

STATE OF SOUTH CAROLINA                    )  
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   )  
 COUNTY OF BEAUFORT                    )    DECLARATION OF COVENANTS,  
   )    CONDITIONS AND RESTRICTIONS  
   )    FOR *THE GOLF CLUB COMMUNITY*  
   )    *AT INDIGO RUN*

WHEREAS, INDIGO RUN LIMITED PARTNERSHIP, a South Carolina limited partnership (the "Declarant"), is the owner of that certain tract of land located in Beaufort County, South Carolina, and being more particularly described on the attached Exhibit "A" (the "Property"), and the Declarant desires to subject the Property to the provisions of this Declaration.

WHEREAS, it is the intent of the Declarant to construct and develop a single-family residential subdivision within the Property, and it is the further intent of the Declarant to provide for a method of administration and maintenance of the Property; and

WHEREAS, as provided in Article II herein, the Declarant has retained and reserved the right and privilege to submit to the provision of this Declaration any and all portions of the real property being more particularly described on the attached Exhibit "B".

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 part thereof shall be held, sold, devised and conveyed subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in said property or any part thereof, the heirs, executors, administrators, successors and assigns and shall inure to the benefit of each Owner (as defined herein) thereof.

#### ARTICLE I DEFINITIONS

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

1.     "Additional Property" shall mean and refer to the real property described on Exhibit "B" and all improvements thereon.
2.     "Association" shall mean and refer to The Indigo Run Golf Club Community Association, Inc., a South Carolina non-profit corporation, its successors and assigns.
3.     "Board of Directors" shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.
4.     "By-Laws" shall mean and refer to the By-Laws of the Association, as the same are amended from time to time.

5. "Committee" shall mean and refer to Architectural Standards Committee for Indigo Run as established in the Master Covenants.

6. "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.

7. "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 and 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, tennis courts 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. Specifically excluded from the Common Property are the Golf Course Facilities as defined herein.

8. "Declarant" shall mean and refer to Indigo Run Limited Partnership, a South Carolina limited partnership, its successors and assigns.

9. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for The Golf Club Community at Indigo Run and all amendments and supplements thereto filed of record in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina.

10. "Development" with an initial capital letter shall mean and refer to the Property and all improvements located or constructed thereon.

11. "Dwelling" shall mean and refer to any improved Lots intended for the uses as single family detached Dwellings located within the Property.

12. "Golf Course Facility" shall mean that certain eighteen (18) hole golf course with related facilities as more fully described on Exhibit "C".

13. "Indigo Run" shall mean that certain planned unit development located on Hilton Head Island, Beaufort County, South Carolina, containing approximately one thousand seven hundred (1,700) acres of land and which contains the Property.

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 such completion, such Lot and the improvement thereon shall be collectively be considered to be a Dwelling for the purposes of this Declaration.

15. "Master Association" shall mean the Indigo Run Plantation Owners Association, Inc., as established by the Master Covenants.

16. "Master Covenants" shall mean that certain Declaration of Covenants, Conditions and Restrictions for Indigo Run Plantation recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, in Deed Book 418 at Page 1716, as amended from time to time.

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

18. "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 lien upon a security interest in a Lot or Dwelling.

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

20. "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 within the Property.

21. "Owner" shall mean and refer to the title holder as shown on the records in the Office of the Register of Mesne Conveyances 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 whether improved or unimproved. Owner shall not include those holding title merely as security for performance of an obligation. In the event that there is recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, a long-term contract of sale covering any Lot or Dwelling, 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 fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract and where the purchaser does not receive title to the property until such payments are made although the purchaser is given use of said property.

22. "Subdivision Plat" shall mean and refer to any subdivision plat of the Property which has been drawn and recorded in the records of the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, by the Declarant or its successors and assigns which depicts and delineates Lots and Common Property within the Property.

ARTICLE II  
ANNEXATION OF ADDITIONAL PROPERTY

1. The Declarant shall have the option from time to time, and at any time, to subject to the provisions of this Declaration all or any portion of the Additional Property by filing in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina, an amendment annexing such property. Such amendment to this Declaration shall not require the vote of the Owners. Any such annexation shall be effective upon the filing for record of such amendment executed by the Declarant. The Declarant shall have the unilateral right to transfer to any other person or entity the option to annex additional property hereunder.

ARTICLE III  
LANDOWNERS' ASSOCIATION

1. Establishment of an Association. The Declarant hereby establishes the Association for the purpose of exercising the powers of maintaining and administering the Common Properties once conveyed to the Association and providing common services, administering and enforcing the covenants, conditions and restrictions contained herein and levying, collecting and dispersing assessments and charges herein created. Further, the Declarant 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, the Owner thereof shall be deemed to covenant and agree to subject said Lot 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, whether improved or unimproved, shall be a Member of the Association. Membership 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. In the event that fee simple title to a Lot or Dwelling is transferred or otherwise conveyed, the membership in the Association which is appurtenant thereto will automatically pass to such transferee. The foregoing is not intended to include Mortgagees or any other persons or entities who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or otherwise affect a Member's ownership in the Association.

3. Voting Rights. Each lot is hereby assigned one vote for voting purposes in the Association. The construction of a Dwelling within 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 the 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 undertaken as provided herein. The rights and privileges of membership, including the right to vote and to hold an office in the Association, may be exercised by a Member or 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 in the event more than one person seeks to exercise it.

4. Officers and Directors. Notwithstanding any other provisions to the contrary contained in this Declaration, the By-Laws and any instrument establishing the Association, the Declarant shall have the right to appoint or remove any member or members of the Board of Directors of the Association or any officer or officers of the Association until such time as the first of the following events shall occur: (i) the expiration of twenty (20) years after the date of the recording of this Declaration; (ii) the date on which all of the Lots within the Property and Additional Property have been conveyed by the Declarant to third party purchasers; or (iii) the surrender by the Declarant to the Association of the authority to appoint and remove directors and officers of the Association. Each Owner by acceptance of a deed to or other conveyance of a Lot, vests in the Declarant such authority to appoint and remove directors and officers of the Association. The initial Board of Directors of the Association shall consist of three (3) individuals selected 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 IV ARCHITECTURAL STANDARDS COMMITTEE

The Declarant has established an Architectural Standards Committee (the "Committee") as more fully described in the Master Covenants for the purpose of examining and passing 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. 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 Master Covenants.

#### ARTICLE V ASSESSMENTS

1. Creation of Lien and Personal Obligation of Assessments. Upon the acceptance of title to a Lot 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 the Association upon conveyance of any of the Common Properties to the Association), the annual assessments which are hereinafter 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 payment for, 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 Association 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 of the Association. It shall be the duty of the Board of Directors of the Association at least thirty (30) days prior to the Association's annual meeting to prepare a budget covering the estimated Common expenses relating to 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 of the Association. 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 fifteen (15) days prior to such 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, in the event 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 annual assessment in effect for the current year shall be increased in proportion by the greater of either ten (10%) percent of the budget and assessment of the previous year or by the percentage increase, if any, over the previous year's Consumer Price Index (all Urban Consumers, United States City Average, All Items 1967 = 100) or its successor index, until a new budget shall have been 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 herein. 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: (i) the landscaping, improvement, maintenance, enhancement, enlargement and operation of the Common Property under this Declaration as provided below; (ii) the maintenance and clearing of Lots which are not deemed Dwellings; and (iii) 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 a payment of taxes and insurance, 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 electronically monitored and operated gates controlling vehicular access to and from the Property), if any such services or charges are provided or paid 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 and 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 covering the Common Property. 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 Board of Directors of the Association.

3. Unimproved Lot Maintenance Assessment. Commencing in 1995, so long as a Lot remains unimproved, Owner shall pay to the Association, or its authorized agent, an additional annual assessment of Fifty and No/100 (\$50.00) Dollars for the purpose of maintaining a neat and uniform appearance of the unimproved Lot. Such appearance shall be determined at the sole discretion of the Association or its authorized agent. Such assessment is subject to increase by either ten percent (10%) over the previous year's budget or in proportion to the percentage increase for the then current year, in the Consumer Price Index (all Urban Consumers, United States City Average, All Items 1967=100) or its successor index, whichever is greater.

4. Initial Assessment. The owner of each lot in the Association shall pay annual assessments which, beginning in 1995, shall be an amount equal to Two Hundred Fifty and No/100 (\$250.00) Dollars. The annual assessments for each lot may thereafter be increased in proportion by the greater of either ten (10%) percent of the assessments for the previous year or by the percentage increase, if any, over the previous year's Consumer Price Index as defined in Article V(1).

5. Special Assessments. In addition to the total annual assessments authorized above, 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 applicable assessment year only, 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 at 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 on 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.

6. 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 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 attorneys fees as hereinafter provided. Such assessments, late charges, and cost of collections shall become a charge and continuing lien on the Lot of the delinquent Owner and all improvements thereon against which each such assessment is made, and shall be a personal obligation of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the Owner to pay such assessment is established at the time when the assessment first became due and payable. The above-referenced lien shall be superior to all other liens and encumbrances on such Lots except for (i) liens of ad valorem taxes; and (ii) liens for all sums unpaid on a first priority Mortgage (as provided in Paragraph 5 herein) or on any Mortgage to 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. All of the persons acquiring liens or encumbrances on any Lot after this Declaration has been recorded shall be deemed to consent that such liens or encumbrances shall be inferior to such future liens for assessments and charges as provided herein, whether or not such prior consent shall be specifically set forth in the instruments creating such liens or encumbrances. If an 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 said lien and there shall be added to the amount of such assessment, the cost of preparing and filing the complaint in such action. In the event a judgment is obtained, such judgment shall include late charges as above provided and reasonable attorneys fees. The equitable charge and lien provided for in this Article V shall be in favor of the Association and the Declarant, and each Owner by his acceptance of a deed or other conveyance to a Lot or Dwelling vests in the Association and Declarant and its 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.

7. 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 or Mortgages now or hereafter placed on any portion of the Properties; 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 of its Mortgage or other proceeding or deed in lieu of foreclosure, such Mortgage shall prospectively pay assessments commencing on the date that it acquires title to the Lot or Dwelling.

8. Assessment on Lots Owned by Declarant. For improved or unimproved Lots owned by the Declarant, no assessment of any type shall be levied upon such Lots by the Association without the Declarant's consent. 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 those Lots and Dwellings which are owned by Declarant without the Declarant's written consent.



9. Failure to Assess. The failure 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 each 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 and permitted hereunder. In such event, each 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 until a new assessment is made and notice thereof is delivered to the Owner, at which time any short falls and collections may be assessed retroactively by the Association against such Owner.

## ARTICLE VI 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 easement over any portion of the Property which is unimproved which, in the opinion of the Declarant or the Association, is not properly maintained for the purpose of landscaping, mowing, removing, clearing, cutting or pruning underbrush, weeds, or other unsightly growth, which in the opinion of the Declarant, or the Association, and their successors and assigns, detracts from the overall beauty, setting and safety of the Property. Entrance upon any such portion of the Property for the purpose of landscaping, mowing, cutting, clearing and pruning shall not be deemed a trespass. The provisions of this Paragraph 1 shall not be construed as an obligation on the part of the Declarant or Association, or their successors or assigns, to landscape, mow, clear, cut or prune any portion of the Property or provide garbage or trash removal services.

2. Utility Easement. Perpetual easements on, over and under the Property, to construct, erect, maintain and use electric and telephone poles, wire, cables, conduits, sanitary and storm sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sanitary and storm sewer, water, television and other public conveniences or utilities on, in, or over the Property as may be reasonably required for the purposes above. Provided, further, the Declarant or the Association, and their successors and assigns, may cut drain ways for surface water wherever and whenever such action may appear to the Declarant or the Association, their successors and assigns, to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements expressly include the right to cut trees, bushes or shrubbery, 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. Unless otherwise shown on the Subdivision Plat, such reserved utility easements shall extend, over, under and across a strip of land measuring and extending ten (10') feet in width and running parallel with and adjacent to the Lot boundary lines of each Lot within the Property. The easements reserved herein shall also include any and all utility easements shown and depicted within any portion of the Common Property or any Lot as



shown and depicted within any portion of the Common Property or any Lot as more particularly shown on the Subdivision Plat. Within these easements, no structures, plantings, or other material shall be placed or permitted to remain which may damage or interfere with installation and maintenance of utilities, or which may damage, or interfere with, or change the direction of flow of drainage facilities in these easements. Such easement areas located within Lots shall be continuously maintained by the Owner except for the improvements for the maintenance of which a public authority or utility company is responsible. No improvements of any kind shall be built, erected or maintained on any such easement without the written approval of Declarant and the Board of Directors of the Association, and such easements, shall at all times be open and accessible to the Declarant and 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 herein shall not be construed as an obligation on the part of the Declarant or Association to construct, erect or maintain any of the paths or utilities described herein.

3. Golf Course Facilities Construction Easements. A temporary easement and right of entry onto portions of the Property for the benefit of the Golf Course Facilities for the construction of certain improvements as follows:

3.1 Construction of Golf Cart Paths and Utilities. A temporary construction easement for the construction of water supply lines, irrigation lines, sanitary and storm sewer lines, electric and gas supply lines, telephone lines, other utility service lines, golf cart paths, and other improvements related to and reasonably necessary for the construction and operation of the Golf Club Facilities over the Common Property (collectively, the "Temporary Easement").

3.2 Construction of Golf Club Facilities. A temporary construction easement for the construction of the Golf Club Facilities, and all other related improvements over and across portions of the Property adjacent to and abutting the Golf Course Facilities (the "Golf Course Construction Easement"). The Golf Course Construction Easement shall extend for twenty (20') feet onto the Property along the contiguous property lines between the Property and the Golf Course Facilities as same shall be designated on Subdivision Plats (the Golf Course Construction Easement and Temporary Easement are collectively hereinafter referred to as the "Construction Easement").

3.3 Privileges and Obligations. The easement rights created herein shall include (i) the right to cut, trim, or remove any trees or other obstructions which may interfere with the construction, reconstruction, or operation of the Golf Club Facilities, pile dirt and materials, and to operate equipment on the surface of the land, within the Construction Easement tracts only, during periods of construction of the Golf Club Facilities; and (ii) the right of ingress and egress onto said Construction Easement tracts for the purpose of exercising the rights herein granted.

3.4 Nonexclusive Rights. The easement rights created herein shall be nonexclusive and Declarant and Owners shall have the right to use the land within said Construction Easement tracts for any purpose not inconsistent with the rights herein conveyed.

3.5 Restoration. Within a reasonable time after completion of any portion of the Golf Club Facilities, the surface of the Construction Easement tracts shall be restored to as near as practicable to the condition found prior to the construction of such portion of the Golf Club Facilities, including, without limitation, ground covers, plantings, roads, sidewalks and other improvements.

3.6 Termination of Temporary Easement. The foregoing right to enter onto the Property for the initial construction of the Golf Course Facilities shall be deemed to commence upon the recording of this Declaration and shall be terminated thirty (30) days following the completion and the placement into service of the Golf Course Facilities.

3.7 Termination of Golf Course Construction Easement. The foregoing right to enter onto the Property for the initial construction of the Golf Club Facilities shall be deemed to commence upon the recording of this Declaration and shall be terminated thirty (30) days following the completion and the placement into service of the last of the improvements comprising the Golf Club Facilities.

4. Golf Course Facilities. Perpetual easements for ingress and egress, drainage of surface water, golf course operations, golf cart path, and other easements as follows:

4.1 Utility Easements:

4.1.1 Upon the completion of the Golf Course Facilities, a permanent nonexclusive utility easement shall be deemed created over each utility service line constructed for the benefit of the Golf Course Facilities (the "Utility Easements") for the perpetual maintenance, repair, replacement, and reconstruction of the Golf Course Facilities. The Utility Easements shall extend five (5') feet on either side of each utility service line as actually constructed, or such additional land as reasonably necessary to allow for the maintenance, repair, replacement and reconstruction of the Golf Course Facilities.

4.1.2 Upon completion of the Golf Course Facilities, Declarant, its successors or assigns may prepare a plat or survey indicating the location and existence of each portion of the Golf Course Facilities and create and record specific easements, consistent with the terms hereof, for all or any portion of the Facilities.

4.2 Ingress/Egress Easement. A nonexclusive easement for ingress and egress over, across, and through those streets, roads, and rights-of-way, now or hereinafter existing on the Property, necessary to allow access to the Golf Club Facilities to and from adjacent rights-of-way to the Property for the benefit of the owner of the Golf Course Facilities, and its employees, independent contractors, agents and all members, guests and invitees of the Golf Club Facilities (collectively, the "Club Users"). The Club Users shall have the right to proceed through any security gate or similar security device without interference or restriction and in no event shall the

Club Users or Golf Course Facilities owner be required to pay any fee or charge for ingress or egress over and across the Property.

4.3 Golf Cart Paths. A nonexclusive easement for the purpose of construction, maintenance, repair, and replacement of golf cart paths over and across portions of the Common Areas or Property as designated on the Subdivision Plats to provide ingress and egress by and between portions of the Golf Course Facilities (the "Golf Cart Path Easements"). The owner of the Golf Course Facilities shall maintain the Golf Cart Path Easements in a safe and orderly manner. Inclusive within the foregoing grant of Golf Cart Path Easements shall be the right of the owner of the Golf Course Facilities to install, replace, maintain and repair directional and safety signage within the Golf Cart Path Easements, as deemed reasonably necessary.

4.4 Golf Cart and Maintenance Vehicle Easement. A nonexclusive easement to Club Users to operate golf carts, operate machinery, equipment and maintenance vehicles used in connection with the operation and maintenance of the Golf Club Facilities over and across all Golf Cart Path Easements, roads, streets, and rights-of-way within the Common Property.

4.5 Golf Course Play Easement. There is hereby reserved to the Golf Course Facility owner, as a dominant tenement, along with the Club Users, a nonexclusive easement over and across the Common Property and Lots for the following purposes:

4.5.1 Retrieval of golf balls, including the right to enter on any Lot for that purpose, provided the right to retrieve golf balls shall only extend to nonenclosed portions of the Lots, and the person retrieving the golf ball shall do so in a reasonable manner and will repair any damage caused by entry onto the Lot to retrieve the golf ball;

4.5.2 Flight of golf balls over, across, and upon the Common Property and Lots;

4.5.3 Doing of every act necessary and incident to the playing of golf and other recreational activities on the Golf Course Facilities, including, but not limited to, the operation of lighting facilities for operation of swimming, driving range, and golf practice facilities during hours of darkness, and the creation of usual and common noise levels associated with such recreational activities;

4.5.4 Creation of noise related to the normal maintenance and operation of the Golf Club Facilities, including, but not limited to, the operation of mowing and spraying equipment. Such noise may occur from early morning until late evening; and

4.5.5 An easement for the overspray of herbicides, fungicides, pesticides, fertilizers and water over portions of the Common Property and Lots located adjacent to the Golf Course Facility

4.6 Damage by Errant Golf Balls. Owners, for themselves and each and every subsequent Owner of Lots, hereby acknowledges and agrees that the existence of a golf course in

the Golf Course Facility is beneficial and highly desirable; however, each Owner acknowledges and agrees that portions of the Property located adjacent to the Golf Course Facility are subject to the risk of damage or injury due to errant golf balls. The Owners for themselves and each subsequent Owner, their successors and assigns, hereby assume the risk of damage and injury and hereby release the owner of the Golf Course Facility, its successors and assigns, from any and all liability for damage or injury caused by errant golf balls in, on, or around the Property and agrees to indemnify and hold the owner of the Golf Course Facility, its successors and assigns, harmless from any and all claims, actions, costs or liability arising from any damage or injury caused, directly or indirectly, by golf balls flying, landing, hitting, or resting in or around the Property. The obligation to indemnify, defend, and hold harmless shall pass with title to each portion of the Property. Nothing contained herein shall be deemed to limit liability of the individual golfer who has struck the errant golf ball for any damage he or she has caused.

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

6     Association Easement. Notwithstanding any of the other easements or rights granted to the Association pursuant to the provisions of this Article VI, 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 and with permission of the Owner or occupant of the Lot or Dwelling directly affected thereby.

7     Lagoon and Wetlands Maintenance Easement. A perpetual non-exclusive easement on, over, across and under all Lots and those portions of the Common Property and Association Property located adjacent to and fronting upon any and all lagoons, lakes, holding ponds, waterways, marsh areas or wetlands situated within or adjacent to the Property (hereinafter in this Paragraph 7 referred to as "lagoons and wetlands"). The easement reserved herein is to be utilized by the Declarant or the Association and their successors and assigns when in their sole discretion it is necessary to maintain, repair or reconstruct the lagoons and wetlands, including, but not limited to, the repairing, replacing, mowing, seeding, bulkheading, maintaining and reconstructing the 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. The easement reserved herein 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 herein for the benefit of the Declarant and the Association shall include an easement to traverse all portions of unimproved Lots located adjacent to lagoons and wetlands and those portions of such improved Lots measuring and extending ten (10') feet in width along the side boundary line of such improved Lots which side boundary line of such Lot will be the side of the Lot which will reasonably allow and permit such access. This additional easement reserved herein 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 such Lots to the above-described twenty (20') foot reserved easement contained within Lots 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 easement reserved herein which are necessary to maintain or preserve safe, efficient and 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 successors and assigns are permitted to undertake under the easement reserved herein 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.

8. Master Association Easement. A right to grant perpetual non-exclusive easements to members of the Master Association for ingress and egress in and to the Common Areas or portions thereof within the Property for pedestrian and vehicle access as deemed appropriate by the Declarant. Such easement may contain provisions requiring the Master Association to pay certain costs associated with the upkeep of the easement property so encumbered.

## ARTICLE VII PROPERTY RIGHTS

1. General Property Rights. Each Lot and Dwelling shall for all purposes constitute 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 Owner of each Lot and Dwelling shall include, and there shall pass with each Lot or Dwelling as is appurtenant thereto, whether or not separately described, all of the right or interest in and to the Common Property as established hereunder, which 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 of the Association 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 in 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 provisions:



(a) The provisions of this Declaration and the By-Laws;

(b) The right of the Association to borrow money for the following purposes and the pledging and mortgaging of the Common Property as security thereof with the approval of the Declarant: (i) for the purpose of improving Common Property, or any portion thereof, (ii) for acquiring additional Common Property, (iii) for constructing, repairing, maintaining or improving any facilities located or to be located within the Common Property, or (iv) for providing the services authorized to be provided by the Association hereunder. Provided, however, the lien and encumbrance of any such 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 the Declarant and the Association according to the provisions of Article VI 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 any public agency or entity, public service district or private or public utility providing utility service to all or any portion of the Development;

(e) The right of Association to convey, develop or otherwise dispose of the Common Property as provided in Article XI hereof.

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.

## ARTICLE VIII 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 assessment charges shall be claimed or allowed by any Owner by reason of any alleged failure of the Association to take some action or perform

some function 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. No diminution or abatement in charges and assessments shall be claimed or allowed by any Owner 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 from the Association to comply with any law, ordinance, or any other directive of any other municipal or other governmental authority. The obligation to pay such assessments and charges by each Owner within the Property 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, Articles of Incorporation of the Association, those powers relating to non-profit corporations under state and federal laws, and those duties and powers which are reasonably implied to effect the purposes of the Association. The Association may exercise any other right or privilege given to it expressly by this Declaration or by law, together with every right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege. Such 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 VII herein and 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. Such duties 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. For so long as Declarant owns any Lot or Dwelling for the purpose of sale, the Association shall not, without the written consent of the Declarant, borrow money or pledge, mortgage, or apothecate any portion of the Common Property.

3. Agreements. Subject to the prior approval of Declarant for so long as Declarant owns a Lot or Dwelling primarily for the purpose of sale, all agreements and determinations lawfully authorized by the Board of Directors of the Association 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 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, 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, together 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 Property and the enforcement of this Declaration, 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 the 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 of such rules and regulations and amendments thereto. 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, canceled or modified by the Board of Directors 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 of the above-referenced 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 of the Owners, Occupants or guests guilty of such violation; (ii) to suspend an Owner's right to vote in the Association, (iii) to suspend an Owner's right and the right of such Owner's family, guest, tenants and co-owners of such Owner 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) the Board of Directors shall have the power to impose all or any combination of these sanctions. The fines levied and assessed as provided in this Paragraph 5 herein shall be a lien upon the applicable Lot in the same manner as that provided in Article V herein. The effect of such non-payment of such fine and the remedies of the Association and the Declaration 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 endorsing the rules and regulations.

## ARTICLE IX MAINTENANCE

1. Care and Responsibilities of Owner. 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. The Owners of such Lots which adjoin Lagoons shall keep such embankments seeded and covered with grass or other slope stabilization vegetation which must be approved by the Declarant. Such Owner shall, in a manner that has been approved by the Declarant, repair, reconstruct, fill and stabilize any portion of the embankments, marshland mitigation areas and wetlands located within such Lots which have been washed out or eroded. Owners of Lots located adjacent to coastal estuary wetlands within the Property shall cause such coastal estuary wetland areas located within their Lots to be maintained in a neat, clean, sanitary and safe condition, and the Owners of such Lots shall bear all reasonable costs associated with maintaining such coastal estuary wetlands within such Lots 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 such Lots. As provided in Paragraph 4 herein, 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. Responsibility of Association. Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Property which responsibility shall include the maintenance, repair and replacement of all roads, walks, trails, lagoons, ponds 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. No diminution or abatement of assessments, fees or charges shall be claimed or allowed by any reason of any alleged failure 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 to pay such assessments, fees and charges are 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 and other improvements constructed, developed and placed within the Property as portions of the Common Property, such improvements shall be conveyed by the Declarant to the Association, 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 the above-referenced roadways, drainage systems, security facilities and other improvements constituting portions of the Common Property 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 responsible for maintaining, repairing, reconstructing and operating the same as provided above. In conveying such Common Property to the Association, the Declarant may reasonably reserve the right to use such Common Property in connection with the development, construction, marketing and use of the Additional Property and other areas of Indigo Run.

4. Association Performance of Owner Maintenance. In the event that the Declarant or the Board of Directors determine that: (i) 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, in either event, the Declarant or the Association, except in the event of an emergency situation, may give such Owner written notice of Declarant's or Association's intent to provide such Owner written notice of Declarant's or Association's intent to provide such necessary 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. 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 in the event that such maintenance, cleaning, repair or replacement is not capable of completion within said 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 the event of emergency situations or the failure of any Owner to comply with the provisions hereof after such notice, the Declarant or the Association may provide (but shall not have the obligation to so provide) any such 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 Declarant's costs and expenses.

#### ARTICLE X USE RESTRICTIONS FOR THE RESIDENTIAL AREAS

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 owned by the Declarant for sales offices and model home purposes. Except for 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 within the Property, 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 constructed on any Lot within the Property 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 and structures on Lots within the Property 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 Beaufort County flood plain maps on file with the Hilton Head Island Planning Commission; 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 within the Property shall be situated and constructed inside the front and side yard setback lines as shown and depicted 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, materials, supplies, and equipment must be placed or stored in order to conceal them from view from roads and adjacent properties. Any such visual barrier shall be at least six (6) feet height and shall consist of fencing approved by the Architectural Standards Committee.

4. Exterior Appearance. All homes shall be elevated at a minimum of three (3') feet above grade level. The exterior of all homes shall be composed primarily of a masonry substance. All garages shall be side entry except as otherwise approved by the Architectural Review Committee. Any unenclosed garages or carports must be adequately screened from street view. 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 within the Property. All blinds, curtains and other window treatments within Dwellings located in the Property must conform to regulations established by 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 of any structure within the Property.

5. Water Wells and Septic Tanks. The Declarant further reserves the right to locate wells, pumping stations and tanks within any portion of the Property; provided, however, that if the owner of any portion of the Property upon which such pumping station, well, or tank shall be located is other than the Declarant or the Association, and the applicable recorded plat of such

Owner's property does not designate such real property for use as aforesaid, then such pumping station, tank or well shall not be located upon such Owner's property without the permission of such Owner. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Company 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 so long as the Company 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 possessing an average daily water pressure adequate for the normal household use of those dwellings served by such water distribution line. Furthermore, no septic tanks or similar sewage facilities may be installed or maintained on any Lot, except as provided in the Master Covenants, unless there is satisfactory soil percolation, and the Declarant or an 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 which line is connected to adequate sewage treatment facilities.

6. Pets. No animals, livestock, birds, or poultry of any kind shall be raised, bred, or kept by any owner or lessee of a Lot or Dwelling within the Property provided that a reasonable number of generally recognized house pets may be kept in Dwellings within the Property, subject to rules and regulations adopted by the Association, through its Board of Directors. Such house pet or pets must 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 within the Property, the Board of Directors of the Association may conclusively determine, in its sole and absolute discretion, whether, for the purpose of this Paragraph 6, a particular pet is a generally recognized house pet or if such pet is a nuisance. The Board of Directors of the Association 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 nuisance or to be in violation of the above-referenced pet restrictions. The Board of Directors shall have the further right to fine any Owner of a Lot (in an amount not to exceed \$50.00 per violation of pet restrictions by such Owner or an occupant of his Lot. All Lot owners shall be liable to the Association for the cost of repair of any damage to the Common Property caused by the Pet of such Owner or of an occupant of such Owner's Lot. 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.

7. Nuisances. No noxious or offensive activities shall be carried out within the Property or any portion thereof, and each Owner, Occupant, his family, tenants, guests, invitees, servants or agents shall refrain from any act or use of any Lot or Dwelling within the Property 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 the 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 portion of the Property unsanitary, unsightly, offensive or detrimental to persons using or occupying any other portions of

the Property. No noxious or offensive activities shall be carried on within the Property or any Lot or Dwelling contained therein which would cause a diminution in the value or enjoyment of the Property or the Lots and Dwellings contained therein or which could result in a cancellation of any insurance for any portion of the Property.

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 a Lot 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 herein.

9. Antennas. No television antenna, radio or television receiver, satellite receiving dish or other similar dish shall be attached to or installed in any 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. Provided, however, the Declarant retains the right to change the boundaries of the Golf Course Facilities provided that such change does not change the boundary of a Lot owned by an Owner.

11. Motor Vehicles and Trailers. No travel trailers, mobile homes, pickup trucks, 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 portion of the Property except within enclosed garages or within storage areas for such purposes which have been approved by the Declarant and the Board of Directors. No motorcycles, mopeds or unlicensed recreational vehicles shall be allowed within the Property. No Owners, Occupants or lessees of any Dwellings shall repair or restore any vehicle of any kind upon or within any Lot or Dwelling or any portion of the Common 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, 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. However, this provision shall not apply to the Declarant.

13. Irrigation. All irrigation systems within the Property shall not 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 or other portion of the Property for irrigation purposes.

ARTICLE XI  
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 restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Declarant, the Association, or any Owner to enforce any provision herein contained shall in no event be deemed as a waiver of right to do so thereafter. In pursuit of the right 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 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. The Declarant or the Association shall have no affirmative duty to enforce the provisions of this Declaration in any way, and the failure 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 covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

3. Duration. The covenants and restrictions 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 of the Association, 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 of the total votes eligible to be cast by all Members of the Association, provided, however, 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 III herein. Until the Declarant conveys all of the Lots within the property 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 and restrictions 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 Master 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 Master Covenants. The Common Property within the Property will not be submitted to the Master Covenants, and the Common Property within the Property shall not be part of the common areas as defined and described in the Master Covenants.



WITNESS its hand and seal this the 15th day of December, 1994.

WITNESSES:

INDIGO RUN LIMITED PARTNERSHIP,  
a South Carolina limited partnership

By: IRP Associates Limited  
Partnership, a South Carolina  
limited partnership, its General  
Partner

By: The Melrose Company, Inc., a  
South Carolina corporation,  
its General Partner

Landra M. Lewis  
B. Carol Gocken

By: [Signature]  
Its: Vin [Signature]

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

PROBATE

PERSONALLY appeared before me the undersigned witness, who, on oath says the (s)he saw the within named INDIGO RUN LIMITED PARTNERSHIP, a South Carolina limited partnership, by IRP Associates Limited Partnership, a South Carolina limited partnership, its General Partner, by The Melrose Company, Inc., a South Carolina corporation, its General Partner, sign the within Declaration of Covenants, Conditions and Restrictions, and as its act and deed, deliver the same, and that (s)he with the other witness whose name appears above as a witness, witnessed the execution thereof.

Landra M. Lewis

SWORN to before me this 15th  
day of December, 1994.

[Signature]  
Notary Public for South Carolina  
My Commission Expires: December 7, 1997

## EXHIBIT "A"

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 7.89 acres, more or less, designated as LOTS 1 - 18, BLOCK AA, and being more particularly shown and described on "A Subdivision Plat of Block AA, A Section of INDIGO RUN PLANTATION" prepared by Michael R. Dunigan, SC RLS #11905, dated February 28, 1994, and recorded in the RMC Office for Beaufort County, South Carolina, in Plat Book 51 at Page 175.

ALSO, all that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 4.78 acres, more or less, and being the road right-of-way as shown on "A Subdivision Plat of Block AA, A Section of INDIGO RUN PLANTATION" prepared by Michael R. Dunigan, SC RLS #11905, dated February 28, 1994, and recorded in the RMC Office for Beaufort County, South Carolina, in Plat Book 51 at Page 175.

ALSO, all those certain pieces, parcels or tracts of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 0.30 acres, more or less, and being shown as COMMON AREA on "A Subdivision Plat of Block AA, A Section of INDIGO RUN PLANTATION" prepared by Michael R. Dunigan, SC RLS #11905, dated February 28, 1994, and recorded in the RMC Office for Beaufort County, South Carolina, in Plat Book 51 at Page 175.

## EXHIBIT "B"

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 491.16 acres, more or less, known as THE GOLF CLUB COMMUNITY AT INDIGO RUN and being more particularly shown and described on "A Composite Plat of Community II, a Section of Indigo Run", prepared by Michael R. Dunigan, SC RLS #11905, dated January 18, 1995, and recorded in the RMC Office for Beaufort County, South Carolina, in Plat Book 51 at Page 176.

## EXHIBIT "C"

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 215.42 acres, more or less, being the GOLF COURSE and being more particularly shown and described on "A Composite Plat of Community II Golf Course, a section of Indigo Run", prepared by Michael R. Dunigan, SC RLS #11905, dated January 18, 1995, and recorded in the RMC Office for Beaufort County, South Carolina, in Plat Book 51 at Page 177.



*Hughes*  
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