers or mobile homes, motorcycles, campers or other habitable motor vehicles of any kind, whether self-propelled or not, school buses, large commercial vehicles, boat trailers, or

boats shall be kept, stored or parked overnight on any Lot, Common Properties or street within the Subdivision, except that the storage of motorcycles, boat trailers and boats is permitted if inside a closed garage or if adequately screened from view. Screening must be approved by the Architectural Review Board.

- Section 21. Discharge of Firearms. No one shall discharge any firearms within the Subdivision.
- Section 22. Discharge of Hazardous Materials. No one shall release, discharge, dispose of or allow to escape onto Lots, Common Areas, waterway, lake(s), pond(s) or other nearby wetlands any oils, petroleum products, alcohol, paints or other hazardous substances.
- Section 23. Altering Lakes and Wetlands Prohibited. No Owner of a Lot adjoining any lake(s), pond(s), waterway or other wetland on the Property shall dredge or otherwise alter the wetlands without Declarant's written permission and approval from all required governmental and regulatory agencies.
- Section 24. Mailboxes. All mailboxes or other receptacles for receiving newspapers, mail and other communications shall be uniform throughout the Subdivision and must be acquired from the Declarant or the Property Owners Association.
- Section 25. Fencing and Retaining Walls. Perimeter property fencing and retaining walls are allowed as approved by the ARB. No cyclone fencing is permitted.
- Section 26. Parking and Garages. No Owner shall park, or allow to be parked, autos or other vehicles on the yards or other non-driveway portions of a Lot. Autos and other vehicles shall not be parked on the streets except when temporary visitors require such parking. Each house shall have an enclosed garage with garage doors which are able to be opened for parking vehicles. Each house shall provide a paved concrete driveway and concrete off-street parking for at least two (2) automobiles.
- Section 27. Sidewalks. During the construction of each dwelling house on the Property, the Owner shall construct, at its sole expense, a sidewalk along the front of the Lot, said sidewalk to meet the following criteria:
- (a) the sidewalk shall run the entire width of the lot from lot line to lot line, with appropriate transitional break for driveways or other paved sidewalks;
  - (b) the sidewalk shall be a uniform width of four (4) feet with a uniform depth of four (4) inches on top of a compacted earthen base or sub-grade;
  - (c) the sidewalk shall be constructed of 3000 psi concrete with appropriate expansion joints or other similar features as approved by Declarant or the ARB;
  - (d) the sidewalks shall be constructed within the street right-of-way in a

location approved by Declarant or the Architectural Review Board.

Section 28. Special Hazards. Each Owner accepts and assumes all the risks and hazards of ownership or occupancy attendant to the ownership of such Lot, including, but not limited to, its proximity to any Common Properties or bodies of water. Specifically, the Declarant does hereby disclaim any and all liability for any property damage or personal injury resulting from erosion along the bank of any lake or body of water, and all ditches, streams, waterways, lakes, lagoons or other bodies of water located in the Subdivision or adjacent to the Subdivision.

Section 29. Additional Restrictions On Lakes and Drainage Areas.

- (a) All boating and swimming activities in lake(s), pond(s) and lagoon(s) on the Property shall be prohibited.
- (b) No Owner other than Declarant, may pump water from, add water to, drain or in any other way interfere with the water in the lake(s) and drainage areas on the Property. All Owners of lots adjacent to the lake(s) shall properly maintain the lakefront on his lot including, but not limited to, keeping underbrush, grass and other plants cut and neat. No such Owner shall dig or dredge to enlarge the lake, or fill to reduce the size of the lake. In the event any such Owner fails to comply with this paragraph the Association may enter upon his lot and perform the Owner's duties, and the Owner shall be responsible to the Association for all costs associated therewith. X
- (c) No docks or other similar structures may be built on, above or adjacent to the lake(s) without the express written consent of the Declarant, its Assignee, the ARB, or Board.
- (d) The owners of the lots which include part or all of the lake dams, if any, shall be responsible for keeping the dam trees clean cut and properly landscaped. Any structural repairs needed to the dam shall be at the expense of, and shall be made by, the Association.
- (e) All purchasers of lots adjoining lakes, any drainage features or the Intracoastal Waterway assume all hazards and risks normally associated with water and water action including, but not limited to, the hazards of children, animals and property.

Section 30. Additional Restrictions and Assessments for Waterway Lots. At the time of the recording of the within document, the necessary permits for the construction of a bulkhead, to perform dredging and to construct dock structures in the waters of the Atlantic Intracoastal Waterway have been applied for and are in process. Although the Declarant has funded the study and the application process, it will not be the responsibility of the Declarant to ensure the completion of these features. These permits, when issued, will be transferred to the Palmetto Harbor Property Owners Association. The Association will have the sole responsibility for the installation and continuing maintenance costs for the construction of a X

bulkhead, waterway dredging and dock construction for the waterway lot owners' use. For the purpose of this section, "waterway lot owners" shall mean and refer to the Owners of Lots 1 through 37 located within the Property with at least one side fronting or adjoining the Atlantic Intracoastal Waterway.

Special assessments for the waterway lots for the completion of the seawall, docks, dredging, etc., as well as the upkeep, repair and maintenance of same, will be determined and assessed by the POA. At the time of recording this document, there has been no determination as to the amount of these assessments or when they will be assessed. Upon that determination, the Association will inform each waterway lot owner, in writing, as to pending assessments and will call for a vote of the then waterway lot owners to decide to proceed or to discontinue all plans for the proposed completion of these activities. The decision to proceed or to discontinue these activities will be made upon the vote of fifty-one (51%) percent of the then waterway lot owners voting in person or by proxy at a meeting called for such purpose.

- Section 31. Reservation of Easements. In addition to those easements granted in this Declaration of Covenants and Restrictions, as well as those easements shown on the Plat, and not as any limitation thereof, a perpetual, alienable and transferable right and utility and drainage easement on each Lot is hereby reserved by the Declarant for itself and its agents, devisees, successors and assigns, along, over, under and upon the Lot and Common Properties subject to this Declaration; provided however that:
- (a) no utility easement shall run across any portion of the Lots or other property which is covered by an existing building or structure or across any areas for which written approvals to construct a building thereon have been obtained;
  - (b) such easements or installation of utilities therein or thereon shall be maintained in as attractive manner as is reasonably feasible;
  - (c) the Declarant, without obligation, reserves the right to transfer any such utilities and easements, in whole or in part, which it may own to the Association, at which time the Association shall be responsible for and have the obligation to operate and maintain such utility easements; and 
  - (d) the Declarant, without obligation, reserves the right to transfer such utilities and utility easements, and easements of access to such utilities and utility easements, in whole or in part, to another entity, whether public or private, which shall undertake to provide such utility service. The purpose of these easements shall be to provide, install, maintain, construct and operate drainage facilities, now or in the future and utility service lines, including, but not limited to, water, sewer power, cable television and telephone service to or from each Lot or other Property. Such easements may be granted or accepted by the Declarant, its successors and assigns, or by the Board of Directors of the Association after such easements inure to the benefit of the Association provided

herein. Within these easements, no structures, plantings or other materials shall be placed or permitted to remain which may damage or interfere with installation or maintenance of utilities or which may change the direction or flow of drainage channels in such easements. For the purpose of this Section, the Declarant reserves the right to modify or extinguish the easements herein reserved.

The easements herein reserved shall be for the use of the Declarant, utility companies and public agencies used in connection with development of the Subdivision. In addition, the Property shall be subject to a non-exclusive easement in favor of Declarant for construction of improvements on the Lots, before their conveyance to a purchaser, and Common Properties including any added by annexation, for storage of equipment and/or materials, for ingress and egress and for exhibition, lease and sale of such improvements. There is further reserved for the benefit of the Declarant, the Association and their respective successors and assigns, the alienable, transferrable and perpetual right and easement, as well as the power to grant and accept easements to and from any public or private authority, agency, public service district, public or private utility or other person upon, over, under and across:

- (a) all of the Common Properties; and,
- (b) an area across every Lot which is not covered by an existing building or over any area which would not prohibit the future developability of such Lot. Such easements may be granted or accepted by the Declarant, its successors and assigns, or by the Directors of the Association; provided, however, that for so long as the Declarant owns any portion of the Common Properties or owns any Lot primarily for the purpose of sale the Board of Directors must obtain the written consent of the Declarant prior to granting or accepting any such easements.

Section 32. Mutual Easements. There shall be appurtenant to each Lot a non-exclusive easement for the use of all pipes, wires, cables, conduits, utility lines, flues and ducts serving the improvements thereon and situated upon any other Lot or the streets or other Common Properties. Each Lot shall be subject to an easement in favor of other Lots for use of all pipes, wires, cables, conduits, utility lines, flues, and ducts situated on or across such Lot and serving other Lots. In addition, and subject to all rules and regulations promulgated by the Association and to the easements and Assessments set forth herein, each Owner, his lessees and guests, shall have a non-exclusive easement and right to use the areas designated as bridges, paths, streets, roads, walkways and systems to travel to and from his Lot and to and from the Common Properties, and a right and easement of enjoyment in and to the Common Properties. All such easements shall be appurtenant to and shall pass with the title to each Lot.

**ARTICLE VIII**  
**INSURANCE AND CASUALTY LOSSES**

Section 1. Insurance. The Board of Directors or its duly authorized agents shall have the authority to and shall obtain and continue in effect adequate property, casualty liability and other insurance, in such form as the Board deems appropriate, for the benefit of the Association. The cost of such insurance shall be a common expense.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association as Trustee for the respective benefitted parties, as further identified in (b) below. Such insurance shall be governed by the provisions hereinafter set forth:

- (a) All policies shall be written with a company licensed to do business in South Carolina which holds a Best's rating of A or better and is assigned a financial size category of XI or larger and established by A.M. Best Company, Inc., if reasonably available or, if not available, the most nearly equivalent rating. 
- (b) All policies on the Common Area shall be for the benefit of Owners and their Mortgagees as their interests may appear; all policies secured at the request of a Neighborhood shall be for the benefit of the Owners and Mortgagees of their Lots within the Neighborhood.
- (c) Exclusive authority to adjust losses under policies in force on the Properties obtained by the Association shall be vested in the Association's Board of Directors; provided however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- (d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their mortgagees.
- (e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Horry County, South Carolina, area.
- (f) The Association's Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:
  - (i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners, and their respective tenants, servants, agents and guests;
  - (ii) a waiver by the insurer of its rights to repair, and reconstruct, instead of paying cash;
  - (iii) that no policy may be canceled, invalidated or suspended on account of any one or more individual Owner;
  - (iv) that no policy may be canceled, invalidated, or suspended on

account of the conduct of any Director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner or mortgagee;

- (v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and
- (vi) that no policy may be canceled or substantially modified without at least ten (10) days' prior written notice to the Association.

**ARTICLE IX  
FINANCING PROVISIONS**

Section 1. Approval of Owners and Holders of First Mortgages. Unless at least sixty-seven (67%) percent of the Owners and fifty-one (51%) percent of the holders of first mortgages which are owned or insured through the FNMA, FHA or similar agency on Lots located within the Properties, have given their prior written approval, the Association shall not:

- (a) Change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot Owner, or of the voting rights of the Owners.
- (b) Change the responsibility for maintenance and repairs as may otherwise be set out herein.
- (c) Impose any restriction upon an Owner's right to sell his Lot.

Section 2. Books and Records. Any Owner or holder, insurer or guarantor of a first mortgage on any Lot will have their right to examine the books and records of the Association, current copies of this Declaration, the By-Laws of the Association and Rules and Regulations during any reasonable business hours and upon reasonable notice. Any holder of a first mortgage shall be entitled, upon written request, to a copy of the Association's financial statement for the previous year.

*What is this for?*

Section 3. Payment of Taxes and Insurance Premiums. The Owners and holders of first mortgages on Lots may jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against any of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for property owned by the Association and the persons, firms or corporations making such payments shall be owed immediate reimbursement therefor from the Association.

*TAXES of Common Area?*

## ARTICLE X DECLARANT'S RIGHTS

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the Official Records of Horry County, South Carolina. ?

Notwithstanding any provisions contained in the Declaration to the contrary, so long as sale of Lots by Declarant shall continue, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Lots or Common Area such facilities and activities as, in the sole opinion of Declarant, may be reasonably required, convenient, or incidental to the sale of such Lots, including, but not limited to, business offices, signs, model units, and sales offices. The Declarant shall have an easement for access to such facilities. The right to maintain and carry on such facilities and activities shall include specifically the right to use residences owned by the Declarant, if any, and any which may be owned by the Association.

So long as Declarant continues to have rights under this paragraph, no person or entity shall record any declaration of restrictions and protective covenants or similar instruments affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of restrictions and protective covenants or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant. ? \*

This Article may not be amended without the express written consent of the Declarant, provided, however, the rights contained in this Article shall terminate upon the earlier of (a) twenty (20) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written statement that all sales activity has ceased.

## ARTICLE XI GENERAL PROVISIONS

- Section 1. Application. All Property Owners, their guests, family members, employees, and tenants, or any other persons who may in any manner use the Properties or any portion thereof, shall be subject to the provisions hereof and to the provisions of the By-Laws.
- Section 2. Enforcement. Declarant, the Association or any Owner shall have the right to enforce, by any proceeding as law or in equity, all restrictions, conditions, covenants, easements, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by Declarant, the Association, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event Declarant or the Association undertake enforcement, a violator or violators shall be obligated to reimburse Declarant or the Association in full for all direct and indirect costs, including but not limited to legal fees, incurred in maintaining compliance with these restrictions in the event Declarant or the

Association prevails in such enforcement proceedings.

Section 3. No Partition. Except as is permitted in this Declaration or any amendment hereto, there shall be no physical partition of the Common Area or any part thereof, nor shall any person acquiring any interest in the Properties or any part thereof seek any such judicial partition, unless the Properties have been removed from the provisions of this Declaration. This article shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring title to real property which may or may not be subject to this Declaration.

Section 4. Severability. Invalidation of any one of these covenants, easements and restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Duration. The covenants and restrictions of this Declaration shall run with and bind the Property constituting the Subdivision, and shall inure to the benefit of and be enforceable by the Declarant, the Association or any Owner for a period of twenty (20) years from the date hereof and thereafter shall automatically continue in effect for additional periods of ten (10) years each, unless otherwise agreed to in writing by the then Owners of at least seventy-five (75%) percent of the Lots.

Section 6. Assignment. The Declarant shall have the right to assign to any one or more persons, firms, corporations, partnerships or associations any and all right, powers, duties, easements and estates reserved or given to the Declarant in this Declaration specifically including, but not limited to, the right to submit Additional Property and Other Property to the terms hereof.

Section 7. Amendments by Declarant. For a period of ten (10) years from the date of recording of this Declaration, the Declarant may amend this Declaration in any particular, except relating to assessments, by an instrument in writing filed and recorded in the Office of the Clerk of Court for Horry County, South Carolina, with or without the approval of any Owner or mortgagees, except as limited herein. Any amendment made pursuant to this Section shall be certified by Declarant as having been duly approved by Declarant, and shall be effective only upon recordation or at such later date as shall be specified in the amendment itself. Each Owner, by acceptance of a deed or other conveyance to a Lot, agrees to be bound by such amendments as are permitted by this Section. In addition to the foregoing amendment rights, the Declarant shall have the right at any time to amend the covenants and restrictions of this Declaration to correct typographical or clerical errors, and as may be required by any governmental authority, institutional or governmental lender, insurer or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Veterans Administration or the Federal Housing Administration. No amendment affecting Lenders' rights shall be made without the written consent of the lenders holding mortgages on Seventy-Five (75%) percent of the lots then comprising the Subdivision.

Section 8. Amendments by Association. In addition to the amendments by Declarant set forth in the previous Section of this Declaration, this Declaration may be amended at any time by an instrument signed by the Owners of not less than seventy-five (75%) percent of the Lots, excluding those owned by the Declarant; provided, however, that during any period in which the Declarant owns a Lot or other Property within the Subdivision, no such amendment shall be valid unless approved in writing by the Declarant. In addition to the foregoing method, amendments to this Declaration may be proposed and adopted in the following manner:

- (a) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each Member of the Association.
- (b) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by Members of the Association. Such amendment must be approved by Owners holding at least seventy-five (75%) percent of the total votes in the Association, excluding the Declarant's votes; provided, however, that during any period in which the Declarant owns a Lot within the Subdivision or has the option under this Declaration to add Additional Property or any portion thereof to the Subdivision, such amendment must be approved by the Declarant.
- (c) The agreement of the required percentage of the Owners and, where required, the Declarant, to any amendment of this Declaration shall be evidenced by their execution of such amendment, or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date may be specified in the amendment itself and shall be subject to the approval of Declarant, its successors and assigns.

Section 9. Waiver. No provision hereof shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.

Section 10. Gender and Number. All pronouns used herein shall be deemed to include the masculine, the feminine and nonpersonal entities, as well as the singular and plural wherever the context requires or permits.

Section 11. Rule Against Perpetuities, etc. Declarant herein shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself. In the event that any of the provisions hereof are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then and in that event, such terms shall be

reduced to a period of time which shall not violate the Rule Against Perpetuities or any other law of the State of South Carolina, and such provision shall be fully effective for such reduced period of time.

WITNESS our hands and seals this 31st day of May, 2006.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:

Waterway Investors, LLC, a South  
Carolina Limited Liability Company

Lorri W. Jennelle  
1<sup>st</sup> Witness

Russell R. Burgess, Jr.  
By: Russell R. Burgess, Jr.  
Its: Managing Partner

Kriste L. Hays  
Notary Public as 2<sup>nd</sup> Witness

Grover E. Rabon, III  
By: Grover E. Rabon, III  
Its: Partner

STATE OF SOUTH CAROLINA )  
  )  
COUNTY OF HORRY          )

PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within Waterway Investors, LLC, a South Carolina Limited Liability Company, by Russell R. Burgess, Jr., its Managing Partner, and Grover E. Rabon, III, its Partner, sign, seal and as their act and deed, deliver the within written instrument, and that (s) he with the other above witness witnessed the execution thereof.

Lorri W. Jennelle  
1<sup>st</sup> Witness

SWORN to before me this 31st  
day of May, 2006.

Kriste L. Hays  
Notary Public for South Carolina  
My Commission Expires: 1-17-10



**EXHIBIT "A"**

ALL AND SINGULAR, that certain piece, parcel or tract of land situate, lying and being in Horry County, South Carolina, as shown on that certain plat entitled Final Subdivision Plat of Palmetto Harbor prepared for Waterway Investors, LLC, by DDC Engineers, Inc., dated February 20, 2006 with revisions on March 7, 2006 and April 5, 2006, and recorded on May 16, 2006 in Plat Book 214 at Page 17, in the Office of the Register of Deeds for Horry County, Conway, South Carolina.

SUBJECT to that certain Perpetual Easement of Warranty by and between Horry County, a body politic, and the United States of America dated May 16, 2006 and recorded in Deed Book 3097 at Page 428, aforesaid records.

Being a portion of the same property conveyed to the Declarant within by Deeds recorded in Deed Book 2724 at Page 0262 and in Deed Book 2724 at Page 0259, Horry County records.

Tax Map Numbers: 143-00-01-014 and 143-00-01-034

**EXHIBIT "B"**  
**BY-LAWS**  
**OF**  
**PALMETTO HARBOR**  
**PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I**  
**NAME AND LOCATION**

The name of the Association is Palmetto Harbor Property Owners Association, Inc., hereinafter referred to as the "Association". The principal office of the Association shall be located at c/o Waterway Investors, LLC, 801 2<sup>nd</sup> Avenue South, North Myrtle Beach, South Carolina 29582, but meetings of the Members and Directors may be held at such places within the State of South Carolina as may be designated by the Board of Directors.

**ARTICLE II**  
**DEFINITIONS**

The words and terms used in these By-Laws or any supplemental set of By-Laws, unless the context shall clearly indicate otherwise, have the same meanings as shall be set forth in the Declaration of Covenants, and Restrictions for Palmetto Harbor, (the "Declaration").

**ARTICLE III**  
**MEMBERS**

- Section 1. Association Membership. Every Owner of a Lot which is subject to the Declaration shall be a Member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to the Declaration.
- Section 2. Membership Rights Subject to Assessment Payment. The rights of membership are subject to the payment of Annual and Special Assessments levied by the Association, the obligation of which assessments is imposed against each Owner of, and becomes a lien upon, the Lot against which such Assessments are made, as provided by Article V of the Declaration.
- Section 3. Voting Rights. The Association shall have two classes of voting membership:
- (a) Class A. Class A Member (s) shall be entitled to one vote for each Lot owned. Declarant may become a Class A Member upon the expiration of its Class B membership status as hereinafter set forth. When more than one person holds title to any Lot, all such persons shall be Members and the one vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.
  - (b) Class B. Class B Member (s) shall be the Declarant, its successors and

assigns, and, for so long as the Declarant owns at least one Lot, shall be entitled to one vote for each Lot owned plus twenty (20) votes for each such Lot. The Class B Membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

- (1) when the Declarant executes and records an instrument forfeiting its Class B Membership; or
- (2) on December 31, 2011.

Section 4. Suspension of Rights. The Membership rights of any member may be suspended by action of the Directors during the period when the Assessments remain unpaid, but, upon payment of such Assessments, his rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Properties and facilities, and the personal conduct of any person thereon as provided in the Declaration, they may, in their discretion, suspend the rights of any such person for violation of such rules and regulations for a period not to exceed thirty (30) days for each violation. Suspension of rights hereunder shall not reduce the Owner's obligation to pay all sums due, include those becoming due during the suspension period.

#### **ARTICLE IV MEETINGS OF MEMBERS**

- Section 1. Membership Annual Meeting. Meetings of the Members shall be held at the office of the Association, or such other place as may be designated by the Board of Directors, and shall occur at least once a year. An annual meeting of the Members shall be held on a day and time as determined by the Board of Directors, to be designated in the notice of the meeting.
- Section 2. Membership Special Meeting. Special Meetings of the Members for any purpose may be called at any time by the President, or by any two (2) or more members of the Board of Directors or upon written request of Members holding one-fourth (1/4) of the total votes of the Association.
- Section 3. Notice. Notice of any meeting shall be given to the Members by the Secretary. Notice may be given to each Member either personally or by sending a copy of the notice through the mail, postage thereon fully prepaid to his address appearing on the books of the Association. Each Member shall register his address with the Secretary and notices of meetings shall be mailed to such address. Notice of any meeting, regular or special, shall be mailed not more than forty-five (45) days, and not less than ten (10) days in advance of the meeting and shall set forth in general the nature of the business to be transacted; provided, however, that if the business of any meeting shall involve and be governed by the Declaration applicable to the Properties, or any action for which other provision is made in these By-Laws, notice of such meeting shall be given

or sent as therein or herein provided.

Section 4. Quorum. The presence at any meeting of Members entitled to cast, or of proxies entitled to cast, fifty-one (51%) percent of the total votes of the Association shall constitute a quorum for any action governed by these By-Laws. Any absent Owner who does not execute and return the proxy form sent to him in the required mailing shall be deemed to be present for the purposes of determining the presence of a quorum. Any action governed by the Declaration applicable to the Properties shall require a quorum as therein provided. 

Section 5. Informal Action by Members. Any action required or permitted herein or by law to be taken at a meeting of the Members of the Association may be taken without a meeting if a consent in writing setting forth the action to be taken shall be signed by Members holding a majority of the votes of the Association, which consent shall be filed with the Secretary of the Association as part of the Association's records.

Section 6. Manner of Acting. Unless otherwise provided herein, or the Declaration, a majority of the total votes cast in person or by proxy at a duly called meeting of the Association shall be the vote required to adopt and make decisions.

#### ARTICLE V PROXIES

Section 1. Voting by Proxy. Each Member entitled to vote may vote in person or by proxy at all meetings of the Association.

Section 2. Proxies. All proxies shall be executed in writing by the Member or by his duly authorized attorney-in-fact and filed with the Secretary; provided, however, that proxies shall not be required for any action which is subject to a referendum in accordance with the Declaration. Unless a proxy otherwise states it shall be deemed to confer the authority to execute consents and waivers and to exercise the right to examine the books and records of the Association. A proxy may be revocable or irrevocable but shall be deemed revocable at will unless otherwise specified therein. If at least ten (10) days prior to a duly called meeting a Member is informed by mail of:

- (a) the time and place of the meeting;
- (b) the agenda for the meeting; and,
- (c) such data as is then available relative to the issues on which there will be a vote.

A proxy form is included in such mailing, and if the Member neither attends the meeting nor returns his executed proxy, then such Member shall be deemed present for purposes of determining a quorum and shall be deemed to have given his proxy to and for the majority present and voting. No proxy shall extend

beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date; and no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Any proxy shall automatically cease upon sale by the Member of his Lot.

**ARTICLE VI**  
**PROPERTY RIGHTS AND RIGHTS OF**  
**ENJOYMENT OF COMMON PROPERTY**

- Section 1. Use of Common Properties. Each Member shall be entitled to the use and enjoyment of the Common Properties as provided in Article IV of the Declaration applicable to the Properties.
- Section 2. Delegation of Rights. Any Member may delegate his rights of enjoyment in the Common Properties and facilities to the members of his family who reside upon the Properties or to any of his tenants or renters who lease or rent Property in the Subdivision from him. Such Member shall notify the Secretary in writing of the name of any person or persons and of the relationship of the Member to such person or persons. The rights and privileges of such person or persons are subject to suspension to the same extent as those of the Member.

**ARTICLE VII**  
**ASSOCIATION PURPOSES AND POWERS**

- Section 1. Association's Purposes. The Association has been or will be established for the purpose of exercising powers of maintaining, repairing, replacing and administering the Common Properties and common facilities and providing common services, administering and enforcing the covenants, conditions and restrictions contained in the Declaration, and levying, collecting and disbursing Assessments and charges herein created. The Declarant reserves the right to convey to the Association, and the Association agrees to accept any or all of its rights and obligations set forth herein or in the Declaration. The Association shall be authorized but not required to provide any of the services set forth in the Declaration or these By-Laws and the shall be further authorized to provide any and all services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of the Declaration and these By-Laws.

**ARTICLE VIII**  
**BOARD OF DIRECTORS**

- Section 1. General Powers. The Association shall be governed and the business and affairs of the Association shall be managed by a Board of Directors.
- Section 2. Number and Tender. The Board of Directors shall consist of three (3) members. The initial Board of Directors shall be appointed by the Declarant and shall hold office until the election of their successors as provided herein. Beginning with the first annual meeting of the Association, the Declarant shall elect one (1)



Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years; and at each annual meeting thereafter, the Declarant or Members shall elect, upon majority vote, one (1) Director for a term of three (3) years. Each Director shall hold office until his successor is elected or until his death or until he shall resign or be removed from office.

- Section 3. Vacancies. Vacancies in the Board of Directors shall be filled by the majority of the remaining Directors, and any such appointed Director shall hold office until his successor is elected by the Members, who may make such election at the next annual meeting of the Members or at any special meeting duly called for that purpose.
- Section 4. Annual Meeting. Annual meetings of the Board of Directors shall be held immediately following the annual meeting of the Association. The Board of Directors may provide by resolution the time and place for holding additional regular meetings of the Board.
- Section 5. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) Directors by giving notice thereof to the members of the Board as provided herein.
- Section 6. Notice. When notice of any meeting of the Board of Directors is required, such notice shall be given at least four (4) days previous to such meeting by written notice delivered personally or sent by mail to each Director at his address as shown on the records of the Association. Any Director may waive notice of any meeting before or after the time of the meeting stated herein, and attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of, objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, or the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice at such meeting, unless specifically provided by law, the Articles of Incorporation, these By-Laws or the Declaration.
- Section 7. Quorum. A majority of the Board of Directors shall constitute a quorum for the transaction of business at any meeting of the Board.
- Section 8. Manner of Acting. The act of a majority of Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.
- Section 9. Compensation. Directors shall receive no salaries for their services, but by resolution of the Board of Directors, any Director may be reimbursed for actual reasonable expenses incurred in the performance of his duties as a Director. Nothing herein contained shall be construed to preclude any Director from serving the Association in any other capacity and receiving compensation therefor.

- Section 10. Informal Action by Directors. Any action required or permitted herein or by law to be taken at a meeting of Directors may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by a majority of the Directors, which consent shall be filed with the Secretary of the Association as part of the Association's records.
- Section 11. Removal of Directors. Any Director may be removed from the Board of Directors, with or without cause, by a majority vote of the Members of the Association, and a successor may then and there be elected to fill the vacancy thus created or the vacancy may be filled by the Board of Directors.

**ARTICLE IX**  
**POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers. The Board of Directors shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Properties, amenities and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Suspend the voting rights and right to use the Common Properties, amenities and facilities, if any, of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the Association. Such rights may also be suspended for a period not to exceed thirty (30) days at a time for infraction of published rules and regulations;
- (c) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the Membership by other provisions of these By-Laws, or the Declaration;
- (d) Employ a Property manager, an independent contractor, or such other employee as they deem necessary and to perform their duties;
- (e) To grant utility and ingress/egress easements on, over and across the Lots and Common Properties of the Association, as provided in the Declaration;
- (f) To sell, transfer and convey portions of Common Properties without a vote of the Members of the Association in order to (i) correct errors or mistakes in Deeds or easements to or from the Association; or (ii) to divest the Association of Properties which are not necessary for the functions and services which the Association is authorized to carry out and deliver.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) cause to be kept a complete record of all its acts and Association affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by a one-fourth (1/4) vote of the Class A members who are entitled to vote;
- (b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) as more fully provided in the Declaration:
  - (1) to fix and levy the amounts of all Assessments, annual, special, or otherwise;
  - (2) to send written notice of all Assessments to every Owner subject thereto;
  - (3) in the discretion of the Board, to foreclose the lien against any property for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the Owner personally obligated to pay the same; and
  - (4) to provide for a Board of Architectural Review, should the Declarant transfer and relinquish said authority to this Board.
- (d) to issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) to procure and maintain adequate liability and hazard insurance on Common Properties and other property owned or leased by the Association as it may deem appropriate;
- (f) to cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate; to provide Directors and Officers liability insurance, errors and omission insurance or similar insurance for Officers and Directors, as it may deem appropriate.
- (g) to cause the Common Properties and facilities to be maintained, replaced or improved, and properly landscaped;
- (h) to prepare an annual budget for the Association, outlining anticipated receipts and expenses for the following fiscal year;
- (i) to carry out the reconstruction of Common Property improvements after casualty, and to carry out the further improvement of such Common Properties;

- (j) to acquire, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Common Properties, as may be necessary or convenient in the operation and management of the Association, except those which may be required by the Declaration to have approval of the Members;
- (k) to enforce by legal means the provisions of the Certificate of Incorporation, Declaration and By-Laws of the Association, and the regulations promulgated by the Board;
- (l) to pay all taxes and assessments which are liens against any part of the Common Properties or other property, real or personal, belonging to the Association;
- (m) to pay all costs of power, water and sewer and other utility services rendered to the Association and not billed to the Owners of Lots;
- (n) to borrow money on behalf of the Association and to pledge or mortgage the property of the Association as security for such loan (s) ; and
- (o) to exercise for the Association all powers, duties and authority vested in or delegated to the Association by the Declaration and not reserved to the Membership by other provisions of these By-Laws or the Certificate of Incorporation.

#### **ARTICLE X** **AUTHORITY TO MORTGAGE**

To the extent provided by law, the Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions. Notwithstanding anything in the Declaration to the contrary, the Association shall not be allowed to reduce the limits of the minimum regular annual assessment at any time there are outstanding any amounts as repayment of any such loans.

#### **ARTICLE XI** **OFFICERS**

Section 1. Officers. The officers of the Association shall be a President, one or more Vice Presidents (the number thereof to be determined by the Board of Directors), a Secretary, officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors, Any two or more offices may be held by the same person. The President shall be a Director of the Association. Other officers may be, but need not be, Directors of the Association.

- Section 2. Election, Term of Office and Vacancies. The officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term.
- Section 3. Removal. Any officer may be removed by the Board of Directors whenever, in its judgment, the best interest of the Association will be served thereby.
- Section 4. Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board of Directors, except as otherwise determined by the Board of Directors, the President shall be chief executive officer of the Association.
- Section 5. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- Section 6. Interim Officers. ~~The initial Board of Directors appointed by the Declarant shall~~ elect interim or acting officers to serve until the first annual meeting of the Board of Directors. ✕
- Section 7. President. The President shall be the chief executive officer of the Association. He shall execute on behalf of the Association all instruments requiring such execution except to the extent the signing and execution thereof shall be expressly delegated by the Board of Directors to some other officer or agent. The President shall preside at all meetings of the Association and the Board of Directors. He shall have all general powers and duties which are usually vested in the office of President of a property owners association, including the power to appoint committees.
- Section 8. Vice President. The Vice President shall act under the direction of the President and shall perform such duties as may be imposed by the Board. In the absence or disability of the President, the Vice President shall perform the duties and exercise the powers of the President.
- Section 9. Secretary. The Secretary shall act under the direction of the President. Subject to all the direction of the President, the Secretary shall attend all meetings of the Board of Directors and meetings of the Association and record the proceedings. He shall give, or cause to be given, notice of all meetings of the Association and of the Board of Directors as required by these By-Laws and shall perform such other duties as may be prescribed by the President or the Board of Directors.
- Section 10. Treasurer. The Treasurer shall act under the direction of the President and shall keep or be responsible for keeping the accounts of the Association. He shall

disburse the funds of the Association as may be ordered by the President Board of Directors and shall render on request or at the regular meeting Board of Directors a full and accurate account of all his transactions as Treasurer and of the financial condition of the Association. The Treasurer shall be responsible for mailing all Assessment notices to Members of the Association.

## **ARTICLE XII** **COMMITTEES**

Section 1. Committees of Directors. The Board of Directors may designate one or more committees, each of which shall consist of one or more Directors and such other Members as the Board shall determine, which committees, to the extent authorized by the Board, shall have and exercise the authority of the Board of Directors in the management of the affairs of the Association; provided, however, that no such committee shall have the authority of the Board of Directors as to the following matters:

- (a) the amendment of the Articles of Incorporation of the Association; or the sale, lease or exchange of all or substantially all of the property of the Association;
- (b) the designation of any such committee or the filling of vacancies on the Board of Directors or on any such committee; and,
- (c) the amendment or repeal of any resolution of the Board of Directors.

All members of these committees shall be Directors.

Section 2. Other Committees. Other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the Association may be designated by a resolution adopted by a majority of Directors present at a meeting at which a quorum is present. Such committees shall perform such duties and have such powers as may be provided in the resolution.

Section 3. Rules. Each committee may adopt rules for its own government not inconsistent with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

## **ARTICLE XIII** **LIABILITY AND INDEMNIFICATION**

Section 1. Liability of Board Members. No Board Member or Officer of the Association shall be liable to any Property Owner for any decision, action or omission made or performed by such Board Member or Officer in the course of his duties unless such Board Member or Officer acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws.

Section 2. Indemnification of Board Member. The Association shall indemnify and defend

each Board Member and Officer of the Association from any liability claimed or imposed against him by reason of his position or decision, action or omission as a Board Member or any Officer of the Association if all of the following conditions are satisfied:

- (a) Such Board Member or Officer has not acted in bad faith or in reckless disregard of the rights of any person or of the terms of the Declaration or these By-Laws;
- (b) Such Board Member or Officer gives the Association adequate notice of the claim or imposition of liability to permit the Association reasonable opportunity to defend against the same;
- (c) Such Board Member or Officer cooperates with the Association and any applicable insurance company defending against the liability.

The expense of indemnifying a Board Member or Officer as provided herein shall be a Common Expense of the Association and shall be borne by all Property Owners, including such Board Member or Officer. Nothing herein shall be construed so as to give any Officers or Directors subrogation rights against the Association.

#### **ARTICLE XIV CORPORATE SEAL**

The Secretary may have a seal in circular form having within its circumference the name of the Association, the year of its organization and the words "Corporate Seal, South Carolina".

#### **ARTICLE XV AMENDMENTS**

These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the Declarant within five (5) years from the date of recordation of the Declaration. These By-Laws may also be amended by a majority of the total votes cast at a duly called meeting of the Association provided notice of such proposed amendment is given in the call for such meeting; provided, however, that during any period in which the Declarant owns a Lot within the Subdivision, such change must be approved by the Declarant.

#### **ARTICLE XVI DISSOLUTION**

If the Members determine that it is in the best interest of the Association and/or its Members to completely dissolve the Association, such action may be taken by a three-fourths (3/4) vote of the votes present at a meeting duly called and held for such purpose. In the event of such action, the disposition of the Common Properties belonging to the Association shall be as determined by a similar vote of the Members.

#### **ARTICLE XVII**

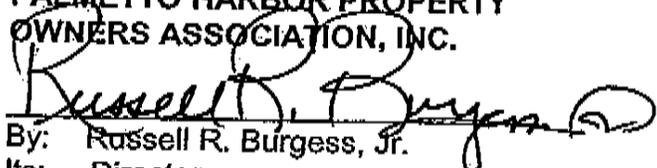
## FISCAL YEAR

The fiscal year of the Association shall be determined by the Board of Directors and unless determined to be otherwise, shall be the calendar year.

## ARTICLE XVIII GENERAL

- Section 1. Conflicts. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control; in the case of any conflict between these By-Laws or the Declaration and any regulation promulgated by the Board of Directors, (i) the Declaration, and then (ii) these By-Laws shall control.
- Section 2. Waiver. No provision of these By-Laws or any regulation promulgated by the Board of Directors pursuant hereto shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, regardless of the number of violations or breaches which may have occurred.
- Section 3. Severability. The provisions of these By-Laws are severable, and the invalidity of one or more provisions hereof shall not be deemed to impair or affect in any manner the enforceability or effect of the remainder.
- Section 4. Captions. Captions are inserted herein only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision.
- Section 5. Gender and Number. All nouns and pronouns used herein shall be deemed to include the masculine, the feminine and the neuter, and the singular shall include the plural and vice versa, whenever the context requires or permits.
- Section 6. Roberts Rules. All meeting of the membership or the Board of Directors shall be conducted in accordance with Roberts Rules of Orders (Revised).

**PALMETTO HARBOR PROPERTY  
OWNERS ASSOCIATION, INC.**

  
By: Russell R. Burgess, Jr.  
Its: Director

## Palmetto Harbor Rules, Regulations and Fines

### Per Article III, Section 2 of the Declaration Covenants, Conditions, Restrictions, Easements, Charges and Liens (CCRs) for Palmetto Harbor :

**Rules and Regulations.** *The Association, by and through its Board of Directors, may adopt from time to time additional reasonable rules and regulations governing the use of Common Properties and Lots within the Subdivision. This right may be limited by applicable law in the event areas of the Subdivision are dedicated to governmental authorities and the rules conflict with applicable laws. Such rules may not conflict with the provisions of this Declaration and, in the event of any such conflict, this Declaration shall prevail.*

It is the responsibility of all owners to familiarize themselves with the following rules, regulations and fines established by the Association and to make any guest, contractor, etc. aware of these rules, when appropriate. This document has been developed for ease of reference. In addition to the rules and regulations set forth herein, please refer to the CCRs and/or ARB Guidelines for additional guidance, as necessary.

**Fines:** Failure to comply with the following rules and regulations will precipitate a fine or fines as follows (unless otherwise stated herein or as part of the CCRs and/or ARB Guidelines).

\$0 – first warning in writing

\$100– second warning

If not resolved in a timely manner, additional fines of up to \$100/day may be incurred.

#### **Animals/Pets.**

- No exotic animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling.
- No vicious or nuisance animal shall be kept or maintained on any Lot or in any dwelling.
- No more than two (2) household pets (including no more than two (2) dogs or two (2) cats or a combination, not to exceed two (2) in total may be kept or maintained, provided they shall not constitute a nuisance or cause unsanitary conditions.
- No pet will be allowed to run at large unleashed beyond the limits of Owners' fenced area.
- Excessive barking by an animal is considered a nuisance and Owners' MUST adhere to the rule regarding nuisance animals.
- Pet owners MUST pickup and properly dispose of waste deposited by Owners' pet(s) whether on Owners' Lots, yards, sidewalks, streets, and/or common areas within the Subdivision.

**Antennae.** No outside antennae is allowed unless approved, in writing, by the ARB.

**Building Type/Lot Use.** No Lot shall be used except for private single-family residential purposes.

**Construction and Contractor Work Hours.** M-F 7 a.m. -7 p.m.; Sat. 8 a.m.- 4 p.m.; Sun.- No construction work is to be conducted by any contractor or subcontractor or homeowner on a Sunday unless it is the result of an owner/resident emergency. Holidays – No construction work is to be carried

out by any contractor, subcontractor or homeowner on the following holidays: Memorial Day, Fourth of July, Labor Day, Thanksgiving or Christmas.

**Clothes Drying.** No drying or airing of any clothing, bedding, rugs, etc. is permitted on the lots or houses or over the deck railings of any dwelling.

**Discharge of Firearms.** No one shall discharge any firearm within the subdivision in adherence to the rules and regulations established for Palmetto Harbor and by ordinance of the City of North Myrtle Beach.

**Easements.** No structures, plantings or other materials shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities or which may change the direction or flow of drainage channels. Any infringement on easements must comply with and be approved, in writing, by the relevant jurisdiction or authority (city, county, and/or utility).

**Fencing/Retaining Walls.** All fencing and retaining walls must be approved by the ARB in accordance with the requirements thereof. No retaining wall can be installed closer than three (3) feet from any adjacent lot.

**Garbage/Trash/Hazardous Materials/Unsightly Conditions.**

- No garbage or trash incinerator shall be permitted upon the premises. No burying or other disposal of garbage or trash on any Lot or common area is permitted.
- No litter, trash, rubbish or any unclean, unsightly or unkempt condition of buildings or grounds during or after construction is allowed.
- No one shall release, discharge, dispose of or allow to escape onto lots, common areas, waterway, lake(s), pond(s) or other nearby wetlands, any litter, trash, hazardous substance and/or materials.

**Lakes/Ponds/Wetlands.**

- No Owner of any Lot shall dredge or otherwise alter the wetlands without written permission of the Association.
- The lakes and ponds are the property of the Association for use by Owners Only and in accordance with the rules established for their use. No owner may grant permission to any non-owner to use the lakes/ponds located on the common areas.
- No boating, swimming, or wading is allowed in lakes and/or ponds.
- The areas surrounding the lakes/ponds are for owner pedestrian use. No motorized vehicles are allowed.
- No Owner shall pump water or add water to drains or interfere in any way with the water in the lakes, ponds and/or drainage areas.
- No docks may be built on, above, or adjacent to any lake, pond or drainage area.
- Owners of lots adjacent to the lake(s) and/or ponds shall...maintain the lake or pond front on his/her Lot to the waterline including, but not limited to, keeping underbrush, grass and other plants cut and neat. In the event any such Owner fails to comply with this requirement, the Association may perform the Owner's duties, and the Owner shall be responsible to the Association for all associated costs plus fees.

**Lighting.**

- No mercury vapor or similar lights which are situated upon poles similar to street lights shall b

permitted on any Lot.

**Mowing.** Lots must be mowed at a minimum of once a month during the growing season (April to November) or when vegetation reaches no more than 12” in height. The Association retains the right to have an Owners lot mowed and to assess the Owner up to \$100 per mowing.

**Noise/Nuisance.** No loud, noxious, or offensive activity shall be carried on upon any Lot or Common Area nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

**Parking.**

- No vehicle may remain parked on the street overnight.
- No vehicle may obstruct USPO access to any mailbox.
- No vehicle may obstruct lot owner(s) access or egress from their driveway.

**Pools.** No above ground pools are allowed within the Subdivision.

**Repairs to Homes.** Each Owner shall, at his sole cost and expense, repair his residence, keeping the same in a good condition comparable to the condition of such residence at the time of the its initial construction excepting normal wear and tear.

**Screening.** All garbage receptacles and HVAC units must be screened (see ARB Guidelines).

**Sheds/Storage Units/Temporary Structures.** No sheds, storage units or structures of a temporary nature shall be erected or allowed to remain on any Lot.

**Signage.** No signage shall be placed or displayed on any Lot by any resident, agent or contractor that has not been approved, as outlined in the ARB Guidelines. No political signage of any type may be displayed on any lot.

**Speed Limit/Safe Vehicle Operation.**

- No vehicle operator shall exceed the posted speed limit of 20 MPH on any street, court, and/or cul-de-sac within the Subdivision.
- Stop signs are to be obeyed at all times.
- No vehicle shall be operated in any manner as to jeopardize the safety of any resident or property within the Subdivision.

**Trampolines**

- No large trampolines may be erected or maintained on any lot

**Unsightly Conditions**

- It is the responsibility of each Owner to prevent the accumulation of litter, trash, or rubbish or the development of any unclean, unsightly or unkempt condition of buildings or grounds on his/her Lot either before, during or after construction, nor to permit the accumulation of excessive plant growth which shall tend to substantially decrease the beauty of the community as a whole or any specific area.

**Vehicle Storage.**

- No inoperative or unlicensed vehicle or vehicle in a state of noticeable disrepair shall be kept or stored upon any Lot, nor may any repair work be done to any motor vehicle on any Lot except for minor repairs requiring less than one day.
- No auto or other vehicle shall be parked in the yards or other non-driveway portions of a Lot. Autos or other vehicles shall not be parked on the street except when temporary visitors require such parking and at no time shall remain on the street overnight.
- No tractor trailers, mobile homes, motorcycles, campers, or other habitable motor vehicles of any kind, whether self-propelled or not, school buses, large commercial vehicles, boat trailers, or boats shall be kept, stored, or parked overnight on any Lot or street within the Subdivision.

**Water and Sewer Systems.** No individual water or sewer system shall be installed on any Lot... except a “shallow well” for lawn irrigation purposes.