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**STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) **DECLARATION OF COVENANTS,
) **CONDITIONS AND RESTRICTIONS
) **FOR BROAD POINTE SUBDIVISION********

This Declaration of Covenants, Conditions and Restrictions for Broad Pointe Subdivision (this "Declaration") is made and published this 10th day of March, 2000 by Broad Pointe, L. P., a South Carolina limited partnership (the "Declarant").

WHEREAS, the Declarant is the owner of that certain tract of land located on Hilton Head Island, Beaufort County, South Carolina, more particularly described in Exhibit A attached hereto (the "Property"); and

WHEREAS, the Declarant desires to subject the Property to the provisions of this Declaration; and

WHEREAS, it is the intent of the Declarant to develop a single-family residential subdivision within the Property; and

WHEREAS, it is the further intent of the Declarant to provide for a method of administration and maintenance of the Property;

NOW, THEREFORE, for the purpose of enhancing and protecting the value, attractiveness and desirability of the Property, the Declarant hereby declares that the Property and each and every part thereof shall be held, sold, devised and conveyed subject to the covenants, conditions, restrictions and easements contained herein, which shall constitute covenants running with the land that shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, and their respective heirs, executors, administrators, successors and assigns, and shall inure to the benefit of each Owner (as defined herein).

ARTICLE I

DEFINITIONS

The following words and terms, when used in this Declaration, shall have the following meaning:

1. "Association" shall mean and refer to Broad Pointe Owners' Association, Inc., a South Carolina non-profit corporation, its successors and assigns.
2. "Board of Directors" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

3. "By-Laws" shall mean and refer to the By-Laws of the Association, as the same are amended from time to time. A copy of the initial By-Laws of the Association is attached hereto as Exhibit B and thereby made a part hereof.
4. "Committee" shall mean and refer to Architectural Standards Committee for Indigo Run as established in the Indigo Run Covenants.
5. "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of reserves, pursuant to the provisions of this Declaration.
6. "Common Property" shall mean and refer to all real and personal property now or hereafter owned by the Association or held by the Declarant on behalf of the Association for the common use and enjoyment of the Owners. The Common Property may include, but shall not be limited to, the road and road rights-of-ways, marsh areas, wetlands, open spaces (landscaped and natural), lagoons, drainage ditches and pipelines, Development entry areas, vehicle parking areas, maintenance areas, walkways and swimming pool and such other common areas as may be designated by the Declarant within the Property, together with such improvements thereon as may be necessary for the maintenance and upkeep of such areas.
7. "Declarant" shall mean and refer to Broad Pointe, L. P., a South Carolina limited partnership, its successors and assigns.
8. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Broad Pointe Subdivision and all amendments and supplements thereto filed of record in the Office of the Register of Deeds for Beaufort County, South Carolina.
9. "Development" with an initial capital letter shall mean and refer to the Property and all improvements located or constructed thereon.
10. "Dwelling" shall mean and refer to any improved Lot intended for use as a single family detached residence located within the Property.
11. "Indigo Run" shall mean that certain planned unit development located on Hilton Head Island, South Carolina containing approximately One Thousand Seven Hundred (1,700) acres of land commonly known as Indigo Run Plantation, and which includes the Property.
12. "Indigo Run Covenants" shall mean that certain Declaration of Covenants, Conditions and Restrictions for Indigo Run Plantation recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 418 at Page 1716, as amended from time to time.
13. "Indigo Association" shall mean the Indigo Run Plantation Owners' Association, Inc., as established in the Indigo Run Covenants.

14. "Lot" shall mean and refer to any unimproved portion of the Property upon which it is intended that Dwellings may be constructed, as such Lots are shown on the Subdivision Plat. A parcel of land shall be deemed unimproved and thus considered to be a Lot, rather than a Dwelling, until the improvements constructed thereon are sufficiently complete to reasonably permit habitation thereof. Upon the completion of a Dwelling thereon, a Lot and the improvement thereon shall be collectively be considered to be a Dwelling for the purposes of this Declaration.

15. "Member" shall mean and refer to each of those persons or entities entitled to membership in the Association, as provided in Article II hereof.

16. "Mortgage" with an initial capital letter shall mean and refer to a mortgage, security deed, deed of trust, installment land sales contract, or other similar security instrument granting, creating or conveying a consensual lien or security interest in a Lot or Dwelling.

17. "Mortgagee" with an initial capital letter shall mean and refer to the holder of a Mortgage.

18. "Occupant" shall mean or refer to any person, including, without limitation, any Owner or any guest, invitee, lessee, tenant or family member of an Owner, occupying or otherwise utilizing a Dwelling.

19. "Owner" shall mean and refer to the title holder as shown in the public records of the Office of the Register of Deeds for Beaufort County, South Carolina, whether it be one or more persons, firms, associations, corporations or other legal entities, of fee simple title to any Lot or Dwelling. Owner shall not include those holding title merely as security for performance of an obligation; *provided, however*, that if there is of record in the Office of the Register of Deeds for Beaufort County, South Carolina a long-term or installment contract of sale covering any Lot or Dwelling, then the Owner of such Lot or Dwelling, shall be the purchaser under said contract for so long as the contract remains in force and effect and not the record holder fee simple title to the Lot or Dwelling. A long-term or installment contract of sale shall be one under which the purchaser is required to make regular payments for the Lot or the Dwelling for a period extending beyond nine (9) months from the date of the contract, the purchaser does not receive fee simple title to the Lot or Dwelling until all required payments are made, although the purchaser is given the use of the Lot or Dwelling during the term of the contract, and the purchaser is considered to have a beneficial or equitable interest in the Lot or Dwelling.

20. "Pinefield Cemetery" shall mean that certain piece, parcel or tract of land, containing 0.75 acre, more or less, shown and described on the Subdivision Plat as "Pinefield Cemetery (Outparcel)". Pinefield Cemetery is not part of the Property.

21. "Subdivision Plat" shall mean and refer to that certain plat entitled "A Subdivision Plat of Broad Pointe, A Section of Indigo Run" prepared by Coastal Surveying Co., Inc., Antoine Vinel, SCRLS 9064, dated April 28, 1999, last revised August 17, 1999 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 13 at Page 163, as the same may be amended, revised or modified by the Declarant or its

successors and assigns, which depicts and delineates the Lots and other portions of the Property.

ARTICLE II

THE ASSOCIATION

1. Establishment of the Association. The Declarant hereby establishes the Association for the purpose of exercising the powers of maintaining and administering the Common Properties conveyed to the Association and providing common services, administering and enforcing the covenants, conditions, restrictions and easements contained herein, and levying, collecting and dispersing assessments and charges herein created. The Declarant expressly reserves the right to convey to the Association any and all of its rights and obligations set forth herein.

2. Membership. By acceptance of a deed or other conveyance for any Lot or Dwelling, the Owner thereof shall be deemed to covenant and agree to subject said Lot or Dwelling to this Declaration and the jurisdiction of the Association and its By-Laws, and no further act by an Owner is required. Each Owner of any Lot or Dwelling shall be a Member of the Association. Membership in the Association shall be appurtenant to and may not be separated from the ownership of any Lot or Dwelling, and the ownership of a Lot or Dwelling shall be the sole qualification for such membership. When fee simple title to a Lot or Dwelling is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto shall automatically pass to such transferee; *provided, however*, that Mortgagees or any other persons or entities holding an interest in any Lot or Dwelling merely as security for the performance of an obligation shall not be Members merely by virtue of holding a Mortgage on a Lot or Dwelling, and the giving or granting of a Mortgage or other security interest in a Lot or Dwelling shall not terminate or otherwise affect a Member's membership in the Association.

3. Voting Rights. Each Lot or Dwelling is hereby assigned one vote for voting purposes in the Association. The construction of a Dwelling on a Lot shall in no way be construed to increase or alter the voting strength of such Lot, and such improved Lot shall continue to have one vote for voting purposes within the Association. In the event of multiple owners of a Lot or Dwelling, votes and rights of use and enjoyment of the Common Properties shall be as provided herein. The rights and privileges of membership in the Association, including the right to vote and to hold an office in the Association, may be exercised by a Member or a Member's spouse, but in no event shall more than one vote be cast or more than one office be held for each Lot or Dwelling. When more than one person or entity holds or owns an interest in any Lot or Dwelling, the vote for such Lot or Dwelling shall be exercised as those Owners of such Lot or Dwelling themselves determine and advise the Secretary or an Assistant Secretary of the Association prior to any meeting. In the absence of such advise, the vote appurtenant to such Lot or Dwelling shall be suspended if more than one person seeks to exercise it.

4. Directors and Officers. Notwithstanding any other provisions to the contrary contained in this Declaration, the By-Laws or any instrument establishing the Association, the

Declarant shall have the right to appoint and remove at its pleasure all members of the Board of Directors and all officers of the Association until such time as the first of the following events shall occur: (A) the expiration of twenty (20) years after the date of the recording of this Declaration; (B) the date on which all of the Lots have been conveyed by the Declarant to third party purchasers; or (C) the express renunciation by the Declarant of its right to appoint and remove members of the Board of Directors and officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, vests in the Declarant such authority to appoint and remove members of the Board of Directors and officers of the Association. The initial Board of Directors shall consist of three (3) individuals appointed by the Declarant. At the first meeting of the Members of the Association, a Board of Directors consisting of five (5) individuals shall be elected by the Members, subject to the rights of the Declarant as set forth herein.

ARTICLE III

ARCHITECTURAL STANDARDS COMMITTEE

The Declarant hereby grants to the Committee the right to examine and pass upon all proposed plans for any Dwellings or structures and any additions thereto and remodeling thereof intended to be placed on any portion of the Property, other than any structures, additions or remodelings undertake or approved by the Declarant. Approval of the Committee, its designated agent, successors or assigns, shall be required on the design of all improvements placed within the Property. Such approvals and all other functions of the Committee shall be governed by the provisions of the Indigo Run Covenants.

ARTICLE IV

ASSESSMENTS

1. Creation of Lien and Personal Obligation of Assessments. Upon the acceptance of title to a Lot or Dwelling, whether or not it shall be so expressed in any deed or other conveyance, each Owner shall be deemed to covenant and agree to all of the terms and provisions of this Declaration and the By-Laws of the Association, and the obligation to pay to the Declarant (or to the Association upon conveyance of any of the Common Properties to the Association), the annual assessments which are herein established and described. Until such time as the Declarant conveys a portion of the Common Property to the Association, the Declarant shall establish, and be entitled to receive payment of, all annual assessments and charges which are to be collected and used for the purposes set forth in Paragraph 2 next below (the "total annual assessment"). If and when the Declarant conveys all or any portion of the Common Property to the Association then, for each year thereafter (A) the Declarant shall establish the amount of the annual assessment with respect to that portion of the Common Property which is owned by the Declarant; (B) the Board of Directors shall establish the amount of the remainder of the annual assessments; and (C) the total of the assessments so established by the Declarant and the Association shall be the "total annual assessment" and shall be paid to the

Association. Upon the complete conveyance of all Common Properties to the Association, the total annual assessment shall be established by the Board of Directors. It shall be the duty of the Board of Directors at least thirty (30) days prior to the Association's annual meeting to prepare a budget of the estimated Common Expenses relating to the maintenance, improvement and operation of the Common Properties during the coming year, and such budget may include a capital contribution or reserve account if necessary for the capital needs of the Association as determined by the Board of Directors. The Board of Directors shall cause the budget and the proposed total annual assessments to be levied against Lots and Dwellings for the following year to be delivered to each Owner at least fifteen (15) days prior to the Association's annual meeting. The total annual assessments shall be divided among Lots and Dwellings equally, so that each Lot and Dwelling shall be subject to equal total annual assessments. The budget and total annual assessment shall become effective unless disapproved at the annual meeting by either a majority vote of the Members of the Association or the Declarant for so long as the Declarant has the authority to appoint and remove directors and officers of the Association. Notwithstanding the foregoing, if the proposed budget is not approved or the Board of Directors fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined as provided herein, the budget and the total annual assessments in effect for the then current year shall be increased in proportion to the percentage of increase, if any, for the then current year, in the Consumer Price Index (All Urban Consumers, United States City Average, All Items 1959-59 = 100) or its successor index, and such increased budget shall be implemented for the succeeding year, until a new budget shall be approved as provided above. If any budget at any time proves inadequate for any reason, then the Board of Directors may call a meeting of the Association for the approval of a special assessment as provided in Paragraph 3 of this Article IV. Total annual assessments together with any late charges thereon and cost of collection thereof as provided herein shall be a charge and continuing lien on the Lot or Dwelling against which such assessments are made. Each such assessment, together with any such late charges thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the Owner of such Lot or Dwelling at the time when the assessment first becomes due and payable. In the case of co-ownership of a Lot or Dwelling, all such co-owners shall be jointly and severally liable for the entire amount of the assessment.

2. Purpose of Assessments. The annual assessments levied by the Declarant or the Association shall be used exclusively for (A) the landscaping, improvement, maintenance, enhancement, enlargement and operation of the Common Property under this Declaration as provided below; (B) the landscaping and maintenance of Pinefield Cemetery; and (C) to provide services which the Association is authorized to provide under this Declaration as provided below. In carrying out these duties, the Declarant or the Association may make payments of taxes and insurance premiums, make improvements on the Common Properties, pay the cost of labor, equipment, materials, management, supervision and accounting, repay any loans made to the Association, and take such other action as is necessary to carry out the authorized functions. The annual assessments levied by the Declarant and the Association may additionally be utilized to pay utility charges for serving the Common Properties and charges for other common services for the Common Property, including trash collection and security services (including expenses associated with the operation, maintenance and repair of manned or electronically monitored and operated gates controlling vehicular access to and from the Property), if any such services or charges are provided or contracted for by the Association. The annual assessments may

additionally be utilized to pay the cost of any policies of insurance purchased for the benefit of all Owners or the Association covering the Common Property, including fire, flood and other hazard coverages, public liabilities coverage, and such other insurance coverage as the Board of Directors determines to be in the interest of the Association and the Owners. The annual assessments may be additionally utilized to the establishment and maintenance of a reasonable reserve fund for the maintenance, repair and replacement of Common Property and to cover emergencies and repairs required as a result of casualties which are not covered by insurance proceeds, and to cover unforeseen operating expenses or deficiencies arising from unpaid assessments or liens, as well as from emergency expenditures and other matters, all as may be authorized from time to time by the Declarant or the Board of Directors.

3. Special Assessments. In addition to the total annual assessments authorized above, the Declarant or the Association, acting through its Board of Directors, may levy, in any assessment year, special assessments for the purposes set forth in Paragraph 2 herein. Such special assessments shall be applicable only to the then current assessment year, and such special assessments must be approved by (A) Declarant, for so long as Declarant owns any Lot or Dwelling primarily for the purpose of sale, and (B) by a majority of the votes of the Owners who are voting in person or by proxy a meeting duly called for this purpose in accordance with the notice and quorum requirements set forth in the By-Laws. The Board of Directors may make such special assessments payable in installments over a period which may, in the Board's discretion, extend in excess of the fiscal year in which adopted. Such special assessments are to be charged equally to the Lots and Dwellings as provided with respect to the total annual assessments.

4. Effect of Non-Payment of Assessment. The total annual assessment shall be paid in a lump sum (and not in installments) unless otherwise determined by the Declarant in its sole discretion, and if any assessment is not paid on or before the due date specified by the Declarant or Association, then such assessment shall become delinquent and shall be subject to a late charge at a rate which equals the lesser of (A) fifteen (15%) percent per annum, together with costs of collection including reasonable attorney's fees and court costs, or (B) the highest rate then permitted by applicable law from the date of delinquency until the date of payment, together with cost of collection including reasonable attorney's fees and court costs, as hereinafter provided. Such assessments, late charges, and cost of collections shall become a charge and continuing lien on the Lot or Dwelling of a delinquent Owner and shall be a personal obligation of the Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner to pay such assessments is established at the time when the assessment first became due and payable. The lien for delinquent assessments provided for herein shall be superior to all other liens and encumbrances on any Lot or Dwelling, except for (i) the lien of ad valorem real property taxes, and (ii) the lien for all sums unpaid on a duly recorded first priority Mortgage (as provided in Paragraph 5 herein) or on any Mortgage to the Declarant or its affiliates, successors or assigns, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance to the terms of such instrument. Any and all persons or entities other than the Declarant or its affiliates who acquire a Mortgage or other lien or encumbrance on any Lot or Dwelling, other than a first priority Mortgage, after the recordation of this Declaration in the Office of the Register of Deeds for Beaufort County, South Carolina shall be deemed to consent to the automatic subordination of any such Mortgage or other lien or encumbrance to the lien for

assessments and charges due and payable and for assessments and charges not yet due and payable as provided herein, whether or not such prior consent shall be specifically set forth in the instrument creating such Mortgage or other lien or encumbrance. If any assessment is not paid within thirty (30) days after the due date, the Declarant or the Association may bring an action at law against the Owner personally and an action in equity to foreclose the lien thereof and there shall be added to the amount of such assessment the reasonable attorney's fees and court costs incurred in the preparation, filing and prosecution of any such action. If a judgment is obtained against any Owner for the nonpayment of any assessment, such judgment shall include late charges as above provided and reasonable attorney's fees. The equitable charge and lien provided for in this Article IV shall be in favor of the Association and the Declarant, and each Owner, by acceptance of a deed to or other conveyance of a Lot or Dwelling, vests in the Association and the Declarant and their respective agents the right and power to bring all actions against him personally for the collection of such assessments as a debt and to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property.

5. Subordination of Lien to Mortgages. The lien of the total annual assessments provided for herein shall be subordinate to the lien of any first priority Mortgage now or hereafter placed on any Lot or Dwelling; *provided, however*, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure or any other proceeding or deed in lieu of foreclosure. If a Mortgagee acquires title to a Lot or Dwelling through a foreclosure of its Mortgage or other proceeding or deed in lieu of foreclosure, then such Mortgagee shall be considered an Owner and shall thereafter be liable for the payment of assessments commencing on the date that it acquires title to the Lot or Dwelling.

6. Assessments on Lots Owned by Declarant. Lots and Dwellings owned by the Declarant, shall not be subject to any assessment under this Declaration, and no assessment of any type shall be levied by the Association upon any Lot or Dwelling owned by the Declarant without the Declarant's express, written consent. The Declarant shall supply to the Association the amount of funds necessary to maintain, operate and repair those Common Properties which are owned by Declarant as more particularly set forth in Paragraph 1 herein, but no assessment of any type shall be levied upon any Lot and Dwelling owned by Declarant without the Declarant's express, written consent.

7. Failure to Assess. The failure, refusal or omission of the Board of Directors to fix or establish any total annual assessments, special assessments or other charges authorized hereunder and to deliver or mail to any Owner a notice setting forth the amount of assessments and charges thereunder shall not be deemed a waiver, modification or release of any Owner from the obligation to pay any total annual assessments, special assessments or other charges authorized or permitted hereunder. In such event, an Owner shall continue to pay the total annual assessments, special assessments or other charges authorized hereunder on the same basis as for the last year for which an assessment or charge was made, as more fully provided for hereinabove, until a new assessment is made and notice thereof is delivered to the Owner, at which time any deficit may be assessed retroactively by the Association against such Owner.

ARTICLE V

EASEMENTS

The Declarant, its successors and assigns hereby reserves the following easements for itself and the Association as provided herein:

1. Landscaping Easement. A perpetual, non-exclusive easement in favor of the Declarant and the Association on, over and across all portions of the Property for the purpose of landscaping, mowing, removing, clearing, cutting or pruning underbrush, weeds, or other unsightly growth on any and all areas which, in the opinion of the Declarant or the Association, and their respective successors and assigns, is not properly maintained or detracts from the overall beauty, setting and safety of the Property. Entrance upon any such portion of the Property for the purposes set forth in this Paragraph 1 of Article V shall not be deemed a trespass. The provisions of this Paragraph 1 of Article V shall not be construed so as to impose any obligation on either the Declarant or Association, or their successors or assigns, to landscape, mow, clear, cut or prune any portion of the Property or to provide garbage or trash removal services.

2. Utility Easements. Perpetual, non-exclusive easements in favor of the Declarant and the Association on, over, across and under the Property for the purposes of construction, erection, installation, maintenance and use of utility lines, wires, pipes, poles, cables, conduits, pumps, transformers, pedestals, and other necessary, required or desired equipment for the conveyance and use of electricity, telephone service, gas, sanitary and storm sewer, water, television and other public conveniences or utilities, all as may be required or desired for the development and use of the Property, including, without limitation, the right to cut drain ways for surface water wherever and whenever such action may appear to the Declarant or the Association, their respective successors and assigns, to be necessary in order to maintain reasonable standards of health, safety and appearance. The easements provided for in this Paragraph 2 of Article V expressly include, but are not limited to, the rights to cut trees, bushes, or shrubbery, to make any gradings of the soil, and to take any similar action reasonably necessary to provide economical, safe utility installation or to maintain reasonable standards of health, safety and appearance. In addition to any utility easements shown on the Subdivision Plat, the utility easements reserved in this Paragraph 2 of Article V shall extend over, under and across those strips of land measuring and extending ten (10') feet in width and running parallel with and adjacent to the boundary lines of each Lot and Dwelling. The easements reserved in this Paragraph 2 of Article V shall also include any and all utility easements shown and depicted on any portion of the Common Property or on any Lot or Dwelling shown on the Subdivision Plat. Within the areas subject to the easements provided for in this Paragraph 2 of Article V, no structures, plantings, or other material shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities. Such easement areas located within Lots or Dwellings shall be continuously maintained by the Owner, except for utilities improvements which are to be maintained by a public authority or other utility company. No improvements of any kind shall be built, erected or maintained on or in any such easement area without the written approval of the Declarant and the Board of Directors, and such easement areas shall at all times

be open and accessible to the Declarant and the Association, their successors and assigns, for the right and privilege of doing whatever may be necessary in, on, under and above such locations to carry out any of the purposes for which such easements are reserved. The provisions of this Paragraph 2 of Article V shall not be construed so as to impose any obligation on either the Declarant or the Association to construct, erect or maintain any utilities improvements.

3. Declarant Construction and Maintenance. During the period that the Declarant owns any Lot or Dwelling primarily for the purpose of sale, the Declarant shall have an alienable and transferable, non-exclusive right and easement, on, over and across the Common Property for the purpose of constructing improvements on any Lots, and for installing, maintaining, repairing and replacing such other improvements to the Property as are contemplated by this Declaration. The Declarant, in its sole discretion, shall have any and all other reasonable means of ingress and egress over the Common Property for the purpose of doing all things reasonably necessary and proper in connection therewith; *provided, however*, that in no event shall the Declarant have any obligation to do any of the foregoing.

4. Lagoon and Wetlands Maintenance Easement. A perpetual, non-exclusive easement in favor of the Declarant and the Association on, over, across and under all Lots and Dwellings and those portions of the Common Property located adjacent to or fronting upon any and all lagoons, lakes, holding or retention ponds, waterways, marsh areas or wetlands situated within or adjacent to the Property (hereinafter in this Paragraph 5 referred to as the "lagoons and wetlands") for the purposes of maintenance, repair or reconstruction of the lagoons and wetlands, including, but not limited to, the repairing, replacing, mowing, seeding, bulkheading, and maintenance and reconstruction of retaining walls, revetments, rip-rap emplacements, slopes, erosion control improvements and devices, embankments, wetlands mitigation improvements and programs, and lagoon and wetlands protection improvements and programs associated with the lagoons and wetlands, by the Declarant or the Association and their successors and assigns when in their sole discretion it is necessary to do so. The areas subject to the easement reserved in this Paragraph 4 of Article V shall measure twenty (20') feet in width from the edge of the lagoons and wetlands within the Property, provided that where any Dwelling or other building or structure is located within twenty (20') feet of the edge of the lagoon or wetland, the easement reserved herein shall extend only from the edge of the lagoon or wetland to within one (1') foot of the exterior surface of such Dwelling, building or other structure. The easement reserved in this Paragraph 4 of Article V for the benefit of the Declarant and the Association shall include an easement to traverse all portions of Lots located adjacent to lagoons and wetlands and those portions of Dwellings measuring and extending ten (10') feet in width along one side boundary line of Dwellings, which side boundary line shall be the side of the Dwelling which will most reasonably allow and permit such access. This additional easement reserved in this Paragraph 4 of Article V for the benefit of the Declarant and the Association shall be utilized by the Declarant or the Association so as to have a reasonable means of access from the roadways located within the Development across Lots and Dwellings to the above-described twenty (20') foot reserved easement area located adjacent to the lagoons and wetlands within the Property. The Declarant and the Association are entitled, but not obligated, to undertake any and all activities within the areas subject to the easements reserved in this Paragraph 4 of Article V which are necessary to maintain or preserve safe, efficient and aesthetically acceptable water levels and water quality within all of the lagoons and wetlands within the Property. In addition to the general purposes

described above, the activities which the Declarant and the Association and their respective successors and assigns are permitted to undertake under the easements reserved this Paragraph 4 of Article V shall include, without limitation, dredging, erosion control, debris removal, underbrush clearing, mowing and water treatment of the lagoons and wetlands within the Property and the embankments associated therewith, provided that all required approvals and permits by applicable federal, state or local governmental entities are obtained prior to undertaking any such activities.

5. Perimeter Fence Construction and Maintenance Easement. A perpetual, non-exclusive easement in favor of the Declarant and the Association on, over, across and under those portions of the Property designated as "20' Perimeter Fence Easement" on the Subdivision Plat for the purposes of construction, installation, erection, maintenance and use of fences and landscaping plantings as may be necessary or desirable, in the Declarant's judgment, to screen or buffer the Property from adjacent or adjoining properties.

6. Pinefield Cemetery. Charles E. Simmons, Rosa G. Simmons and C. M. Brown, as Trustees of the First African Baptist Church, hold easements for access from the right-of-way of Marshland Road to Pinefield Cemetery and for parking at Pinefield Cemetery. Upon the completion by the Declarant of the improvements to the Property which will be located in the right-of-way of Broad Pointe Drive, the easement for access to Pinefield Cemetery shall be relocated by the Declarant so that it burdens and encumbers the right-of-way of Broad Pointe Drive and that area containing 0.53 acre, more or less, described as "Open Space/Buffer Area" on the Subdivision Plat surrounding Pinefield Cemetery, and the easement for parking at Pinefield Cemetery shall be relocated by the Declarant so that it burdens and encumbers the Open Space/Buffer Area. Thereafter, all persons wishing to visit Pinefield Cemetery shall have the right to utilize the easement for access thereto over and across the right-of-way of Broad Pointe Drive and the Open Space/Buffer Area, and the right to utilize the easement for parking over and across the Open Space/Buffer Area.

7. The Association's Easement. In addition to any other easements or rights granted to the Declarant or the Association pursuant to the provisions of this Article V, there is hereby reserved a general right and easement for the benefit of the Association, its directors, officers, agents, and employees, including, but not limited to, any manager employed by the Association and any employees of such manager, to enter upon any Lot or Dwelling or any portion thereof in the performance of their respective duties. Except in an event of emergencies, this easement is to be exercised only during normal business hours, and then, whenever practicable, only upon advance notice to the Owner or occupant of the Lot or Dwelling directly affected thereby.

ARTICLE VI

PROPERTY RIGHTS

1. General Property Rights. Each Lot and Dwelling shall for all purposes constitute a separate and discrete parcel or tract of real property which shall be owned in fee simple and which, subject to the provisions of this Declaration, may be conveyed, transferred and

encumbered the same as any other real property. Each Owner shall be entitled to exclusive ownership and possession of his Lot or Dwelling, subject to the provisions of this Declaration. The ownership of each Lot and Dwelling shall include, and there shall pass with each Lot or Dwelling as is appurtenance thereto, whether or not separately described, all of the right or interest in and to the Common Property as established hereunder, and shall include, but not be limited to, membership in the Association.

2. Owner's Easement of Enjoyment. Subject to the provisions of this Declaration and the rules, regulations, fees and charges from time to time established by the Board of Directors in accordance with the By-Laws and the terms hereof, every Owner, and his family and guests, shall have a non-exclusive right, privilege and easement for the use and enjoyment of and to the Common Property, such easement to be appurtenant to and to pass with title to each Lot and Dwelling, subject to the following matters, rights and provisions:

A. The provisions of this Declaration and the By-Laws;

B. The right of the Association to borrow money and pledge or mortgage the Common Property as security therefor with the approval of the Declarant, for the following purposes: (i) improving the Common Property, or any portion thereof; (ii) acquiring additional Common Property; (iii) constructing, installing, repairing, maintaining or improving any facilities located or to be located on or within the Common Property; or (iv) providing the services authorized to be provided by the Association hereunder; *provided, however*, that the lien and encumbrance of any pledge, mortgage or other security instrument given by the Association must be approved by the Declarant and shall be subject and subordinate to any and all rights, interests, options, licenses, easements and privileges herein reserved or established for the benefit of the Declarant, and the Owners;

C. The specific rights and easements reserved to or for the benefit of the Declarant and the Association herein;

D. The right of the Declarant or the Association to grant and accept easements on, over and across all or any portion of the Common Property to or from any public agency or entity, public service district or private or public utility providing utility service to all or any portion of the Development; and

E. The right of Association to convey, develop or otherwise dispose of the Common Property as provided herein.

3. Use of Common Property by Tenants. An Owner may assign to the tenant of his Lot or Dwelling such Owner's rights of access to and use of the Common Property so that such tenant and his family and guests shall be entitled to access to and use and enjoyment of the Common Property on the same basis as an Owner and his family.

4. No Partition. There shall be no judicial partition of the Common Property, or any portions thereof, nor shall any Owner or other person acquiring any interest in the Property or

any portion thereof seek such judicial partition unless the Property has been removed from the provisions of this Declaration. No portion of the Common Property may be conveyed to any individual Owner.

ARTICLE VII

ADMINISTRATION

1. Common Property. The Association, subject to the rights of the Declarant and the rights and duties of the Owners as set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Property and all improvements thereon (including furnishings and equipment related thereto), and the Association shall keep the same in a good, clean, attractive and sanitary condition, order and repair pursuant to the terms and conditions hereof. No diminution or abatement of charges or assessment shall be claimed by any Owner or allowed by the Association by reason of any alleged failure or refusal of the Association to take some action required to be taken or performed by the Association in maintaining and operating the Common Property or any other duties or functions assigned to the Association under this Declaration, or by reason of inconvenience or discomfort arising from the making of improvements or repairs to the Common Property which are the responsibility of the Association, or from any action taken by or on behalf of the Association to comply with any law, ordinance, or any other directive of any other municipal or other governmental authority. The obligation on the part of each Owner to pay assessments and charges levied under the authority of this Declaration shall constitute a separate and independent covenant on the part of each Owner.

2. Duties and Powers. The duties and powers of the Association shall be those set forth under the provisions of this Declaration, the By-Laws, the Articles of Incorporation of the Association, and state and federal laws regulating non-profit corporations, and those duties and powers which are reasonably implied to effect the purposes of the Association. The Association may exercise any right or privilege given to it expressly by this Declaration or by law, together with every right or privilege reasonably implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. The duties of the Association may include, but shall not be limited to, arranging with governmental agencies, public service districts, public or private utilities, or others, as a common expenditure billing directly to Lots or Dwellings, to furnish trash collection, water, sewer, and security service (including the operation, maintenance and repair of electronically monitored and operated gates controlling vehicular access to and from the Property) for the Common Property, Lots or Dwellings. The powers of the Association shall include, but shall not be limited to, the power to mortgage the Common Property, subject to the provisions of Paragraph 2 of Article VI herein, the right to hypothecate, pledge and conditionally assign the right of the Association to receive any and all assessments and other type of funds as additional security for the mortgaging of the Common Property, and the power to purchase one or more Lots or Dwellings and to hold, lease, mortgage, sell, and convey the same. For so long as Declarant owns any Lot or Dwelling primarily for the purpose of sale, the Association shall not, without the written consent of the Declarant, borrow money or pledge, mortgage, or hypothecate any portion of the Common

Property.

3. Agreements. All agreements and determinations lawfully authorized by the Board of Directors shall be subject to the prior approval of Declarant for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale, and shall be binding upon all Owners, their heirs, legal representatives, successors, and assigns, and all others having an interest in the Property. In performing its responsibilities hereunder, the Association, by and through its Board of Directors, shall have the authority to delegate to persons of its choice such duties of the Association as may be determined by the Board of Directors. In furtherance of the foregoing, the Association may obtain and pay for the services of any person or entity to manage its affairs, or any part thereof, to the extent it deems advisable, whether such personnel are employed directly by the Association or by any person or entity with whom or with which it contracts. All costs and expenses attributable to the employment of a manager of the affairs of the Association or the Common Property by the Association shall be a Common Expense of the Association. During the term of such management agreement, such manager may, if authorized by the Board of Directors, exercise all the powers and shall be responsible for the performance of all the duties of the Association, excepting any of those powers or duties specifically and exclusively reserved to the directors, officers or members of the Association by this Declaration or the By-Laws. Such manager may be an individual or a corporation or other legal entity, as the Board of Directors may determine, and may be bonded in such a manner as the Board of Directors may require, with the costs of acquiring any such bond to be a Common Expense of the Association. In addition, the Association may pay for, and the Board of Directors may hire and contract for, such legal and accounting services as are necessary and desirable in connection with the operation of the Common Property and the Association and the enforcement of this Declaration, the By-Laws or the rules and regulations of the Association.

4. Rules and Regulations. Subject to the provisions hereof and the approval of the Declarant, the Board of Directors of the Association may establish reasonable rules and regulations concerning the use of Lots, Dwellings and the Common Property and the facilities located thereon. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date thereof. Any such rules and regulations shall be binding upon the Owners and Occupants, and their families, tenants, guests, invitees, servants, and agents, until and unless any such rule or regulation is specifically overruled, cancelled or modified by the Board of Directors or at a regular or special meeting of the Association by a vote of the Owners, in person or by proxy, holding a majority of the total vote in the Association, provided that in the event of such vote, such action must also be approved by the Declarant for so long as the Declarant owns any Lot or Dwelling primarily for the purpose of sale.

5. Authority and Enforcement. Subject to the provisions contained herein, upon violation of this Declaration, the By-Laws or any rules and regulations duly adopted hereunder, including, without limitation, the authority to pay any and all assessments or charges, the Board of Directors shall have the power to (i) impose reasonable monetary fines which shall constitute an equitable charge and continuing lien upon the Lot or Dwelling of the Owners, Occupants or guests thereof which are guilty of such violation; (ii) suspend an Owner's right to vote in the Association; (iii) suspend an Owner's or Occupant's right and the right of such Owner's or

Occupant's family, guest, tenants and co-owners, and their respective families, guests and tenants, to use any and all of the Common Property (except that such Owner shall not be denied a reasonable means of access to his Lot); or (iv) impose all or any combination of these sanctions. Any fines levied and assessed as provided in this Paragraph 5 shall be a lien upon the applicable Lot or Dwelling in the same manner as that provided in Article IV herein. The effect of non-payment of such fine and the remedies of the Association and the Declarant to enforce collection thereof shall be the same as those provided for assessments in Article IV herein. The Board of Directors shall adopt reasonable procedures for enforcing the rules and regulations.

ARTICLE VIII

MAINTENANCE

1. Responsibilities of Owners. All maintenance and repair of Lots and Dwellings, together with all other improvements thereon and all lawns, landscaping and grounds within a Lot or Dwelling, shall be the responsibility of the Owner of such Lot or Dwelling. Each Owner shall be responsible for maintaining his Lot or Dwelling in a neat, clean and sanitary condition, and such responsibility shall include the maintenance and care of all exterior surfaces of all Dwellings, buildings and other structures and all lawns, trees, shrubs, hedges, grass and other landscaping. Owners of Lots or Dwellings located adjacent to any lagoon or wetland area shall keep the embankments of such lagoon or wetland area seeded and covered with grass or other slope stabilization vegetation which must be approved by the Declarant, and any such Owner shall repair, reconstruct, fill and stabilize any portion of the embankments, marshland or wetland mitigation areas and wetlands located within their respective Lot or Dwelling which has been washed out or eroded in a manner that has been approved by the Declarant. Owners of Lots or Dwellings located adjacent to coastal estuary wetlands within the Property shall cause such coastal estuary wetland areas located within their respective Lot or Dwelling to be maintained in a neat, clean, sanitary and safe condition, and the Owners of such Lots or Dwellings shall bear all reasonable costs associated with maintaining such coastal estuary wetlands within their respective Lot or Dwelling in a neat, clean, sanitary and safe condition. The Association shall not have the obligation to maintain such coastal estuary wetland areas which are contained within any Lot or Dwelling. As further provided in Paragraph 4 of this Article VIII, each Owner shall also be obligated to pay for the costs incurred by the Association for maintaining, repairing, replacing or cleaning any item which is the responsibility of such Owner, but which has been performed by the Association.

2. Responsibilities of the Association. Except as otherwise specifically provided herein, the Association shall maintain and keep in good repair all portions of the Common Property, including, but not limited to, the maintenance, repair and replacement of all roads, walks, trails, lagoons, ponds, swimming pools, tennis courts, vehicle parking areas and other improvements situated within the Common Property. The Association shall additionally be responsible for maintaining any and all security systems and utility lines, pipelines, plumbing, wires, conduits and related systems which are part of the Common Property and which are not maintained by public authority, public service district or private or public utility company. All lawns, trees, shrubs, hedges, grass and other landscaping situated within or upon the Common

Property shall be maintained by the Association. In addition, the Association shall be responsible for landscaping and maintenance of Pinefield Cemetery and the fence and gate surrounding same. No diminution or abatement of assessments, fees or charges shall be claimed by any Owner or allowed by the Association by any reason of any alleged failure or refusal of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration, or for any inconvenience or discomfort arising from the making of improvements or repairs which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or with any other order or directive of any municipal or other governmental authority. The obligation on the part of each Owner to pay assessments and charges levied under the authority of this Declaration shall constitute a separate and independent covenant on the part of each Owner.

3. Common Property Conveyance. Within two (2) years of the completion of the roadways, drainage system, security facilities, swimming pool, vehicle parking areas, and other improvements to be constructed, developed and placed within the Property as portions of the Common Property, such improvements shall be conveyed by the Declarant to the Association by quit claim deed, and the Association shall accept the same and shall be responsible for the maintenance, repair, reconstruction, and operation of such improvements from the day of such conveyance. Provided that such improvements have been constructed in compliance with applicable governmental permits, approvals and regulations, the Association shall unconditionally and absolutely accept the conveyance of such Common Property and shall be thereafter solely responsible for maintaining, repairing, reconstructing and operating the same as provided above.

4. Performance by the Association of Owner Maintenance. If the Declarant or the Board of Directors shall determine (i) that any Owner has failed or refused to discharge properly his or her obligations with regard to the maintenance, cleaning, repair or replacement of items for which he is responsible hereunder, or (ii) that the need for maintenance, cleaning, repair or replacement which is the responsibility of the Association is caused through the willful or negligent act of an Owner, his family, tenants, guests or invitees and is not covered or paid for by insurance in whole or in part, then, the Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of the Declarant's or the Association's intent to provide required maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner, and setting forth with reasonable particularity the maintenance, cleaning, repairs and replacement deemed necessary, and, except in the event of emergency situations, such Owner shall have fifteen (15) days within which to complete the same in a good and workmanlike manner, or if such maintenance, cleaning, repair or replacement is not capable of completion within the fifteen (15) day period, to commence said maintenance, cleaning, repair or replacement and diligently proceed to complete the same in a good workmanlike manner. In emergency situations or upon the failure of any Owner to comply with the provisions of this paragraph after due notice, the Declarant or the Association may provide (but shall not have the obligation to so provide) any required maintenance, repair, cleaning or replacement at the sole cost and expense of such Owner, and said costs shall be added to and become part of the assessment to which such Owner and his Lot or Dwelling are subject and shall become a lien against such Lot or Dwelling. In the event the Declarant undertakes such maintenance, cleaning, repair or replacement, the Association shall promptly reimburse the Declarant for the Declarant's

costs and expenses.

ARTICLE IX

USE RESTRICTIONS FOR THE PROPERTY

The following use restrictions shall apply to the Property:

1. Use of Lots and Dwellings. Each Lot and Dwelling shall be used for single-family residential purposes only, and no trade, business, commercial, industrial or institutional activities of any kind may be carried on within the Property or any portion thereof with the exception of utilizing the Property by the Declarant, and its successors and assigns, in developing the Property and selling Lots or Dwellings therein. As provided above, the Declarant and its successors and assigns shall be entitled to utilize Dwellings for sales offices and model home purposes. Except for a sales office of the Declarant as provided above, the utilization of any Dwelling or Lot or any other portion of the Property as an office by an Owner, Occupant or tenant thereof shall be considered to be a violation of this Declaration where such utilization of a Dwelling, Lot or other portion of the Property as an office creates any type of customer, client or employee vehicular or pedestrian access to and from any such Dwelling or Lot. No Lot or Dwelling, or any portion thereof, shall be used as an office or storage area of any building contractor or real estate developer except as to those sales offices and model homes of the Declarant as provided above.

2. Building Restrictions. No dwelling or other structure shall be construed on any Lot or Dwelling which has a height exceeding thirty-five (35') feet above the elevation of the finished surface of the first floor of such dwelling or existing grade, whichever is greater. All dwellings constructed on Lots shall have a minimum of two thousand five hundred (2,500) square feet of living space (heated dwelling space). All dwellings on Lots which possess multiple floors shall contain a minimum of one thousand four hundred (1,400) square feet of living space (heated dwelling space) within the first floor of any such dwellings or structures. In addition, all residential structures constructed on a Lot shall: (i) have as a minimum first floor elevation the level of the 100-year flood as designated on the official FIRM/FEMA flood plain maps on file with the Hilton Head Island; and (ii) be designed and constructed in compliance with the requirements of the Municipal Code for The Town of Hilton Head Island relating to residential construction in flood hazard areas. All Dwellings and structures constructed on Lots shall be situated and constructed inside the front and side yard setback lines as shown and depicted on the Subdivision Plat; *provided, however*, that no Dwelling or structure may be constructed on any Lot less than twenty (20') feet from the OCRM Critical Lines designated on the Subdivision Plat.

3. Service Yards. Each Owner of a Dwelling shall provide visually-screened areas to serve as service yards in which garbage receptacles, fuel tanks, gas and electric meters, air conditioning equipment, and vehicles, materials, supplies, and equipment shall be placed or stored in order to conceal them from view from roads and other Lots and Dwellings. Any such visual barrier shall be at least six (6) feet in height and shall consist of fencing approved by the

Committee.

4. Exterior Appearance. Any unenclosed garages or carports must be adequately screened from view from roads and other Lots and Dwellings. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades, or other purpose, nor shall any window-mounted heating or air-conditioning units be permitted on structures or Dwellings. All blinds, curtains and other window treatments within Dwellings must conform to regulations established by the Committee and the Association. Except within screened service yards, outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed, or maintained within the Property. No clothing, rugs, or other items shall be hung on any railing, fence, hedge, or wall or any structure within the Property.

5. Water Wells and Septic Tanks. The Declarant reserves the right to locate wells, pumping stations and tanks within any portion of the Property; *provided, however*, that if the Owner of any Lot, Dwelling or other portion of the Property upon which such well, pumping station or tank is to be located is other than the Declarant or the Association, and no Subdivision Plat designates such property for use intended by the Declarant, then such well, pumping station or tank shall not be located upon such Owner's property without the permission of such Owner. The right to so locate wells, pumping stations and tanks within the Property may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide and maintain any such utility or service. No private water wells (including irrigation wells and ground water heat pump wells) may be drilled or maintained on any Lot or Dwelling so long as the Declarant or any affiliate, the Association, a public service district, any governmental unit, or any public or private utility shall have installed a water distribution line within one hundred (100') feet of such Lot or Dwelling possessing an average daily water pressure adequate for the normal household use of those dwellings served by such water distribution line. No septic tanks or similar sewerage facilities may be installed or maintained on any Lot or Dwelling, except as provided in the Indigo Run Covenants, unless there is satisfactory soil percolation, and the Declarant or any affiliate, the Association, a public service district, any governmental unit, or any public or private utility shall not have installed a sanitary sewer line within one hundred (100') feet of such Lot or Dwelling which line is connected to adequate sewerage treatment facilities.

6. Pets. No animals, livestock, birds, or poultry of any kind shall be raised, bred or kept by any Owner or Occupant of a Lot or Dwelling; *provided, however*, that a reasonable number of generally recognized household pets may be kept in Dwellings, subject to rules and regulations adopted by the Association, through the Board of Directors; *further provided, however*, that any household pet or pets may be kept or maintained solely as domestic pets and not for any commercial purpose. No pet shall be allowed to make an unreasonable amount of noise or to become a nuisance. Upon the written request of any Owner of a Lot or Dwelling, the Board of Directors may conclusively determine, in its sole and absolute discretion, whether, for the purpose of this Paragraph 6 of Article IX, a particular pet is a generally recognized household pet or if such pet is a nuisance, and the Board of Directors shall have the right to require the Owner of a particular pet to remove such pet from the Property if such pet is found to be a violation of these restrictions or a nuisance. The Board of Directors shall have the further right to fine any Owner of a Lot or Dwelling, in an amount not to exceed \$50.00 per violation, for violations of

these pet restrictions by such Owner or an Occupant of his Lot or Dwelling. All Owners shall be liable to the Association for the cost of repair of any damage to the Common Property caused by any pet of such Owner or of an Occupant of such Owner's Lot or Dwelling. Any such fine or cost of repair shall be added to and become a part of that portion of any assessment next coming due to such Owner's Lot or Dwelling.

7. Nuisances. No noxious or offensive activities shall be carried out within the Property or any portion thereof, and each Owner and Occupant, and his family, tenants, guests, invitees, servants or agents, shall refrain from any act or use of any Lot or Dwelling which would cause disorderly, unsightly or unkempt conditions to exist within the Property or which would cause embarrassment, discomfort, annoyance or a nuisance to the Owners, Occupants and residents of Lots, Dwellings or other portions of the Property. No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any Lot or Dwelling or other portion of the Property. No nuisance or odors shall be permitted to exist or operate upon or arise from any Lot, Dwelling or other portion of the Property so as to render any Lot, Dwelling or other portion of the Property unsanitary, unsightly, offensive or detrimental to persons using or occupying any Lot, Dwelling or other portion of the Property. No noxious or offensive activities shall be carried on within the Property or on any Lot or Dwelling which would cause a diminution in the value or enjoyment of any portion of the Property or any Lot or Dwelling or which could result in a cancellation of any insurance for any portion of the Property or any Lot or Dwelling.

8. Noise. No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except security devices used exclusively for security purposes, shall be located, used or placed within or on a Lot, Dwelling or other portion of the Property. The playing of loud music within any Dwelling or from the balcony, porches or patio thereof shall be noxious and offensive behavior constituting a nuisance under the provisions of Paragraph 7 of this Article IX.

9. Antennas. No television antenna, radio or television receiver, satellite receiving dish or other similar dish shall be attached to or installed in or on any Lot, Dwelling or other portion of the Property, unless contained and entirely enclosed within the interior of a Dwelling or other structure.

10. No Subdivision of Lots. After the conveyance of Lots to Owners by Declarant, no Lot shall be subdivided or its boundaries changed, except with the written consent of the Declarant.

11. Motor Vehicles and Trailers. No travel trailers, mobile homes, campers or other habitable motor vehicles of any kind (whether self-propelled or not), school buses, tractors, boats or boat trailers shall be kept, stored or parked overnight on any Lot, Dwelling or other portion of the Property, except within enclosed garages. No Owners, Occupants or lessees of any Lots or Dwellings shall repair or restore any vehicle of any kind upon or within any Lot or Dwelling or any other portion of the Property except (i) within enclosed garages or workshops; or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

12. Timesharing Owners. No Dwelling, or any portion thereof, may be sold, conveyed or utilized under any type of timesharing, time interval, interval occupancy, multiple vacation ownership or similar right-to-use program of any type established under the South Carolina Vacation Timesharing Plan Act or other statute or ordinance, by trust agreement, or otherwise.

13. Irrigation. No irrigation systems within the Property may utilize any lagoon, lake or ditch within the Property as a source of irrigation water. No water from any lake, lagoon or ditch within the Property shall be pumped or drained into any Lot, Dwelling or other portion of the Property for irrigation purposes.

14. Waterfront Lots. Owners of Lots or Dwellings located contiguous or adjacent to lagoons and lakes within the Development or bordering any creeks, coastal estuaries or tidal marsh shall not be allowed to erect any decks, docks, piers, wharves or boat houses on any individual Lot or Dwelling. No boats of any nature shall be placed or used on any lake or lagoon contained within the Property. No Owner shall cause or allow the discharge, delivery or placement of toxic substances, pesticides, herbicides, fertilizers or other chemicals within the waters of any lagoons, lakes, holding ponds, wetlands, or drainage ditches located within or adjacent to the Property. All Owners shall refrain from any and all activities which would in any way cause any type of degradation or adverse effect to the water quality of all such lagoons, holding ponds, lakes, wetlands, waterways and other bodies of water located within and adjacent to the Development.

ARTICLE X

GENERAL PROVISIONS

1. Enforcement. The Declarant, the Association, or any Owner shall have the right to enforce, by any proceedings at law or in equity, all of the covenants, conditions, restrictions, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. The failure of the Declarant, the Association, or any Owner to enforce any provision herein shall in no event be deemed as a waiver of rights to do so thereafter. In pursuit of the rights reserved herein and all other rights and reservations held by the Declarant and the Association, the Declarant hereby reserves unto itself, its employees and agents, the right to enter upon any Lot or Dwelling for the purpose of inspecting the same and the right during the period of construction to enter into any improvements thereon for the purpose of inspecting the same. Neither the Declarant nor the Association shall have any affirmative duty to enforce the provisions of this Declaration in any way, and the failure or refusal of the Declarant or the Association to enforce the provisions of this Declaration shall not subject either to any liability arising from any type of action, claim, or proceeding by any party.

2. Severability. Invalidation of any covenant, condition, restriction, easement, reservation, lien or charge or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way effect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

3. Duration. The covenants, conditions, restrictions, easements, reservations, liens and charges of this Declaration shall run with and bind the Property and each portion thereof and each Owner, Occupant and other person or entity having any interest therein. This Declaration shall inure to the benefit of and be enforceable by the Declarant, the Association, and any Owner for a period of twenty (20) years from the date hereof and, thereafter, unless otherwise agreed to in writing by at least seventy-five (75%) percent of the total votes eligible to be cast by all of the Members, shall continue automatically in effect for additional periods of twenty (20) years forever.

4. Assignment. The Declarant shall have the right to assign to any one or more persons, firms, corporations, partnerships or associations any and all rights, powers, titles, easements and estates reserved or given to the Declarant in this Declaration.

5. Amendment. This Declaration may be amended by affirmative votes of at least two-thirds (2/3) of the total votes eligible to be cast by all Members; *provided, however*, that no such amendment shall be effective until approved in writing by the Declarant while the Declarant has the right to appoint or remove officers or Directors of the Association as set forth in Article II herein. Until the Declarant conveys all of the Lots to third party purchasers, the Declarant retains the right to amend this Declaration without any approval of the Association or the Owners to the extent that it affects any portion of the Property which is still owned by the Declarant in any way that the Declarant, in its sole discretion, deems desirable.

6. Perpetuities. If any of the covenants, conditions, restrictions, easements, reservations, liens and charges or any other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities then said provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Mrs. Rose Kennedy, mother of former U.S. President John Fitzgerald Kennedy.

7. Coordination with the Indigo Run Covenants. Contemporaneously with the execution and recording of this Declaration, the Declarant will encumber the Lots (but not any of the Common Properties) with the Indigo Run Covenants. The Common Property will not be submitted to the Indigo Run Covenants, and the Common Property shall not be part of the common areas as defined and described in the Indigo Run Covenants, and the owners and residents of real property within other portions of Indigo Run located outside of the Property shall have no rights to use the Common Property. This Declaration and the Indigo Run Covenants shall wherever possible be construed and applied together with regard to the Lots and Dwellings (but not the Common Property), and in the event of a conflict between the terms of the Indigo Run Covenants and this Declaration, the provisions of this Declaration shall prevail, except that no provisions of the Indigo Run Covenants shall be construed as providing individuals owning real property within Indigo Run outside of the Property with the right to use

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the Common Property.

WITNESS the hand and seal of the Declarant as of the day and year first set forth above.

WITNESSES:

BROAD POINTE, L. P. a South Carolina limited Partnership

By: Winnetka Associates I Limited Partnership,
a California limited partnership, its General Partner

By: Baird Pacific West, Inc., a California corporation, its General Partner

By: Wylls T. Baird (SEAL)
Wylls T. Baird, President

[Signature]
[Signature]

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGEMENT

Before me, the undersigned Notary Public, personally came and appeared Wylls T. Baird, President of Baird Pacific West, Inc., General Partner of Winnetka Associates I Limited Partnership, General Partner of Broad Pointe, L. P., who acknowledged the due execution of the foregoing instrument.

Sworn to before me this 10th day of March, 2000.

[Signature] (L.S.)
Notary Public for South Carolina
My Commission Expires: 9-10-2000

EXHIBIT "A"

All those certain pieces, parcels or lots of land situate, lying and being in the Indigo Run Planned Unit Development on Hilton Head Island, Beaufort County, South Carolina, containing 62.10 acres, more or less, shown and described on that certain plat entitled "A Subdivision Plat of Broad Pointe, A Section of Indigo Run" prepared by Coastal Surveying Co., Inc., Antoine Vinel, SCRLS 9064, dated April 28, 1999, last revised August 17, 1999 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 73 at Page 143.

EXHIBIT "B"

BY-LAWS
OF
BROAD POINTE OWNERS' ASSOCIATION, INC.

ARTICLE I
NAME, LOCATION, MEMBERSHIP, APPLICABILITY

Section 1.01 Name. The name of this Association shall be Broad Pointe Owners' Association, Inc., (the "Association"), which shall be a South Carolina nonprofit corporation.

Section 1.02 Membership. The membership of this Association shall be limited to Owners of Lots and Dwellings in that residential development known as Broad Pointe Subdivision (the "Development"), located in Indigo Run Plantation, Hilton Head Island, Beaufort County, South Carolina.

Section 1.03 Registered Office and Agent. The Association shall maintain a registered office and shall have a registered agent whose business office is identical with such registered office. The Association may have offices at such place or places within reasonable proximity to the Development as the Board of Directors may from time to time designate.

Section 1.04 Applicability. These By-Laws are applicable to the Lots, Dwellings and Common Property in the Development. These By-Laws are binding on all present or future Owners, Occupants, tenants and other persons occupying or using the Common Property, Lots, Dwellings and facilities of the Development in any manner. The mere acquisition, rental, use, or other act of ownership or occupancy of any Lot, Dwelling or portion of the Common Property by any person or entity shall signify that these By-Laws are accepted and ratified by such person or entity. These By-Laws are established pursuant to and subject to the provisions of the statutory and common laws relating to nonprofit corporations and that certain Declaration of Covenants, Conditions and Restrictions for Broad Pointe Subdivision (the "Declaration"). For purposes of these By-Laws, words defined in the Declaration, such as "Common Property", "Common Expenses", "Declarant", "Dwelling", "Lot", "Member", "Mortgage", "Subdivision Plat" and "Owner", shall have the same meaning as set forth in the Declaration unless the context shall otherwise require or prohibit.

ARTICLE II
MEMBERSHIP AND VOTING RIGHTS

Section 2.01 Membership. Every Owner of a Lot or Dwelling in the Development shall be a Member of the Association, excluding persons who hold such an interest under a Mortgage. The weight of each vote regardless of whether appurtenant to a Lot or Dwelling is

equal. Each Lot and Dwelling shall have one (1) vote. The rights and privileges of membership in the Association, including the right to vote and hold an office in the Association, may be exercised by a Member but in no event shall more than one (1) vote be cast nor more than one (1) Office held for each Lot or Dwelling. Notwithstanding any of the foregoing to the contrary, no Owner, whether one or more persons, shall have more than one (1) membership or vote per Lot or Dwelling. Further, a Member casting a vote or holding an office with respect to his Lot or Dwelling shall not be entitled to cast an additional vote or to hold an additional office for the Lot upon which his residential unit is located. In the event of multiple Owners of a Lot or Dwelling, the vote appurtenant thereto shall be exercised as those Owners of such Lot or Dwelling themselves determine and notify the Secretary or an Assistant Secretary of the Association prior to any meeting. In the absence of such notice, the vote appurtenant to such Lot or Dwelling shall be suspended in the event more than one (1) person seeks to exercise such vote. Such suspended vote shall be counted for the purpose of calculating a quorum, but shall not be cast with regard to voting matters of the Association until the persons owning such Lot or Dwelling determine how such vote shall be cast and so advise the Secretary or Assistant Secretary of the Association. The vote appurtenant to any Lot or Dwelling may, and shall in the case of any Owner not being a natural person or persons, be cast pursuant to a proxy or proxies duly executed by or on behalf of the Owner and delivered to the Secretary or an Assistant Secretary of the Association.

Section 2.02 Voting Rights. The Association shall have one (1) class of voting membership which shall consist of all Owners, including the Declarant. Owners shall be entitled to those votes appurtenant to each Lot or Dwelling in which they hold the interest required for membership by Section 2.01 of these By-Laws; *provided, however*, that no vote shall be deemed to be appurtenant to any Lot or Dwelling during the period that the Association is the owner thereof. The vote appurtenant to a Lot or Dwelling shall be exercised as a whole, and when more than one (1) person or a person other than a natural person owns such interest in any Lot or Dwelling, the vote therefor shall be exercised in accordance with the provisions of Section 2.01 of these By-Laws.

Section 2.03 Suspension of Voting Rights. During any period in which the Owner of a Lot or Dwelling shall be in default in the payment of any annual or special assessment or other charge levied by the Association, the voting rights appurtenant to such Lot or Dwelling may be suspended by the Board of Directors until such assessment or charge has been paid in full. Such rights may also be suspended, after notice and a hearing as provided for in the Declaration, these By-Laws, or any of the published rules and regulations of the Association.

ARTICLE III MEETINGS, QUORUM, VOTING, PROXIES

Section 3.01 Place of Meeting. Membership meetings of the Association shall be held at a suitable place convenient to the Members as may be designated by the Board of Directors.

Section 3.02 Annual Meeting. The Association shall meet not less frequently than annually, and the first annual meeting shall be called by the Board or Directors at least thirty (30) days prior to the close of the fiscal year of the Association as established by Section 6.08 of these

By-Laws. After the first annual meeting is called by the Board of Directors, the succeeding annual meetings shall be held on any day as may be set by the Board of Directors which is within three (3) weeks prior to or three (3) weeks following the anniversary date of the first annual meeting. At the annual meetings, comprehensive reports of the affairs, finances, and budget projections of the Association shall be made available to the Members.

Section 3.03 Special Meetings. The Secretary of the Association shall be required to call a special meeting of the Members (A) when directed by the President of the Association, (B) upon the resolution of a majority of the Board of Directors, or (C) upon the presentation to the Secretary of the Association of a petition signed by Members entitled to cast at least one-half (1/2) of the votes of the Association. The call of the special meeting shall be by notice from the Secretary of the Association given at least fifteen (15) days and not more than forty-five (45) days in advance of the meeting, and such notice shall state the date, the time, the place, and the purpose of such special meeting. Unless by consent of at least two-thirds (2/3) of the votes of the Members present in person or by proxy, only the business stated in the notice may be transacted at such a special meeting.

Section 3.04 Notice of Meetings. It shall be the duty of the Secretary of the Association to mail to all Members a notice of each annual or special membership meeting, stating the purpose thereof, as well as the date, time, and place where it is to be held. Such notice shall be delivered personally or sent by United States Mail, postage prepaid, to all Members at such address or addresses as any of them may have designated, or if no address has been so designated, at the address of their respective Lots or Dwellings. Except as may be otherwise required by law, notice shall be given to each Member at least fifteen (15) days and not more than forty-five (45) days in advance of any meeting. The mailing of a notice in the manner provided in this Section 3.04 shall be considered to be the giving of such notice. Any Member may waive the notice of a meeting by doing so in writing before or after such meeting. Attendance at a meeting, either in person or by proxy, shall of itself constitute a waiver of notice and waiver of any and all objections to the place or time of such meeting or the manner in which it has been called or convened, unless a Member or other person entitled to notice attends such meeting solely for the purpose of stating, at the beginning of such meeting, any such objection or objections relating to such meeting. A recitation in the minutes of any membership meeting that notice of such meeting was properly given shall be prima facie evidence that such notice was so given.

Section 3.05 Conduct of Meetings. The President, or the Vice-President in the absence of the President, shall preside over all meetings of the Association and the Secretary, or an Assistant Secretary in the absence of the Secretary, shall keep the minutes of all such meetings and shall record in a minute book all resolutions adopted at such meetings, as well as all transactions and proceedings occurring at such meetings.

Section 3.06 Order of Business. The Order of business at all annual meetings shall be as follows:

- A. Roll call and certification of proxies.

- B. Proof of notice of meeting or waiver of notice.
- C. Reading of minutes of preceding meeting.
- D. Reports of officers, if any.
- E. Reports of committees, if any.
- F. Election or appointment of inspectors of election.
- G. Election of directors.
- H. Unfinished business.
- I. New business.

Section 3.07 Quorum. Except as otherwise provided in the Declaration or in these By-Laws, the presence in person or by proxy at the beginning of any meeting of the Members entitled to cast over one-half (1/2) of all the votes of the Association shall constitute a quorum for a meeting of the Association. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be the presence in person or by proxy of Members having one-third (1/3) of all votes of the Association. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Any provision in the Declaration concerning quorums is specifically incorporated herein.

Section 3.08 Adjourned Meetings. Any meeting of the Association which cannot be organized because a quorum has not attended may be adjourned from time to time by the President or by the vote of a majority of the Members present in person or represented by proxy. When any membership meeting, either annual or special, is adjourned, notice of the time, place, and location of the adjourned meeting shall be given as in the case of the original meeting.

Section 3.09 Proxy. The vote appurtenant to any Lot or Dwelling may, and shall in the case of any Member not a natural person or persons, be cast pursuant to a proxy or proxies duly executed by or on behalf of the Member and delivered to the Secretary or an Assistant Secretary of the Association. No such proxy shall be revocable except by written notice delivered to the Secretary or an Assistant Secretary of the Association by the Member. Any proxy shall be void if it is not dated or if it purports to be revocable without notice to the Association. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise expressly provided in the proxy. The transfer of title to any Lot or Dwelling shall void any outstanding proxy pertaining to the voting rights appurtenant to such Lot or Dwelling.

Section 3.10 Action Taken by the Association. Except as otherwise provided by the Declaration or these By-Laws, any action taken at any meeting of the Members shall be effective and valid if taken or authorized by not less than a majority of all of the votes to which all of the Members present in person or by proxy at a duly constituted meeting shall be entitled. In the

event of any regular, special or adjourned meeting of the Association, the President, or the Vice-President in the absence of the President, shall cast a separate special vote over and above any vote appurtenant to a Lot or Dwelling to break any tie. For purposes of these By-Laws, "majority" shall mean more than fifty (50%) percent; *provided, however*, that the foregoing provisions of this By-Law to the contrary notwithstanding, any action which by law or pursuant to the provisions of the Declaration or these By-Laws requires the assent of a specified number or percentage of the votes of the Members greater than that herein specified, shall not be considered the act of the Members unless such requisite number or percentage so prescribed by law or by the Declaration or these By-Laws is obtained.

Section 3.11. Voting. Except as otherwise provided in the Declaration or these By-Laws, voting on all matters shall be by voice vote or by a show of hands unless any Member, prior to the voting on any matter, demands vote by ballot, in which case each ballot shall state the name of the Member voting, the Lots or Dwellings owned by such Member, and the number of votes by such Member, and if such ballot shall be cast by proxy, it shall also state the name of such proxy.

Section 3.12 Action by the Association Without a Meeting. Any action which may be taken at a meeting of the Members may be taken without a meeting if written approval and consent, setting forth the action authorized, shall be signed by each of the Members entitled to vote on the date on which the last such Member signs such approval and consent and upon the filing of such approval and consent with the Secretary of the Association. Such approval and consent so filed shall have the same effect as the unanimous vote of the Members at a special meeting called for the purpose of considering the action authorized.

ARTICLE IV BOARD OF DIRECTORS, NUMBER, POWERS, MEETINGS

Section 4.01 Number and Initial Board of Directors. The Declarant shall have the right to appoint and remove members of the Board of Directors and officers of the Association as provided by the Declaration. The Board of Directors shall initially consist of at least three (3) directors, but not more than five (5) directors, and such directors shall be appointed by the Declarant. At the first regular meeting of the Association, a Board of Directors consisting of at least three (3) but no more than five (5) directors shall be elected by the Members, subject to the Declarant's right to appoint and remove directors. For each year thereafter until the termination of the Declarant's right to appoint and remove directors, the Members shall elect the Board of Directors consisting of at least three (3) but no more than five (5) individuals at each annual meeting of the Association, subject to the Declarant's right to appoint and remove directors. After the right of the Declarant to appoint and remove directors has terminated or has been relinquished as provided by the Declaration, the Members shall elect five (5) persons to the Board of Directors at the special meeting of the Association described in Section 4.05 of these By-Laws. Except with respect to directors appointed by the Declarant and except as provided in Section 4.08 hereof, directors must be Owners at all times during their service as directors; *provided, however*, that the term "Owner," for purposes of this Section 4.01 and Section 5.01 of these By-Laws, shall be deemed to include, without limitation, any shareholder, director, officer,

partner in, or trustee of any entity or person which is, either alone or in conjunction with any other persons or entities, an Owner as defined in the Declaration. Any individual who would not be eligible to serve as a member of the Board of Directors were he not a shareholder, director, officer, partner in, or trustee of such an entity or person, shall be deemed to have disqualified himself from continuing as a director if he ceases to have any such affiliation with that entity or person.

Section 4.02 Powers and Duties. The Board of Directors shall have the powers and duties necessary to administer the affairs of the Association, including, but not limited to, those powers and duties specifically assigned, delegated or granted to the Board of Directors in the Declaration, the Articles of Incorporation, these By-Laws, and applicable laws and ordinances. Consistent therewith, the Board of Directors shall have the power to adopt rules and regulations which it deems necessary for the administration of the affairs of the Association and to impose sanctions for violations of the Declaration, these By-Laws and the published rules and regulations of the Association, subject to the provisions of the Declaration.

Section 4.03 Other Duties. The Board of Directors shall exercise such duties and responsibilities as shall be incumbent upon it by law and the Declaration, together with such other duties and responsibilities as it may deem necessary, desirable or appropriate in the exercise of its powers. In addition to other duties which the Board of Directors may have, it shall be responsible for the following matters:

J. Maintenance, repair, renovation, restoration, replacement, care and upkeep of the Common Property and other portions of the Development maintained by the Association;

K. Collection of assessments levied by the Association;

L. Designation and dismissal of the personnel necessary for the maintenance and operation of the Common Property and other portions of the Development which are the responsibility of the Association; and

M. Subject to the provisions of the Declaration, the promulgation of rules and regulations governing the access to and use and enjoyment of the Common Property.

Section 4.04. Management. The Board of Directors may employ for the Association a management agent, be it an individual or an entity, under such terms, compensation and duties as the Board may, in its sole discretion, authorize; *provided, however*, that for so long as the Declarant shall have the right to appoint and remove directors, such action may only be taken with the consent of the Declarant.

Section 4.05 Election of Directors by Members and Term of Office. Pursuant to the provisions of Paragraph 4 of Article II of the Declaration, the Declarant shall, for the period of time specified therein, have the right to appoint and remove at the pleasure of the Declarant any member of the Board of Directors or any officer of the Association, until such right shall be relinquished by the Declarant or until such right shall otherwise terminate as provided by the

Declaration. Upon the termination of the Declarant's right to appoint and remove members of the Board of Directors and officers of the Association, the Declarant shall then give to each Member at least fifteen (15) days written notice of a special meeting to elect a new Board of Directors, such meeting to be held not more than sixty (60) days after the date of such termination. In the event of the failure of the Declarant to call said special meeting within the period provided above, the other Members may call such special meeting in accordance with the provisions of Section 3.03 of these By-Laws. At such meeting, the Members shall elect two (2) directors for a term of three (3) years each, two (2) directors for a term of two (2) years each, and one (1) director for a term of one (1) year; *provided, however*, that the directors elected at such meeting shall also serve for that portion of a calendar year between the commencement of their terms and the first annual meeting following such meeting so that their respective terms shall expire at the time of an annual meeting. Except in the case of death, resignation, disqualification or removal, each director elected by the Members shall serve until the annual meeting at which his term expires and until his successor has been duly chosen and qualified.

The procedure for the election of the Board of Directors at the special meeting shall be as follows: Nominations shall be accepted for not less than five (5) Owners to serve on the Board of Directors of the Association; upon the closing of such nominations, each Member present in person or by proxy shall cast a ballot listing thereon the names of the five (5) different nominees (no more and no less) for whom such Member wishes to vote, together with the residence number of the Lot or Dwelling of the voting Member; the ballots shall then be collected and tallied whereupon the two (2) persons receiving the greatest number of votes shall be elected to three (3) year terms, the two (2) persons receiving the next greatest number of votes shall be elected to two (2) year terms, and the person receiving the next greatest number of votes shall be elected to a one (1) year term. If only five (5) persons are nominated to serve on the Board of Directors, the terms of such persons shall be determined as follows: Members shall cast ballots by writing thereon the name of the person thus elected whom the Member wishes to serve for a term of three (3) years; the ballots shall then be collected and tallied whereupon the two (2) persons receiving the greatest number of votes shall serve three (3) year terms, the two (2) persons receiving the next greatest number of votes shall serve two (2) year terms, and the person receiving the next greatest number of votes shall serve a one (1) year term.

Section 4.06 Procedure for Subsequent Elections and Terms of Office. At the second annual meeting following the special meeting described in Section 4.05 of these By-Laws and at each subsequent annual meeting, the Members shall, in accordance with the procedures hereinafter set forth, elect directors to succeed to the offices of those directors whose terms have expired at the time of such meeting. Such directors so elected shall each serve for a term of three (3) years. Persons made be nominated for election to the Board of Directors by a nominating committee appointed by the incumbent Board of Directors prior to the annual meeting and by nominations made from the floor at the meeting for such election. Election to the Board of Directors shall be by secret written ballot unless dispensed by majority consent, and at the election, the Members or their proxies may cast, with respect to each vacancy, the vote(s) of their respective Lots or Dwellings as provided in the Declaration. Cumulative voting shall not apply.

Section 4.07 Removal or Resignation. Subsequent to the termination of the Declarant's right to appoint and remove directors, any one or more of the directors may be removed with or

without cause by a majority vote of the total authorized vote of the Members which is taken at any regular or special meeting of the Association, and a successor shall be elected by the Members at such meeting in order to fill the unexpired portion of such director's term. Any director whose removal has been proposed by any Member shall be given an opportunity to be heard at such meeting. Any director may resign at any time by giving written notice to the members of the Board of Directors. Such resignation shall take effect on the date of 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. The sale by a director of all of his Lots or Dwellings, or any other termination of his interest in such Lots or Dwellings shall automatically and coincidentally terminate his directorship. Subsequent to the termination of the right of the Declarant to appoint and remove directors, vacancies in the Board of Directors caused by any reason other than the removal of a director by a vote of the Members shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall serve until a successor is elected and qualified at the next annual meeting of the Members, with such successor to serve the remainder of such terminated director's term of office.

Section 4.08 Officers, Agents, or Employees of the Declarant. The Declarant may appoint any of its officers, agents or employees to act for the Declarant as a Member, director or officer of the Association, and the Declarant may, at any time, replace any such director or officer acting for the Declarant with any other officer, agent, or employee of the Declarant.

Section 4.09 Fees and Compensation. No fee or other compensation shall be paid by the Association to directors for their services as directors unless such fee or compensation is first fixed by a resolution adopted by a majority vote of the total vote of the Members.

Section 4.10 Organizational Meeting. The first organizational meeting of each Board of Directors shall be held without notice immediately after and at the same place as the meeting of the Members at which said Board of Directors or certain members of the Board of Directors have been elected.

Section 4.11 Regular Meetings. The Board of Directors may provide, by resolution, the time and place for the holding of regular meetings, in addition to the organizational meeting, and such regular meetings shall be held without notice other than such resolution.

Section 4.12 Special Meetings. Special meetings of the Board of Directors may be called by the President on at least three (3) days notice to each director, given personally or by mail, telephone, facsimile or telegraph, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board of Directors may also be called by the Secretary of the Association in like manner and on like notice on the written request of at least a majority of the directors.

Section 4.13 Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be deemed to be a waiver of notice of such meeting and waiver of any and all objections to

the place or time of the meeting or the manner in which it has been called or convened, except when a director states, at the beginning of the meeting, any such objection or objections.

Section 4.14 Entry of Notice. Whenever any director has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given shall be prima facie evidence that due notice of such special meeting was given such director, as required by law and or the By-Laws of the Association.

Section 4.15 Board of Directors Quorum. At all meetings of the Board of Directors, a majority of the directors then in office shall constitute a quorum for the transaction of business.

Section 4.16 Conduct of Meetings. The President, or the Vice-President in the absence of the President, shall preside over all meetings of the Board of Directors and the Secretary, or an Assistant Secretary in the absence of the Secretary, shall keep the minutes of such meetings and shall record in a minute book all resolutions adopted at such meetings, as well as all transactions and proceedings occurring at such meetings. Meetings of the Board of Directors may be held by telephone conference.

Section 4.17 Action Taken by Directors. Except as otherwise provided in the Declaration and these By-Laws or by law, every act or decision by a majority of the directors present in person or by proxy at a duly held meeting at which a quorum is present shall be regarded as the act of the Board. In the event of any tie vote, the President, or the Vice-President in the absence of the President, shall cast a separate vote to break the tie.

Section 4.18 Action Without Formal Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee appointed by the Board of Directors may be taken without a meeting if written consent, setting forth the action so taken, shall be signed by all members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the Board or committee. Such consent shall have the same force and effect as a unanimous vote by the Board of Directors or by such committee, as the case may be.

Section 4.19 Executive Committee. In furtherance, and not in limitation, of the powers conferred by law, the Board of Directors may establish an Executive Committee consisting of three (3) directors. The Executive Committee shall be constituted and appointed by the Board of Directors from their number and shall meet when deemed necessary. The Executive Committee shall have authority to exercise all the powers of the Board of Directors at any time and when the Board of Directors is not in session, so long as such powers are lawfully delegated and are not inconsistent with these By-Laws and the Declaration. The Executive Committee shall elect a chairman, and a majority of the members of the Executive Committee shall constitute a quorum. The act of a majority of the members present at a meeting at which a quorum is present shall be the act of the Executive Committee, and notice of meetings of the Executive Committee shall be the same as required for a special meeting of the Board of Directors. The Board of Directors may designate one or more directors as alternate members of the Executive Committee, and such alternate members may act in the place and stead of any absent member or members at any meeting of the Executive Committee. The designation of an Executive Committee shall not

operate to relieve the Board of Directors, or any member thereof, of any responsibility imposed by law, the Declaration or these By-Laws.

Section 4.20 Special Committees. The Board of Directors shall have the power and authority to create special committees, including, but not limited to, a recreational amenities committee, a maintenance committee, a nominating committee, an insurance committee, and an audit committee. Any such committee shall advise the Board of Directors on matters pertaining to the purposes for which any such special committee shall have been created and shall have and exercise such powers as may be provided by resolution of the Board of Directors. Each such committee shall be comprised of at least two (2) or more members of the Board of Directors and shall act by a majority of its members unless otherwise ordered by the Board of Directors. The members, including the chairman, of any such special committee shall be appointed by and shall serve at the pleasure of the Board of Directors. A majority of the members of any such committee shall constitute a quorum.

ARTICLE V OFFICERS

Section 5.01 Enumeration of Officers. The officers of the Association shall be a President, a Vice President, and a Secretary, who shall all be members of the Board of Directors, and a Treasurer and such other officers (who need not be members of the Board of Directors) as the Board may from time to time by resolution create. Any two (2) or more offices may be held by the same person, except for the offices of President and Vice President and President and Secretary or Assistant Secretary. Except with respect to officers appointed by the Declarant and except as provided in Section 4.08 hereof, each officer must be an "Owner" as defined in Section 4.01 of these By-Laws.

Section 5.02 Election. For the period provided by the Declaration, the officers of the Association shall be appointed by and serve at the pleasure of the Declarant. After the right of the Declarant to appoint and remove such officers shall have terminated or shall have been relinquished, the Board of Directors shall elect the officers of the Association at each organizational meeting thereof. The Board of Directors at any time and from time to time may appoint such other officers as it shall deem necessary, including one or more Assistant Secretaries or Assistant Treasurers, who shall hold their offices for such terms as shall be determined by the Board of Directors and shall exercise such powers and perform such duties as are specified by these By-Laws or as shall be determined from time to time by the Board of Directors.

Section 5.03 Compensation. No fee or compensation shall be paid by the Association to any officer for his services as an officer unless such fee or compensation is first fixed by a resolution adopted by a majority vote of the total vote of the Members.

Section 5.04 Term. Each officer of the Association shall be elected at the time of each organizational meeting of the Board of Directors, and each shall hold office until the next organizational meeting of the Board of Directors and until his successor is duly elected and

qualified, or until his earlier resignation, death, removal or other disqualification. Any officer may be removed by the Board of Directors whenever in its judgment the best interests of the Association will be served thereby. The sale by an officer of all of his Lots or Dwellings or a termination of his entire interest therein shall automatically and coincidentally terminate his term as an officer.

Section 5.05 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 5.06 President. The President shall be a director and the chief executive officer of the Association and, subject to the control of the Board of Directors, shall in general, manage, supervise and control all of the business and affairs of the Association and perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time. The President shall, when present, preside at all meetings of the Association. The President may sign, with the Secretary or any other proper officer of the Association authorized by the Board of Directors, any contracts, deeds, notes, mortgages, bonds, policies of insurance, checks, or other instruments which the Board of Directors has authorized to be executed and which are consented to and approved by the Declarant (if the Declarant's consent and approval is required by the Declaration or by these By-Laws), except in cases where signing or execution thereof shall be expressly delegated by the Declaration or these By-Laws to some other officer or agent of the Association, or shall be required by law to be otherwise signed or executed.

Section 5.07 Vice-Presidents. In the absence of the President, or in the event of his death or resignation, removal, disqualification, inability or refusal to act, the Vice-President (or in the event there is more than one Vice-President, the Vice-Presidents in the order designated at the time of their election, or in the absence of any designation, in the order of election) shall perform the duties of the President and, when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice-President may perform such duties as are set forth in these By-Laws or as shall from time to time be assigned to him by the Board of Directors.

Section 5.08 Secretary. The Secretary shall: (A) attend and keep the minutes of meetings of the Association, of the Board of Directors, and of any committees having any of the authority of the Board of Directors in one or more books provided for that purpose; (B) see that all notices are duly given in accordance with the Declaration or the provisions of these By-Laws or as required by law; (C) be the custodian of the Association records; and (D) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Board of Directors.

Section 5.09 Treasurer. The Treasurer (or in the absence of the Treasurer, the President) shall: (A) have charge and custody of and be responsible for all funds and securities of the Association, receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies, money market funds, or other depositories or accounts as shall be from time to

time selected by the Board of Directors; (B) authorize vouchers and sign checks for monies due and payable by the Association; (C) promptly render to the President and to the Board of Directors an account of the financial condition of the Association whenever requested; (D) prepare and deliver any certificate required by the Declaration; and (E) in general, perform all the duties incident to the office of Treasurer and such other duties as from time to time may be assigned by the Board of Directors. The duties of the Treasurer shall be performed subject to such restrictions or limitations as may be imposed from time to time by the Board of Directors or these By-Laws.

Section 5.10 Assistant Secretaries and Assistant Treasurers. The Assistant Secretaries and Assistant Treasurers, in general, shall perform such duties as shall be assigned by the Secretary or Treasurer, respectively, or by the Board of Directors.

ARTICLE VI FISCAL MATTERS AND BOOKS AND RECORD

Section 6.01 Fidelity Bonds. The Board of Directors may require that any director, officer, contractor or employee of the Association handling or responsible for Association funds shall furnish an adequate fidelity bond. The premium for any such bond shall be paid by the Association as a Common Expense.

Section 6.02 Books and Records Kept by Association. The Association shall keep (A) detailed, complete and accurate financial records, including itemized records of all receipts and disbursements; (B) detailed minutes of the proceedings of all meetings of the Members and of the Board of Directors and committees having any of the authority of the Board of Directors; and (C) such other books and records as may be necessary or required by law or to reflect accurately the affairs and activities of the Association.

Section 6.03 Inspection. The books, records and papers of the Association shall, at all times during reasonable business hours and upon reasonable notice, be subject to inspection by any Member or their respective agents or representatives for any proper purpose.

Section 6.04 Contracts. Subject to obtaining the consent and approval of the Declarant if such consent and approval is required by the Declaration or these By-Laws, the Board of Directors may authorize any officer or officers, or agent or agents (including the manager of the Association), of the Association, in addition to the officers so authorized by the Declaration and these By-Laws, to enter into any contract or execute and deliver any instrument in the name of, or on behalf of, the Association, and such authority may be general or confined to specific instances.

Section 6.05 Checks, Drafts, etc. All checks, drafts or orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, or agent or agents, of the Association and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of

such determination by the Board of Directors, such instruments shall be signed by the Treasurer and countersigned by the President or a Vice-President of the Association.

Section 6.06 Deposits. All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies, money market funds, or other depositories or accounts as the Board of Directors may elect.

Section 6.07 Gifts and Conveyances. The Board of Directors may accept, on behalf of the Association, any contribution, gift, conveyance, bequest, or devise for the general purposes, or for any special purpose, of the Association.

Section 6.08 Fiscal Year. The fiscal year of the Association shall be the calendar year.

ARTICLE VII COMPLIANCE AND DEFAULT

Section 7.01 Violations. In the event of a violation (other than the non-payment of an assessment) by an Owner of any of the provisions of the Declaration or of these By-Laws, the Association, by direction of its Board of Directors, may notify the Owner by giving written notice of such violation, transmitted by mail, and if such violation shall continue for a period of ten (10) days from the date of notice, or reoccur thereafter, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable material breach of the Declaration or of these By-Laws, and the Association may then exercise any one or more of the following but such exercise shall not be deemed to be an election and the Association may, at any time, exercise any additional one or more of the following:

- A. Institute an action to recover damages, on behalf of the Association or on behalf of the other Owners;
- B. Institute an action to enforce specific performance on the part of the other Owners; and
- C. Institute an action for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association, and the costs thereof shall be charged to the Owner as a specific item, which shall be a lien against said Lot or Dwelling with the same force and effect as if the charge were a part of the Common Expenses.

Section 7.02 Negligence or Carelessness of Owner. All Owners shall be liable for the expense of any maintenance, repair or replacement to any Lot, Dwelling or portion of the Common Property rendered necessary by his act, neglect or carelessness or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expenses is not met by the proceeds of insurance carried by the Association. Such

liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or Dwelling or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by any insurance company of its rights of subrogation. The expense for any maintenance, repair or replacement required, as provided in this Section, shall be charged to said Owner as a specific item which shall be a lien against his Lot or Dwelling with the same force and effect as if the charge were a part of the Common Expenses.

Section 7.03 Costs and Attorneys Fees. In any proceeding arising because of a violation or breach of the Declaration or these By-Laws by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys fees as may be determined by the court.

Section 7.04 No Waiver of Rights. The failure of the Association or of any Member thereof to enforce any right, provision, covenant or condition which may be granted by the Declaration or these By-Laws shall not constitute a waiver of the right of the Association or any Member to enforce such right, provision, covenant or condition in the future.

Section 7.05 Election of Remedies. All rights, remedies and privileges granted to the Association pursuant to any terms, provisions, covenants or conditions of the Declaration or these By-Laws shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising any other and additional rights, remedies, or privileges as may be granted to such party by of the Declaration, these By-Laws, or by law or equity.

ARTICLE VIII MISCELLANEOUS

Section 8.01 Parliamentary Rules. Unless waived by a majority vote of the Members in attendance in person or by proxy at any duly called membership meeting, or unless waived by a majority of the directors present at any duly called meeting of the Board of Directors, Roberts Rules of Order (latest edition) shall govern the conduct of the proceedings of such meeting when not in conflict with South Carolina law, the Declaration or these By-Laws.

Section 8.02 Conflicts. If there are conflicts or inconsistencies between the provisions of South Carolina law or the Declaration and these By-Laws, the provisions of South Carolina law and the Declaration, in that order, shall prevail.

Section 8.03 Definitions. Unless the context shall otherwise require, words or phrases used herein which are defined in the Declaration shall have the same meaning as therein set forth.

Section 8.04 Amendment. The Articles of Incorporation of the Association and these By-Laws may be amended at a regular or special meeting of the Members duly called and held for such purpose, pursuant to a resolution of the Board of Directors adopting a proposed amendment. Such resolution must be approved by the Members holding at least two-thirds (2/3)

of the votes which the Members present at such meeting in person or by proxy are entitled to cast; *provided, however*, that during the period of time that the Declarant shall have the right to appoint and remove members of the Board of Directors pursuant to the Declaration, such resolution must also be approved by the Declarant.

Section 8.05 Agreements. Subject to the provisions of the Declaration and the obtaining of the consent and approval of the Declarant, if such consent and approval is required by the Declaration or these By-Laws, all agreements and determinations duly authorized by the Board of Directors of the Association shall be binding upon all Owners, their heirs, legal representatives, successors, assigns, or others having an interest in the Development, and in performing its responsibilities hereunder, the Association, through the Board of Directors, shall have the authority to delegate to such persons of its choice such duties of the Association as may be determined by the Board of Directors.

Section 8.06 Liability. The officers and directors of the Association shall not be liable for any mistake of judgment, whether negligent or otherwise, except for their own individual willful misfeasance or malfeasance, misconduct, or bad faith. The officers and directors of the Association shall have no personal liability with respect to any contract or other commitment made by them in good faith on behalf of the Association (except to the extent that such officers or directors may also be Members of the Association), and the Association, as a Common Expense, shall indemnify and forever hold each such officer and director free and harmless against and from any and all liability to others on account of any such contract or commitment. In addition, each director and each officer of the Association shall be indemnified and held harmless by the Association, as a Common Expense, from any expense, loss or liability by reason of having served as such director or as such officer and against all expense and liability, including court costs and reasonable attorneys fees, incurred by or imposed upon such director or officer in connection with any proceeding to which he may be a party or have become involved by reason of being such director or such officer, whether or not he is a director or officer at the time such expenses are incurred, except in cases wherein the expenses and liability arise from a proceeding in which such director or such officer is adjudicated guilty of willful misfeasance or malfeasance, misconduct, or bad faith in the performance of his duties; *provided, however*, that in the event of a settlement of any such proceeding, the indemnification provided hereby shall apply only when the Board of Directors has been given written notice of such settlement, and provided such settlement and reimbursement is not then disapproved by resolution by the Board of Directors at its next regular meeting or special meeting called for that purpose, whichever meeting first occurs. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. To the extent available, the Association shall maintain adequate general liability and officers and directors liability insurance as a Common Expense to fund these obligations.

Section 8.07 Severability. Invalidation of any covenant, condition, restriction, provision, sentence, clause, phrase or word of these By-Laws, or the application thereof in any circumstances, shall not affect the validity of the remaining portions thereof and of the application thereof, and such remaining portions shall remain in full force and effect.

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Section 8.08 Gender and Grammar. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.


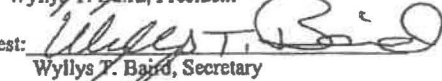
Section 8.09 Headings and Captions. The Article and Section headings and captions herein are for convenience and reference only and in no way define or limit the scope and content of these By-Laws or in any way affect the provisions hereof.

The foregoing was adopted as the By-Laws of Broad Pointe Owners' Association, Inc., at the organization meeting of the Incorporators held on March 10, 2000, and ratified and approved at the first meeting of the Board of Directors held on March 10 2000.

WITNESSES:

BROAD POINTE OWNERS'
ASSOCIATION, INC., a South Carolina
nonprofit corporation

By: 
Wyllis T. Baird, President
Attest: 
Wyllis T. Baird, Secretary

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NEWPORT COUNTY, S.C.

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