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STATE OF SOUTH CAROLINA) AMENDED & RESTATED
) DECLARATION OF COVENANTS
) AND PROVISIONS FOR MEMBERSHIP IN
COUNTY OF BEAUFORT) CROSSWINDS PROPERTY OWNERS'
ASSOCIATION, INC.

THIS AMENDED AND RESTATED DECLARATION, is made this 19th day of June, 2000, by B & A Crosswinds, L.L.C., (hereinafter referred to as "Declarant") a Limited Liability Company organized and existing under and by the laws of the State of South Carolina, its successors and assigns.

WITNESSETH:

WHEREAS, Declarant recorded that certain Declaration of Covenants and Provisions for Membership in Crosswinds Property Owners' Association, Inc. dated April 19, 1999, in the Office of the Register of Deeds for Beaufort County, South Carolina in Deed Book 1163 at Page 2062 (the "Declaration" or "Covenants"); and

WHEREAS, the Declaration imposes certain covenants and restrictions on the property described in Article II of the Declaration (the "Property") and procedures for the establishment of the Crosswinds Property Owners' Association, Inc., a non-profit corporation whose members are owners of residential lots within the Property (the "POA"); and

WHEREAS, Declarant, at Article XII of the Declaration, reserves unto itself, its successors and assigns, the right to amend the Declaration or any portion thereof for any purpose whatsoever, during the initial five (5) year period from the date of the Declaration provided, however, that the voting power of existing Owners shall not be diluted by such amendment; and

WHEREAS, Declarant, at Article II of the Declaration, reserves unto itself, the right to submit additional property contiguous to or located nearby the Property without the consent of the POA or any Owner; and

WHEREAS, Declarant has amended the Declaration pursuant to that certain First Amendment to Declaration of Covenants and Provisions for Membership in Crosswinds Property Owners' Association dated March 10, 2000 and recorded in the Register of Deeds Office for Beaufort County, South Carolina in Deed Book 1271 at Page 1256 (the "First Amendment"); and

WHEREAS, Declarant now desires to amend and restate the Declaration as amended by the First Amendment for the purpose of adding certain contiguous property to the Crosswinds Subdivision as Phase II thereof, as more and particularly described at Exhibit "A" hereto, and submitting said property to the Declaration and correcting certain scrivener errors now existing in the Declaration; and

WHEREAS, the Amended and Restated Declaration of Covenants and Provisions for Membership in Crosswinds Property Owners' Association, Inc. shall be effective as of the date of recording of the Declaration with all terms thereof except as otherwise herein modified, continuing in full force and effect as of said recording date and being hereby affirmed and ratified by the Declarant; and

WHEREAS, Declarant desires to develop the Property as a residential community known as "Crosswinds" in a coordinated manner, with provisions for certain common areas, common access ways and common regulations and cost sharing, all as more particularly set forth herein; and

WHEREAS, Declarant finds that private controls over the use of the land are an effective means of establishing, preserving, maintaining and, in some instances, enhancing, the economic or intangible values pertaining to the use and enjoyment of the Property and, to this end, Declarant desires to establish on the Property certain private land use controls, conditions, protections, restrictions, equitable servitudes, encumbrances, affirmative obligations, burdens, benefits, reservations, easements, assessments, charges and liens; and

WHEREAS, Declarant deems it desirable to provide a mechanism for the proper administration of these Covenants, including, but not limited to, the ownership, operation and maintenance of common facilities on the Property, the performance of acts of maintenance, administration, assessment, enforcement and other activities set forth in these Covenants and other mandated and discretionary functions consistent with the purpose of these Covenants which benefit the Property; and

WHEREAS, in connection with the need for such a mechanism, Declarant has caused or will cause to be incorporated under the laws of the State of South Carolina a non-profit corporation, Crosswinds Property Owners' Association, Inc., for the purposes of exercising the functions aforesaid, and which are more fully set forth hereinafter; and

NOW, THEREFORE, Declarant hereby declares that the Property hereof is and shall be held, transferred, sold, devised, assigned, conveyed, given, purchased, leased, occupied, possessed, mortgaged, encumbered, improved, and used subject to these Covenants. The benefits of these Covenants, whether pertaining to items, benefits and obligations presently existing or to be created or executed in the future, do and shall, in equity and at law, touch concern, benefit and burden, and run with the land and any estates in the land herein referred to as the Property, and these Covenants are intended to be covenants and servitudes burdening and benefiting all persons now or hereafter deriving a real property estate in the Property whether by assignment, succession or inheritance or other method of conveyance.

PART ONE
GENERAL REFERENCES

ARTICLE I:
DEFINITIONS

Section 1.1: Definitions. The following words and terms, when used in this Declaration, or any supplemental Declaration, unless the context clearly shall indicate otherwise, shall have the following meanings.

- (a) "Architectural Review Board" or "Review Board" or "ARB" means the Architectural Review Board described in Section 3.2 of this Declaration.
- (b) "Board" shall mean the Board of Directors of the POA as defined in the By-Laws of the POA.
- (c) "Common Expenses" shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the POA, together with all funds assessed for creation or maintenance of reserves, pursuant to provisions of this Declaration.
- (d) "Common Property" shall mean and refer to those areas of land, including those with any improvements thereon, which are deeded to the POA and designated in said deed as Common Property. The term "Common Property" shall include any personal property acquired by the POA, if said property is designated as "Common Property". All Common Property is to be devoted to and intended for the common use and enjoyment of the Owners of the Lots and Dwellings, their families and guests. The term "Common Property" shall also refer to all areas provided for the common use and enjoyment of Owners of the Lots, their families and guests, and designated as Common Property on the plat referred to in **EXHIBIT "A"** or on any other approved plat or Master Plan evidencing a specific intent to designate Common Property, whether or not such property has been actually conveyed to the POA, and whether or not such Common Property are presently designated by Declarant, which shall be at Declarant's sole discretion. Declarant may like-wise modify any Common Property designation prior to actual conveyance to the POA, at Declarant's discretion.
- (e) "Declarant" shall mean and refer to B & A Crosswinds, L.L.C., and its successors and assigns, and may further be expanded to include a subsequent holder of land who may submit such land hereunder, at the discretion of the present "Declarant", to these Covenants.
- (f) "Declaration" shall mean and refer to this Declaration of Covenants and Provisions for Membership in Crosswinds Property Owners' Association, Inc. and amendments and supplements thereto filed in the Office of the Register of Deeds for Beaufort County, South Carolina.

(g) "Dwelling" shall mean and refer to any improved Lots intended for use as single family detached dwellings located within the Property.

(h) "Institutional Mortgagee" means any bank, the Federal National Mortgage Association (FNMA), insurance company, federal or state credit union, FHA approved mortgage lending institution, recognized pension fund investing in mortgages, federal or state savings and loan association, having recorded a mortgage lien upon any Lot or which has acquired and holds title thereto as a result of foreclosure of any such mortgage lien or by deed in lieu of foreclosure, or any other lender approved in writing by the POA.

(i) "Lot" shall mean and refer to any parcel of land within the Property upon which it is intended that a single family dwelling be constructed. Said definition does not include the single family detached dwelling to be constructed on the Lot.

(j) "Member" shall mean and refer to each of those persons or entities entitled to membership in the POA, as provided in Article VI hereof.

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

(l) "Owner" shall mean and refer to the holder of title to any Lot situated upon the Property as shown on the records in the Office of the Register of Deeds for Beaufort County, South Carolina whether said holder is one or more persons, firms, associations, corporations, or other legal entities of the fee simple title, but shall not mean or refer to a mortgagee under a Mortgage unless and until such mortgagee has acquired title pursuant to a foreclosure proceeding or any proceeding in lieu of foreclosure, nor shall the term owner mean or refer to any lessee or tenant of the Owner. The term "Owner" shall also include all those individuals as provided herein in Article VI. Furthermore, for the purposes of the use of the recreational amenities, the enjoyment of the Open Space and the use of the Common Property, the term "Owner" shall include:

- (i) the Owner's spouse;
- (ii) all family members of the Owner so long as such family members are:

- (1) residing in the Owner's household or away at school or in the military; and
- (2) under twenty-five (25) years of age; and

(iii) any other person residing in the Owner's household as approved in writing by the Declarant or POA. In the event there is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina a long term contract of sale covering any Lots 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 shall not be 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 the property.

(m) "Open Space" shall mean and refer to those parcels of land which are dedicated by a recorded Declaration as land for such purposes or identified as such on a plat recorded by the Declarant, which, pursuant to these Covenants, cannot be developed or improved or altered except as provided in Article VII and any other relevant sections of these Covenants. Open Space shall be designated in such Declaration, making reference to recorded plats. Use of the term "Open Space" shall not mean or imply that the general public at large has access to or use and enjoyment of the land which is so designated.

(n) "POA" shall mean and refer to the Crosswinds Property Owners' Association, Inc., a South Carolina non-profit corporation which Declarant has formed or will cause to be formed.

(o) "Property" or "Properties" shall mean and refer to the Property described in Article II hereof.

ARTICLE II:

Property Description/General Plan of Development

Section 2.1: The Property. The real property ("the Property") which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these Covenants, is described in **EXHIBIT "A"** to these Covenants.

Section 2.2: Additional Property. In addition to the Property described in Section 2.1 above, wherever used in these Covenants the term "the Property" shall also mean and refer to all property which may be contiguous to the Property or located nearby, if such property is voluntarily submitted hereunder by Declarant, without the need for consent of the POA or any Owner, or by the owner(s) of such property if Declarant is not the owner, with the consent of Declarant hereunder. The intent of this Section is that Declarant shall have the unrestricted right to submit additional property herein which shall become effective upon filing a document of record in the Office of the Register of Deeds ("ROD") for Beaufort County, South Carolina, executed in recordable form, by the property owner and Declarant, describing such property and stating the

intent to be bound hereby and submitted hereunder. In the event the POA is required to pay for such additional property, the purchase of the property and the submission thereof to these Covenants must be approved by the Owners in the same manner as an amendment to this Declaration as described at Article XII hereof.

Section 2.3: General Plan of Development

(a) For purposes of these Covenants the phrase "Master Plan" shall mean and refer to conceptual Master Plans, general land use maps, advertising, brochures, designs and drawings commissioned by Declarant and prepared by landscape architects, planners, designers, engineers, graphic illustrators, artists and similar professionals displaying possible future uses of the Property, said rendering being prepared as an aid for orderly development of the Property or as part of its communications with the public and property purchasers, or as part of its research programs undertaken by Declarant for future development of the Property. Declarant intends to develop the Property in accordance with its own conceptual Master Plan, as modified from time to time, as a private residential community featuring recreational facilities, various amenities, and any other lawful activities which Declarant deems appropriate as uses for such property. Declarant reserves the right to review and modify its Master Plan at its sole option from time to time based upon its continuing research and design program. Declarant shall not be strictly bound to adhere to Master Plans in the development of the Property except in the following specific instances:

- (i) That there will be no more than sixty-four (64) Lots.
- (ii) That the Property will include, as Common Property, at a minimum: a swimming pool, one or more ponds and one (1) common dock.

(b) It is the intention of Declarant to convey to the POA the Common Property as defined herein. In general, the timing of the conveyance shall be at Declarant's discretion but in any event shall be no later than the earlier of (i) the date that the sixty-four (64) Lots have been conveyed by Declarant; or (ii) January 1, 2010. Once conveyed to the POA, these properties shall become Common Property. Declarant shall not be required to follow any predetermined sequence or order of improvement and development and may bring within the plan of these Covenants additional lands and develop same before completing the development of the Property. Except as provided herein, said conveyances by Declarant shall be for no consideration and the Common Property shall be debt free at the time of conveyance. The POA must accept the Common Property conveyance.

(c) Other than as stated in this Section 2.3, Declarant shall have full power to add to, subtract from, or make changes in its Master Plan. No implied reciprocal equitable servitudes or easements shall arise with respect to any lands retained by Declarant.

(d) In general, all future Owners of Lots within the Property recognize that Declarant will have portions of the Property under development for an extended period of time. As part of the development of the Property, it is understood that the quiet enjoyment of the Property may be interfered with from time to time to some extent with construction operations. As stated above, Declarant has presented to the public certain renderings, plans, and models showing possible future development of the Property. Declarant does not warrant in any way the designs in those renderings, plans or models or how any portions of the improvements to the Property will actually be developed. All purchasers of Lots or Dwellings within the Property accept that any such renderings, plans or models are preliminary and in no way represent the final development plan of the Property. All Owners agree that Declarant shall have the sole right of design, construction, development and improvement of the Property. Declarant expressly disclaims that any rights shall arise or any restraints be created by a reference or depiction of land use as shown on any Master Plan.

PART TWO
LAND USE RESTRICTIONS

ARTICLE III:
GENERAL LAND USE RESTRICTIONS AND OBLIGATIONS

Section 3.1: Use of Property. Declarant does hereby declare that the Property which is the subject of this Declaration shall be utilized for residential purposes and all commercial activities upon, or within said Property are hereby prohibited; provided, however, that this prohibition shall not be interpreted as preventing Declarant or its agents, successors and/or assigns from operating the development office including maintaining construction offices or trailers, maintaining sales offices, model homes, or real estate sales related promotional activities upon the Property. Declarant further acknowledges that it may include additional restrictions or modifications in deeds to various properties to further define the scope of this general use condition. The allowance or approval of a proposed use under this Section shall not be interpreted as a representation that such use complies with any applicable governmental zoning and/or land use regulation. Such regulations may apply further use restrictions in addition to the above. Notwithstanding the above, Owners may have for profit home offices located on the Property provided that said office does not regularly have business visitors, nor involve sales and/or storage of inventory. Furthermore, this Section shall not prevent Declarant or the POA from charging user fees or rental fees in conjunction with the use of the Common Property.

Section 3.2: Architectural Review Board. Declarant will establish an Architectural Review Board ("ARB") and appoint its members to function as its agent for the purpose of reviewing and approving all activities which are made subject to architectural approval by these Covenants. At any time after the activation of the POA as hereinafter provided, Declarant may, in its sole discretion, delegate and assign unto the POA the right and duty of maintaining and administering the ARB. The ARB shall be composed of three to nine Owners or, at Declarant's or POA's

discretion, others who need not be owners of Lots within the Property and such ARB Members shall serve for terms of one (1) year. The ARB may engage or contract with consultants as may be necessary to carry out this function. Standards for review may be published by the ARB and made available to Owners or prospective Owners. No approval of plans, location or specifications, and no publication of architectural standards bulletins by Declarant or the ARB shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed building or that such standards comply with pertinent law. Any established standards or guidelines may be changed from time to time at the discretion of the ARB, without prior notice. Notwithstanding the above, until such time as the Common Property has been conveyed to the POA, the Declarant may perform all functions of the ARB as herein contained. During such period any reference herein to ARB shall mean the Declarant. **DECLARANT SHALL ASSUME NO RESPONSIBILITY FOR THE ACTIONS OR INACTIONS OF THE ARB AND/OR THE POA AND ALL OWNERS AGREE TO INDEMNIFY AND HOLD DECLARANT HARMLESS IN THE EVENT OF ANY DAMAGES SUFFERED THEREBY.**

Section 3.3: Architectural Review of Specifications for New Construction or Additions, Reconstructions, Alterations or Changes to Structures, Landscaping and Siting.

(a) No building, fence, gazebo, retaining wall, sign, pool, landscaping or other structure or landscaping element shall be erected, placed or altered on said Property until the proposed building, plans, specifications, tree and topographical survey, exterior color and finish, landscape plan including exterior lighting, and plot plan (showing proposed location of such building or structure, setbacks, open space, drives, landscape elements, patios, decks and parking areas) shall have been approved in writing by the ARB. Refusal of approval of plans, location or specifications may be based by the ARB upon any reasonable grounds, including purely aesthetic considerations, which in the ARB's sole discretion shall be deemed sufficient.

(b) No alterations in the exterior appearance of any building, landscape element or structure shall be made without like approval by the ARB.

(c) Two (2) copies of all plans and related data shall be furnished to the ARB, or its agent, for its records. Furthermore, a reasonable fee, as determined by Declarant, may be required at the time of submittal to cover costs of plan review by professionals and other ARB administrative expenses. Approval shall be dated and shall not be effective for construction commenced more than twelve (12) months after such approval unless a different expiration time is specifically stated in the approval. Disapproved plans and related data shall be accompanied by a statement of items found unacceptable. In the event approval of such plans is neither granted nor denied within thirty (30) days following receipt by the ARB of a completed application with all required documentation and written request for approval, the provisions of this Section shall be deemed waived.

(d) Among other items, design guidelines may include suggested or required building materials, colors, setbacks, buffers, paving materials, plant materials, light fixtures, signs and graphics, benches, trash receptacles, etc.

(e) The placing of individual or clustered, private mailboxes upon Lots or mandatory guidelines regulating the size, color or siting and construction of all mail boxes will be subject to the ARB's discretion.

(f) To assure that buildings and other structures will be located so that reasonable view, privacy and breeze will be available to the largest practical number of structures built within the Property and that structures will be located with regard to the topography of each property taking into consideration the location of large trees, as well as structures previously built or approved pursuant to this Article for adjacent parcels of land and other aesthetic and environmental considerations, the ARB shall have the right to approve (subject to the provisions of the pertinent law) the precise site and location of any structure within the Property. The location shall be determined only after reasonable opportunity is afforded the Owner to recommend a specific site. In submitting site development plans for review hereunder, each Owner shall include calculations verified by an engineer or landscape architect regarding setbacks, open space, gross building square footage, and any other data which may be requested. Once approved, development consistent with such calculations shall be mandatory.

Section 3.4: Exterior Antennas, Towers, and Solar Panels. No television antenna, radio antenna, solar panels, satellite receiver or other rooftop device may be placed upon any Lot; provided, however, that such devices may be allowed by the ARB at its discretion. In those cases when such devices are allowed, the ARB shall have the right to regulate height, location and other aesthetic features, including the right to require appropriate natural or artificial screening.

Section 3.5: Tree Removal. No trees measuring six (6") inches or more in diameter at a distance of four (4') feet above ground level may be removed without the written approval of the ARB.

Section 3.6: Service Yard. Each lot shall have a visually screened area to serve as a Service Yard and an area in which garbage receptacles, fuel tanks, or similar storage receptacles, electric and gas meters, air conditioning equipment, and other unsightly objects must be placed or stored in order to conceal them from the road and other adjacent properties. Household fuel tanks must be permitted from the proper authorities and may be located outside of such screened areas only if located underground. Plans for such fence or screening delineating size, design, color, texture, appearance and location must be approved by the ARB prior to construction.

Section 3.7: Minimizing Construction Disturbances. During any construction on a Lot, the Owner and the contractor shall maintain the construction site in a clean and uncluttered condition, and construction may not commence before 7:00 a.m. or be continued after 7:00 p.m. Monday through Saturday, and is not permitted on Sunday. Declarant may promulgate rules governing

construction activities which may limit construction activities at certain times, e.g. holidays. Notwithstanding the above, Declarant reserves the absolute right to grant exceptions to or waive the aforesaid restrictions in its sole discretion.

Section 3.8: Temporary Structures, Outbuildings and Construction Site Clean-Up. No structure of a temporary character shall be placed upon a Lot at any time; provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of any main building. Under no circumstances shall these latter temporary shelters be used as residences or permitted to remain on said Lot after completion of construction. Furthermore, during construction, said shelters shall be subject to continuous clean-up. After completion of construction, it shall be the sole responsibility of the Owner to insure that all temporary structures are removed immediately and that the site is cleaned up and placed in good order. The design size and color of structures temporarily placed on said Lot by a contractor or subcontractor shall be subject to the reasonable aesthetic approval of the ARB.

Section 3.9: Water and Sewage. Declarant has made arrangements for a central sewage disposal system and central water supply system. No Dwelling may be erected on the Lot unless suitable provisions have been made for water and the disposal of sewage by Owner and said provisions have been approved by the ARB. No portable water or irrigation wells may be drilled or maintained on the Lot by anyone other than the Declarant or the POA; provided, however, that this prohibition is not intended to prevent the ARB from approving heating and cooling systems which include a closed loop groundwater well system.

Section 3.10: Minimum Required Square Footage; Maximum Height; Setback. No Dwelling Unit will be approved unless the proposed Dwelling will have a minimum square footage of One Thousand Eight Hundred (1800) square feet of enclosed dwelling area if single story, and Two Thousand Two Hundred (2200) square feet of enclosed dwelling area if one and one-half or two story. No Dwelling may exceed three habitable floors. The term "enclosed dwelling area" as used in these minimum size requirements shall mean the total enclosed area air conditioned and heated within a dwelling, excluding garages.

No structure shall be constructed on a Lot which has a height exceeding forty-five feet (45') above A-7 14.0'MSL (FEMA). All Dwellings shall have as a minimum first floor elevation the level of the one hundred year flood as designated on the official Beaufort County flood plain maps.

No structure shall be constructed on a Lot within the building set back established by the Declarant for each Lot unless otherwise approved by the ARB.

Section 3.11: Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or pastured on the Property other than household pets kept in any one residence. Excluded from the definition of household pets are those obnoxious animals such as cows, horses, snakes, swine, goats and fowl all of which are specifically prohibited. Also specifically prohibited are all "pit bulldog" breeds, including, but not limited to, Staffordshire Bull Terriers, Bull Terriers, Pit Terriers, American Pit Bull Terriers, Rottweiler "Pure" Bred, canines and all varieties of Chow

"Pure" Bred canines. Notwithstanding anything contained herein to the contrary, not more than three (3) household pets may be maintained on any one Lot without the express written approval of the Declarant or the POA. In order to preserve the aesthetic qualities of the Property, to maintain sanitary conditions on the Property, to prevent the spread of worms and infectious diseases on the Property, to maintain a proper respect for other Owners and users of the Property, and to maximize the overall use and enjoyment of the Property, each person who keeps a pet within a Dwelling shall abide by rules and regulations established by the Declarant or the POA from time to time. The breach of any of these rules and regulations shall be a noxious and offensive activity constituting a nuisance.

Section 3.12: Completion of Construction. The exterior of all structures on a Lot must be completed within twelve (12) months after the construction of same shall commence, except where such completion is impossible, impractical or would result in great hardship to the Owner due to strikes, fires, national emergency or natural calamities. Substantially all of the landscaping shown on the plans approved by the ARB must be completed prior to occupancy of the Dwelling.

Section 3.13: Unsightly Conditions. It shall be the responsibility of the Owner, his heirs, successors and assigns to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on said Property which shall tend to decrease the beauty of the neighborhood.

Section 3.14: Offensive Activity. No noxious or offensive activity shall be carried on upon said Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants or devices or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the other Property in the neighborhood by the Owners thereof. Further, while it is understood that the Owners will have garbage receptacles, such receptacles shall be for domestic garbage only and the Owner shall not be authorized to dispose of any hazardous waste materials on a Lot or within the Property. The term "hazardous waste materials" shall mean any substance, material, waste, gas or particular matter which is regulated by any local government authority, the State of South Carolina or the United States Government, as a "hazardous waste", "hazardous waste material", "hazardous substance" or restricted "hazardous waste".

Section 3.15: Other Buildings and Vehicles. No mobile homes, trailers, tents (other than children's tents on a temporary basis), barns or similar out-buildings, vehicles or structures shall be placed on any Lot at any time, either temporarily or permanently without prior approval from the ARB and such approval shall normally be limited to temporary use of such structures reasonably essential to economical, orderly, and efficient construction during the construction process only. No motorcycles or motorbikes may be maintained on the Property unless otherwise approved by the POA. Further, no boats, boat trailers, camper trailers, recreational vehicles, trucks, or utility trailers may be maintained on the Property without prior written approval of the ARB unless garaged at all times. The term "truck" as used herein is intended to refer to those vehicles of various sizes and designs for transporting goods, moving heavy articles, or hauling quantities of cargo and which are used in a trade or business in which the truck is used because of its

commercial capabilities and identification of a commercial enterprise on the exterior of the vehicle. This is not intended to include attractive dual purpose vehicles driven and maintained primarily as a means of transportation, such as station wagons, mini-vans, Jeeps, Scouts, Wagoneers, Suburban type vehicles, sport utility vehicles, trucks and other pickup type trucks of three-quarter (3/4) tons or less that do not have exposed signage or logos other than discreet identification approved by the ARB and do not have exposed equipment or supplies.

Section 3.16: Signs. No commercial signs, including "for rent" or "for sale" and other similar signs, shall be erected or maintained on or in said Property by anyone other than Declarant, including, but not limited to, the Owner, a realtor, a contractor or a subcontractor, except with the written permission of the ARB, or except as may be required by legal proceedings. If such permission is granted, the ARB reserves the right to restrict size, color and content of such signs.

Section 3.17: Restrictions of Use of Roadways. Subject to the rights of ingress and egress of Owners and their guests, Declarant and its successors shall have the power to place any reasonable restriction upon the use of the private roadways within the Property and leading through lands owned or managed by Declarant to the Property, including, but not limited to restrictions pertaining to the speeds of vehicles, including "speed bumps", traffic and parking regulations, and vehicular noise levels. The fact that such restrictions on the use of the roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Property shall not make such restrictions unreasonable.

Section 3.18: Landscaping Maintenance. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All Lots and all portions of the Property and any improvements placed thereon shall at all times be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake/conservancy/water/marsh maintenance. In order to implement effective control, Declarant, its agents or assigns and/or the POA, its agents and assigns, shall have the right to enter upon any Lot for the purpose of mowing, pruning, removing, clearing or cutting underbrush, weeds or other unsightly growth and trash, which in the opinion of the ARB detracts from the overall beauty and safety of the Property, in accordance with the provisions of these Covenants, and further, to conduct such landscaping and landscaping maintenance activities as may be authorized as a common expense under these Covenants and the By-Laws. In the event that Declarant or the POA deems it necessary to enter upon any Lot to correct any unsightly, unkempt or unsafe condition, as set forth above, all expenses incurred in such corrective action shall be the responsibility of the respective Owner, and such expenses may be charged and collected in like manner against such Owner as an assessment obligation.

Section 3.19: Right of Entry. Whenever Declarant or the POA is permitted by these Covenants to correct, repair, clean, preserve, clear out, or do any action on said Lot, entering the Property and taking such action shall not be deemed a trespass.

Section 3.20: Consolidation of Property. Once a Lot has been conveyed by the Declarant to an Owner, the Lot shall not be further subdivided or its boundary lines changed except with the

written consent of the Declarant; provided, however, that nothing contained herein shall be construed to prohibit the Declarant the right to re-plot, by subdivision, consolidation or reconfiguration any Lot or Lots into one (1), two (2) or more lots which are owned by the Declarant, and the Declarant may take such other steps as are reasonably necessary to make such re-platted Lot(s) suitable and fit for use for its originally intended purposes. Such steps may include, but are not limited to, the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of said re-platted Lots. In the event of an Owner, or Owners, owning two (2) or more contiguous lots, said Owner, or Owners, may apply to Declarant for a consolidation of the two (2) or more lots into one or more Lots. At its discretion, Declarant may then take such steps as are reasonably necessary to make this consolidation of the two (2) or more contiguous lots of record, such cost and expense to be the responsibility of the Owner or Owners making the request. At Declarant's sole discretion, upon consolidation the consolidated lot may be considered one (1) Lot for purposes of these Covenants and membership in the POA and the additional ownership owned by the consolidating Owner or Owners will be surrendered to Declarant and may be held by it or assigned by it to other Property. In the event Declarant holds the ownership, no assessments shall be due from Declarant during the period of holding. In the event Declarant does not determine to take the ownership as recited herein, the Consolidating Owner shall remain liable for two assessments.

Section 3.21: Interval Ownership Timesharing and Devices to Effect Interval Ownership Prohibited. No time sharing or other forms of interval ownership, including, but not limited to that defined under the Vacation Time Sharing Act, a Vacation Multiple Ownership Act, as codified in Title 27, Chapter 32 of the South Carolina Code at the time this Declaration is recorded, shall be permitted on the Property.

Section 3.22: Docks, Landings and Boat-slips. No docks, landings, boat-slips or similar structures (other than the common dock to be constructed by Declarant) may be constructed or placed on the Property or any lot or any marsh or waterway adjacent to any lot except as otherwise approved by the Declarant or the ARB.

ARTICLE IV **ENVIRONMENTAL CONTROLS**

Section 4.1: Topography and Vegetation. Topographic and vegetation characteristics of a Lot shall not be altered by removal, reduction, cutting, excavation, fill or any other means without the prior written approval of the ARB.

Section 4.2: Certain Controls. To implement effective and adequate erosion control and to protect the beauty of the Property, the Declarant, its successors, assigns (including but not limited to the POA), and agents shall have the right to enter upon any Lot before or after a building or structure has been constructed thereon for the purpose of performing any grading or landscaping work or constructing and maintaining erosion prevention devices; provided, however, prior to entry upon the Lot for landscaping work or constructing prevention devices, the Declarant, its successors, assigns (including but not limited to the POA), and agents, as the case may be, shall give Owner the opportunity to take any corrective action required by giving

Owner notice indicating what type of corrective action is required and specifying in the notice what immediate corrective action must be taken by such Owner. If Owner fails to take the corrective action specified within thirty (30) days from such notice, the Declarant, its successors, assigns (including but not limited to the POA), and agents, as the case may be may then exercise its right to enter upon the Lot r for the purpose of performing the necessary corrective action. The cost of such corrective action or erosion prevention measures when performed shall be paid by the Owner thereof within thirty (30) days after receipt by Owner of an invoice setting forth the cost of such work. If the Owner fails to voluntarily remit such reimbursement in a timely manner, the Declarant, its successors, assigns (including but not limited to the POA), and agents shall be entitled to enforce collection thereof in a court of competent jurisdiction and shall likewise be entitled to collect all costs and expenses of collection, including reasonable attorney fees incurred, and shall further be entitled to collect a late charge equal to one and one half percent (1½%) per month of the amount of such invoice (or the maximum interest rate allowable by law) from the date of said invoice until fully paid.

To implement effective insect, pest and forest fire control, the Declarant, its successors, assigns and agents have the right to enter upon any Lot on which a building or structure has not been constructed and upon which no landscaping plan has been implemented for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, removing trash, draining standing water or dispensing pesticides. The cost of this vegetation, trash and drainage control shall be kept as low as reasonably possible and shall be paid by the respective Owner and the Declarant shall be entitled to exercise the enforced collection rights specified in the preceding paragraph. Such entry shall not be made until thirty (30) days after such Owner has been notified in writing of the need of such work and unless such Owner fails to perform the work within said thirty (30) day period.

The provisions of this Section 4.2 are designed to promote the health and welfare of the community and shall not be construed as an obligation on the part of the Declarant to mow, clear, cut or prune any property, to provide garbage or trash removal services, to perform any grading or landscaping work, to construct or maintain erosion prevention devices or storm drainage improvements, or to provide water pollution control on any privately owned property.

Entrance upon property pursuant to the provisions of this Section 4.2 shall not be deemed a trespass.

The rights reserved unto the Declarant in this Section 4.2 shall not be unreasonably employed and shall be used only where necessary to effect the stated intents and purposes of this Declaration.

Section 4.3. Environmental Hazards. To secure the natural beauty of Crosswinds, the Declarant, its successors or assigns may promulgate and amend from time to time rules and regulations which shall govern activities which may, in its judgment, be environmentally hazardous, such as the application of fertilizers and pesticides and other chemicals. Failure of any Owner or Tenant of Property in Crosswinds to comply with the requirements of such rules and regulations shall constitute a breach of these Covenants.

Section 4.4: Erosion in Common Property. The Declarant, its successors and assigns, shall have the right, but shall not be obligated, to protect all Common Property from erosion, by planting trees, plants, and shrubs where and to the extent necessary or by mechanical means such as construction and maintenance of siltation devices.

Section 4.5 Mitigation Wetlands. No filling, grading, mowing or other disturbance of any kind whatsoever shall be permitted in any area within the Property designated a "mitigation wetlands" by the Declarant or any applicable governmental authority.

ARTICLE V:
SPECIAL RESTRICTIONS AFFECTING MARSH FRONT AREAS

Section 5.1: Waterfront Setback Requirements. No Dwelling or building may be erected by anyone other than the Declarant or the POA within twenty (20) feet of the OCRM Critical Line as shown on the plats referred to at Exhibit "A" and any future recorded plat of the Property; provided, however, that structures or improvements in the nature of pools, decks, hot tubs, spas, or cook-out areas and any other structure may be built within such setback if requirements may be approved by the ARB where, in the sole discretion of the ARB, adjacent property would not be harmed by such variances.

PART THREE

PROVISIONS FOR CROSSWINDS PROPERTY OWNERS' ASSOCIATION, INC.

ARTICLE VI:
MEMBERSHIP AND VOTING RIGHTS IN THE POA

Section 6.1: Membership. Declarant, and every person and entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot or Dwelling which is made subject to this Declaration by reference in the initial deed of conveyance from Declarant, or which is subsequently submitted to this Declaration by recorded deed or covenant, shall be a Member of the POA (subject to the provisions relating to multiple ownership set forth in Section 6.2 below), provided that any such person or entity holding such title or interest merely as a security for performance of an obligation shall not be a Member of the POA. Membership shall be appurtenant to and may not be separated from Ownership of any Lot or Dwelling.

Section 6.2: Multiple Ownership. As defined in Section 1.1(g), an Owner of a Lot in the Property may be more than one individual and may be a corporation or other legal entity. In such situation, however, such an Owner must designate a Member on an annual basis in accordance with the By-Laws of the POA. Only the Member designated shall be entitled to vote on POA matters as an Owner.

Section 6.3: Voting Rights. In recognition of the fact that final planning of the within Property has not been completed, and the fact that Declarant finds it essential to maintain effective control

of the POA during the development and marketing stages, Declarant hereby establishes two (2) classes of voting Membership.

CLASS "A" The Class "A" Members shall include all those Owners as described in Section 6.1 above, including Declarant. Each Class "A" Owner shall have one (1) vote for each Lot. 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 voting purposes within the POA.

CLASS "B" The Class "B" Members shall be Declarant and any successors or assigns of Declarant's rights hereunder. Declarant shall have one (1) vote, plus one (1) vote for each outstanding Class "A" vote held by any other person or entity. The Class "B" Membership and voting privileges shall cease and terminate for Declarant whenever Declarant: (a) shall voluntarily give up its Class "B" Membership; or (b) on January 1, 2010, whichever shall first occur.

Section 6.4: Quorum for any Action Authorized. The presence at the meeting of any Members or of proxies entitled to cast fifty (50%) percent of the total vote of the Class "A" Ownership and, for so long as the Class "B" Ownership exists, a representative of the Declarant constitutes a quorum. If the required quorum is not forthcoming at a meeting, the meeting shall be adjourned and another meeting shall be scheduled for a date not less than ten (10) days nor more than thirty (30) days subsequent to the initial meeting. Written notice of the time and place of the adjourned meeting shall be provided to Owners via posted publication. The quorum requirement for the adjourned meeting shall be the presence of Owners, or of proxies, entitled to cast twenty-five percent (25%) of the total vote of the Class "A" Ownership and, so long as the Class "B" Ownership exists, a representative of the Declarant.

Section 6.5: By-Laws. The By-Laws of the POA shall be drawn and approved by Declarant to govern meetings, duties, etc., of the POA. Declarant shall cause them to be recorded in the Office of the Register of Deeds for Beaufort County, South Carolina prior to activation of the POA. Recordation shall be deemed to be notice to the POA and all Owners thereof.

Section 6.6: Powers and Duties of Declarant/POA. After activation of the POA by Declarant, Declarant shall possess all powers and rights described herein until specifically assigned to the POA, such assignment to occur no later than January 1, 2010. In general, Declarant may assign, in whole or in part, any of its reserved rights as set forth in these Covenants, to the POA by a specific document which may be recorded in the Office of the Register of Deeds for Beaufort County. The period during which the Declarant retains said powers and rights shall be referred to as the "Declarant Control Period" and during such period the Declarant may appoint and remove the officers and directors of the Association and the members of the ARB.

ARTICLE VII: PROPERTY RIGHTS AND COMMON PROPERTY

Section 7.1: Owner's Easements of Employment. Subject to the provisions of these Covenants and the rules and regulations of the POA, every Owner shall have a right and easement of

enjoyment in and to the Common Property. Said easement shall be appurtenant to and shall pass with title to every Lot within the Property.

Section 7.2: Title to Common Property. As stated in Section 2.3 above, Declarant's intent is to transfer title to the Common Property to the POA; however, the timing of such transfer is subject to Declarant's discretion subject to Section 2.3 (b) above.

Section 7.3: Extent of Owner's Easements. The right and easement of enjoyment created hereby shall be subject to the following:

(a) The right of Declarant and of the POA, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Property and, in furtherance thereof, to mortgage said Common Property;

(b) The right of the POA, as provided in its By-Laws, to suspend the enjoyment of rights of any Owner for any period for which any Assessment remains unpaid, and for any period not to exceed sixty (60) days for any infraction of these Covenants and/or its published Rules, it being understood that a suspension for either nonpayment of any Assessment or a breach of the Rules of the POA shall not constitute a waiver of discharge of the respective Owners' obligation to pay the Assessment;

(c) The right of Declarant to dedicate or transfer to any public or private utility, fee title to or utility easements on or to any part of the Common Property; and

(d) The right of the POA to give or sell or lease all or any part of the Common Property, including a leasehold interest, to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be agreed to by the Owners, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such shall be authorized by the vote of three-fourths (3/4) of the Owners at a duly called meeting and unless written notice of the proposed agreement and action thereunder is sent to every Owner at least thirty (30) days in advance of any action taken.

A true copy of such Resolution together with a certificate of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the POA and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Owners.

Section 7.4: Use of Common Property; Liability of POA and Declarant. Neither the POA, its directors and officers, nor Declarant, nor its members, shall be liable to any Owner, their lessees,

invitees, and/or guests for any damage or injury which results from the use of the Property or any rule or regulation promulgated pursuant to these Covenants or the By-Laws. The Common Property is for the exclusive use of the Members of the POA and their guests. The POA, by its Board of Directors, may make such rules and regulations as may be deemed necessary in the future to regulate the use of the Common Property, which rules and regulations shall be binding upon all Owners, their guests and invitees. Although, the POA will be responsible for the general upkeep and maintenance of the Common Property as provided herein, neither the POA nor Declarant shall be liable for any accident or injury thereupon which may be caused by Acts of God, negligence of parties not employed by the POA or Declarant, or careless or negligent activities of Owners, their lessees, invitees or guests. All parties acquiring an interest in any portion of the Property hereby agree to hold the Owners and their guests harmless from any such accident or injury. All Owners and their guests agree and acknowledge that any use of the Common Property shall be at their own risk, without recourse to the POA or Declarant. Any damage to Common Property caused by an Owner or his lessees, invitees or guests shall be the responsibility of said Owner, and Declarant and/or the POA shall have the right to collect for such damages. Nothing shall be done or kept on the Common Property which will increase the rate of insurance on the Common Property without the prior consent of the POA or Declarant. No Owner shall permit anything to be done or kept on the Common Property which might result in the cancellation of insurance on any part of the Common Property, which would interfere with rights of other Owners, which would be noxious, harmful or unreasonably offensive to other Owners or which would be in violation of any governmental statute, ordinance, rule or regulation.

ARTICLE VIII:
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 8.1: Creation of the Lien and Personal Obligation of Assessment. The Owner of each Lot within the Property hereby covenants and by acceptance of a deed thereof shall be deemed to covenant and agree to all of the terms and conditions of these Covenants and to pay the POA: (1) annual assessments or charges; and (2) special assessments for the purposes set forth herein; such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments together with such interest thereon and cost of collection therefor as hereinafter provided shall be a charge and a continuing lien on the land and all the improvements thereon against which each assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the obligation of the person or entity who was the Owner of such Property at the time when the assessment was levied by the POA as determined by the date of the notice of such levy. In the case of co-ownership of a Lot each of such co-owners of the Lot shall be jointly and severally liable for the entire amount of the assessment. Until such time as the Declarant conveys the Common Property to the POA, the Declarant shall establish and be entitled to all assessments and charges which are to be collected and used for the purposes set forth herein. Prior to said conveyance, the Declarant shall not be required to account for the assessments collected to the Association or the Owners and shall not be required to maintain the collected assessments in a separate account. Upon complete conveyance of all Common Property to the POA, the annual assessment shall be established by the Board of Directors of the POA. It shall be the duty of the Board to prepare a budget for the estimated Common Expense during each year and such budget

may include a capital contribution or reserve account if necessary for the capital needs of the POA. The annual assessments shall be divided equally so that each Lot shall be subject to equal annual assessments. The budget and 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 during the Declarant Control Period. In the event the budget is not approved or the POA 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 total annual assessments in effect for the then current year shall be increased by ten (10%) percent. If any budget at any time proves inadequate for any reason, then the Board of Directors may call a special meeting of the Members for the approval of a special assessment or obtain said approval by mail referendum as provided herein.

Section 8.2: Purpose of Assessments. The assessments levied by the POA shall be used for the construction improvement, maintenance, and operation of roads, rights-of-way, drainage ways, lighting, signage, recreational facilities, security, insect control, vegetation control, drainage systems, open space maintenance, common utility services, and other Common Property expenses both prior to and after conveyance of same from Declarant to the POA, including, but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, for the cost of labor, equipment, materials, management and supervision thereof and third party services such as legal and accounting and for the cost of acquiring additional real or personal property. Special assessments shall be used for the purposes as set forth in this Article VIII.

Section 8.3: Basis and Maximum of Annual Assessments. The total annual assessment shall be determined by Declarant, at its sole discretion, until conveyance of the Common Properties to the POA. Thereafter, the Board of Directors of the POA shall establish the budget and total annual assessment, as further provided in these Covenants and in the POA By-Laws. In all cases, the total annual assessment amount shall be prorated on the basis of total ownership, excluding Declarant.

Section 8.4: Special Assessments for Improvements and Additions. In addition to the annual assessment authorized herein, there may be, from time to time, a need for special assessments. Accordingly, the POA or the Declarant during the Declarant Control Period may levy special assessments for the purpose of defraying, in whole or in part, the cost of any substantial acquisition, construction or reconstruction, expected repair or replacement of a capital improvement of the Common Property, including the necessary fixtures and personal property related thereto or additions to the Common Property, or for the other reasonable needs of the POA, provided that any such assessments shall have the assent of the majority of the vote present in person or by proxy at a duly called meeting of Owners at which there is a quorum in attendance, written notice of which shall be sent to all Owners at least thirty (30) days in advance, said notice setting forth the purpose of the meeting. Any such duly approved special assessment shall be prorated among Owners on the same basis as annual assessments. In lieu of a meeting, a special assessment may be approved by consent of the Owners pursuant to a mail referendum in which case approval should be by a majority of Owners responding to said mail referendum. Such special assessments shall be applicable only to the year the assessment is levied unless otherwise

approved by the POA and must be approved by the Declarant, for so long as Declarant owns any Lot within the Property. The POA may make such special assessments payable in installments over a period which may, in the Board of Director's discretion, extend in excess of the fiscal year in which adopted. In the event a special assessment is payable in installments which extend beyond the year of assessment, only the installments due in the current year shall be pro-rated between the Owner and any purchaser of said Owner's Lot closing during the current year.

Section 8.5: Date of Commencement of Annual Assessments and Due Dates: The annual assessment provided for herein shall commence on June 1, 1999 unless the Declarant determines such commencement to be at a later date. The annual assessment for any year thereafter shall be due and payable in annual installments on January 31 each year. The due date of any special assessments shall be fixed in the Resolution of the Board or notice of Declarant authorizing such assessments. Notwithstanding the foregoing, the Declarant or the POA upon transfer of Declarant rights hereunder, may establish provisions for installment payments of annual assessments over the year for which they are assessed.

Section 8.6: Proration of Assessments. Commencing June 1, 1999, each person or entity who becomes an Owner during a year shall pay a pro rata share of the assessment for that year.

Section 8.7: Duties of the Board of Directors. In addition to the duties of the Board of Directors as set forth in the By-Laws, when the POA assumes the assessment powers as provided above, the Board shall fix the amount of the assessment for each Lot for each assessment period and shall, at that time, prepare a roster of the Owners applicable thereto which shall be kept in the office of the POA. Said roster shall be open to inspection by any Owner. Written notice of the assessment shall be sent to every Owner subject thereto. Prior to the POA assuming such responsibility, Declarant shall perform the above functions.

Section 8.8: Effect of Non-Payment of Assessment; Personal Obligation of Owner; Lien Remedies of the POA. If the assessments as described herein or any other financial obligations or reimbursements due from an Owner as set forth in these Covenants are not paid on the date when due, then such assessments shall become delinquent and shall, together with interest thereon at a rate of eighteen percent (18%) per annum (or the maximum interest rate allowable by law) from the due date, and the cost of collection as hereinafter provided, become a charge and continuing lien on the Lot and on improvements thereon, against which each such assessment is made. The obligation of the Owner at the time of the assessment to pay such assessments, however, shall remain his personal obligation and shall not pass as a personal obligation to his successors-in-title unless expressly assumed by them.

Section 8.9: Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any recorded mortgage held by an Institutional Lender on a Lot, or any other mortgage approved in writing by the POA ("Approved Mortgage"). Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Notwithstanding any provisions herein, no Lot shall be exempt from said assessments, charges, or liens except as provided hereinafter in Section 8.10. Notwithstanding all of the provisions of this

Section 8.9, where an Institutional Lender or other holder of an Approved Mortgage obtains title to a Lot as a result of foreclosure of a first mortgage, such acquirer of title, its successor and assigns, shall not be liable for the assessments levied by the POA pertaining to such Lot or chargeable to the former Owner of such Lot which became due prior to the acquisition of title as a result of the foreclosure, unless such assessment was made prior to the recording of such mortgage. Such unpaid share of the assessments shall be deemed to be collectible prorata from all of the Owners, including such acquirer, its successors and assigns. An Institutional Lender, or other holder of an Approved Mortgage, acquiring title to a Lot as a result of foreclosure, may not, during the period of its Ownership of such Lot, whether or not such Lot is unoccupied, be excused from the payment of the assessments coming due during the period of such ownership.

Section 8.10: Exempt Property. The following property, individuals, partnerships or corporations, subject to this Declaration, shall be exempted from assessments, charges and liens created herein:

- (a) the grantee in conveyance made for the purpose of granting utility easements;
- (b) all properties to the extent of any easement therein other than a utility easement dedicated and accepted by local public authority and devoted to public use, which does not adversely affect an Owner's use of the properties;
- (c) all POA Common Property within the Property, whether or not title to such Common Property has been transferred to the POA; and
- (d) all Lots or property owned by Declarant until the date that Declarant conveys the Common Property to the POA pursuant to Section 7.2 (See Section 8.11 regarding Declarant subsidization and Declarant assessments applicable after that date).

Section 8.11: Declarant Subsidization. Declarant agrees that for so long as it maintains its Class B voting rights set forth above in Section 6.3, in lieu of assessments on its Lots or property, which are exempt per Section 8.10(d), it shall pay to the POA the difference between the costs and expenses incurred by the POA and the amounts levied against the Owners subject to assessments. Such subsidization shall not extend to amounts properly levied against Owners but not collected therefrom. Once the Class "B" voting rights have been terminated pursuant to Section 6.3, Declarant's Lots will no longer be exempt from assessments per Section 8.10(d).

Section 8.12: Reserves for Replacement. Unless waived by a majority vote of the membership after Declarant has assigned its rights to the POA, the POA shall establish and maintain an adequate reserve fund from assessments collected from Owners for the periodic maintenance, repair, and replacement of improvements to the Common Property which the POA is obligated to maintain. The fund shall be funded out of regular annual assessments for POA expenses and shall include sufficient funds to cover deductibles for insurance policies held by the POA.

**ARTICLE IX:
FUNCTIONS OF PROPERTY OWNERS' ASSOCIATION (POA)**

Section 9.1: POA. The POA, its successors and assigns, shall be considered: (a) an assignee of Declarant; (b) the authorized and ratified agent of the Owners with respect to the functions specified herein; (c) a third party beneficiary under these Covenants; and (d) as an Owner of Property subject to these Covenants. The POA and its successors and assigns shall have the standing and authority at law or in equity to carry out and enforce these Covenants.

Section 9.2: Limitation on Duties and Obligations. The POA shall strive to carry out and put into effect the functions and services specified or reasonably implied in this Declaration; however, the functions and services to be carried out or offered by the POA at any particular time shall be determined by the Board with due consideration given to the amount of reserves and revenues available to the POA, and the relative demands upon the resources which the POA can utilize to maintain Common Property and to increase the use and enjoyment of the Property as a whole. The POA shall not be obligated to incur debt or deficits of expenditures over revenues in order to carry out its monetary function.

The POA and its Directors and Officers shall not be liable to any Property Owner, their lessees or guests, for any damage or injury which results from any rule or regulation promulgated pursuant to these Covenants.

Section 9.3: Powers of the POA. The POA shall have and may exercise any right or privilege given to it expressly in these Covenants or, except to the extent limited by the terms and provisions of these Covenants, given to it by law, and shall have and may exercise every other right, privilege or power and authority necessary or desirable to fulfill its obligations under these Covenants, including the right to engage necessary labor and acquire use or purchase necessary property, equipment or facilities; obtain and pay for legal, accounting and other professional services as may be necessary or desirable; and to perform any function by, through, or under contractual arrangements, licenses or other arrangements with any governmental or private entity as may be necessary or desirable.

Section 9.4: Ownership and Maintenance of Common Property. Common Property shall be maintained so that its use and enjoyment is not diminished or destroyed. The POA shall be authorized to permanently own and maintain Common Property, equipment, furnishings, and improvements devoted to the following uses:

- (a) for roads throughout the Property, if any, provided they are not transferred to the Town of Hilton Head, Beaufort County or the State of South Carolina;
- (b) for sidewalks, walking paths or trails, if any, throughout the Property;
- (c) for providing any of the services which the POA is authorized to offer hereunder;

- (d) for insect and forest fire control within the Property; and
- (e) for drainage and irrigation facilities serving the Property.

The POA shall not be dissolved and shall not dispose of any Common Property, by sale or otherwise, except to an organization conceived and established to own and maintain the Common Property for the benefit of Crosswinds and its Owners.

Section 9.5: Authorized Services. The POA shall be authorized but not required to provide the following services:

- (a) cleanup and maintenance of all Lots, roads, roadways, parkways, to the extent that it is necessary or desirable in the judgment of the Board of Directors of the POA to supplement the service provided by the State and local government, if applicable, and cleanup and maintenance of other Common Property within the Property and also all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;
- (b) landscaping of roads and parkways, sidewalks and walking paths and any other Common Property;
- (c) lighting of roads, sidewalks and walking paths throughout the Property;
- (d) security functions, including but not limited to maintenance of electronic and other security alarm devices and control centers for the protection of persons and property within the Property;
- (e) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the POA to supplement the service provided by the state and local governments;
- (f) the services necessary or desirable in the judgment of the Board of Directors of the POA to carry out the POA's obligations and business under the terms of this Declaration;
- (g) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the POA in any covenants or restrictions applicable to the Property;
- (h) to administer the ARB in the event that the POA is designated by the Declarant as the agent of the Declarant for such purpose;

- (i) to construct improvements on Common Property for use, for any other purposes or as may be required to provide the services as authorized in this Article IX;
- (j) to provide administrative services including but not limited to: legal; accounting and financial; and communication services informing Owners of activities, notice of meetings, referendums, etc., incident to the above-listed services.

Notwithstanding anything herein to the contrary, the POA, by majority vote of the Members at a duly called meeting or by mail referendum, may appoint a professional property manager to manage the POA and all Common Property.

Section 9.6: Mortgage and Pledge. The Board shall have the power and authority to borrow money for use by the POA and to mortgage the property of the POA and to pledge the revenues of the POA including the assessments and special assessments as security for such loans made to the POA which loans shall be used by the POA in performing its authorized functions. The Declarant, may, but shall not be obligated to, make loans to the POA, including loans for the purpose of acquiring additional Common Property, subject to approval by the Declarant of the use to which such loan proceeds will be put and the method by which such loans will be repaid and subject to a maximum of loan amount approved by the Declarant, at interest rates acceptable to the Declarant.

Section 9.7. Insurance Requirements. The POA shall at all times maintain in full force and effect casualty (hazard, and flood, if ever applicable) and liability insurance and fidelity bond coverage as hereinafter specified:

- (a) Hazard Insurance. The hazard coverage required hereunder shall protect at least against loss or damage by fire or all other hazards that are normally covered by the standard extended coverage endorsement and all other perils customarily covered for similar structures including those covered by the standard "all risk" endorsement, and shall likewise include, but shall not necessarily be limited to, the following coverage:

- (i) Required Coverage. The POA shall maintain a policy of property insurance, with the premiums being paid as a common expense. The policy must cover all of the Common Property, except for those that are normally excluded from coverage, such as land, foundation, excavation, etc., fixtures and building service equipment that are considered part of the Common Property, as well as personal property and supplies of the POA, shall be covered. A reasonable deductible shall be determined by the Board each year.

- (ii) Amount of Insurance. Insurance should cover the replacement cost of the insured facilities. Coverage does not need to include land, foundations,

excavation or other items that are usually excluded from insurance coverage.

(iii) Special Endorsements. The insurance coverage herein required shall include Agreed Amount, Replacement Cost, and Inflation Guard Endorsements when they can be reasonably obtained. Construction code endorsements such as Demolition Costs Endorsements, Contingent Liability from Operation of Building Laws Endorsements and Increased Cost of Construction Endorsements shall be required when reasonably obtainable.

(b) Flood Insurance. If any part of the project is in a flood hazard zone (as defined by the Federal Emergency Management Agency), the POA must maintain a "Master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a common expense. The policy should cover any buildings on Common Property and any other real or personal property of the POA. A reasonable deductible shall be determined by the Board each year. The amount of insurance should be at least equal to the replacement cost of all buildings and other insurable property located in the flood hazard area or, in the alternative, the maximum coverage available for the Property under the National Flood Insurance Program.

(c) Liability Insurance. The POA shall maintain a comprehensive general liability insurance policy covering all common areas, public ways and any other areas comprising the Common Property which are under its supervision. The amount of coverage for bodily injury and property damage for a single occurrence shall be determined by the Board each year. The liability insurance should provide coverage for the following:

(i) bodily injury and property damage that results from the operation, maintenance or use of the Common Property, and any facilities thereon; and

(ii) any legal liability that results from lawsuits related to employment contracts in which the POA is a party.

(d) Fidelity Bonds. The POA may require blanket fidelity bonds for anyone handling or responsible for funds of the POA. Any management agent retained by the POA shall be covered by its own fidelity bond. The fidelity bond shall cover the maximum funds that will be in the custody of the POA or its management agent at any time while the bond is in force and shall be in an amount as determined by the Board each year.

Excepted are fidelity bonds that a management agent obtains for its personnel. All other bonds shall name the POA as an obligee and shall have their premiums paid as a common expense by the POA. The bonds must include a provision that calls

for ten (10) days written notice to the POA before the bound can be cancelled or substantially modified for any reason.

Section 9.9: Indemnification. Except where prohibited under the laws of the State of South Carolina, the POA shall indemnify every officer and director to the extent permitted under the laws of the State of South Carolina (including all members of the ARB) including attorneys' fees reasonably incurred by or imposed upon such officer or director in connection with any action, suit, or other proceeding (including settlement of any such action, suit or proceeding, if approved by the then Board of Directors) to which he may be made a party by reason of being or having been an officer or director, whether or not such person is an officer or director at the time such expenses are incurred. Except where required by law, the officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer or director in the performance of his duties, except for their own individual willful misfeasance or malfeasance. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the POA (except to the extent that such officers or directors may also be Owners of the POA), and the POA shall indemnify and forever hold each such officer or director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, current or former, may be entitled. In the event of conflict between this Section and the provisions regarding indemnification contained in the South Carolina Non-Profit Act of 1994, the provisions of said Statute shall control. The POA shall, as a common expense, maintain, if obtainable, officers' and directors' liability insurance to fund this obligation and said insurance shall be written as provided in this Section.

ARTICLE X: RULES AND REGULATIONS

Section 10.1: Establishment of Rules and Regulations. Subject to the provisions hereof, the POA may establish reasonable rules and regulations concerning the use of Lots, Dwellings, easement areas, Open Space, the Common Property and facilities located thereon. The POA may also establish regulations regarding administrative procedures necessary to or which will facilitate the governmental functions of the POA and the management thereof as described herein. Copies of such rules and regulations and amendments thereto shall be furnished by the POA to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rules or regulations are specifically overruled, cancelled or modified by the Board of Directors of the POA or in a regular or special meeting of the POA by the vote of the Owners, in person or by proxy, holding a majority of the total votes in the POA. Such rules and regulations shall be enforceable in the same manner as this Declaration.

Section 10.2: Authority and Enforcement. Subject to the provisions of Section 10.3 hereof, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any assessments, the Board of Directors of the POA shall have the power to:

- (a) impose reasonable monetary fines on the Owner guilty of such violation which shall also constitute an equitable charge and a continuing lien upon the properties of such Owner;
- (b) suspend an Owner's right to vote in the POA;
- (c) suspend an Owner's right to use the Common Property other than the right of ingress and egress; and
- (d) impose all or any combination of the above mentioned.

An Owner shall be subject to the foregoing sanctions in the event of such a violation by such Owner, his family, guests, tenants or invitees, or by his Co-Owners. Any such suspension of rights may be for the duration of the infraction and for any additional period thereafter, not to exceed sixty (60) days.

Section 10.3: Procedure. Except with respect to the failure to pay assessments, the Board of Directors of the POA shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner for violations of the Declaration, the By-Laws, or any rules and regulations of the POA, unless and until the following procedure is followed:

- (a) Written demand to cease and desist from an alleged violation shall be served upon the person responsible for such violation specifying:
 - (i) the alleged violation;
 - (ii) the action required to abate the violation; and
 - (iii) a time period of not less than five (5) days during which the violation may be abated without further sanction, if such violation is a continuing one; provided, however, that should said violation not be a continuing one, a statement that any further violation of the same provisions of this Declaration, the By-Laws, or of the rules and regulations of the POA may result in the imposition of sanctions after notice and hearing.
- (b) If the violation continues beyond the period permitted for abatement without penalty, or if the same violation subsequently occurs within twelve (12) months of such demand, the Board of Directors of the POA may serve such person with written notice of a hearing to be held by the Board of Directors in executive session. The notice shall contain:
 - (i) the nature of the alleged violation;

(ii) the time and Place of the hearing, which time shall be not less than ten (10) days from the issuance of the said notice; and

(iii) an invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf.

(c) The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered in the record by the officer, director or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The Board of Directors shall provide a written statement of the results of the hearing and the sanction imposed, if any. No recording of the proceedings of the meeting shall be permitted unless otherwise approved by the Board of Directors.

PART FOUR
GENERAL PROVISIONS

ARTICLE XI:
GENERAL RIGHTS RESERVED BY DECLARANT

Section 11.01: Easements Retained by Declarant.

(a) The Declarant reserves unto itself, its successors, assigns and licensees, a perpetual, alienable, and releasable easement and right on, over and under the ground of the Property, other than the Lots, to erect, maintain and use electric, telephone and cable television, wires, cables, conduits, pipes, drainage ways, sewers, wells, pumping stations, tanks, water effluent and irrigation mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage or other public conveniences or utilities on, in or over those portions of the Property as may be reasonably required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of the Property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these Covenants by the Declarant, or (b) such portion of the Property as may be designated as the site for a building on a plat plan or for erection of a building which has been filed with the ARB and which has been approved in writing by said ARB.

(b) The Declarant further reserves unto itself, its successors, assigns and licensees, a perpetual, alienable and releasable easement and right on, over, and under the ground to erect, maintain and use wires, cables, conduits, pipes, sewers,

water mains, and other suitable equipment for the conveyance and use of electricity, cable television, security cable, telephone, gas, sewer, water or other private or public conveniences or utilities, on, in or over the rear (street side) seven (7) feet of each Lot, and three (3) feet along both sides of each Lot and such other areas as are shown on the applicable plats. Moreover, the Declarant, its successors, assigns or licensees, may cut, at its own expense, drainways for surface water wherever and whenever such action may appear to the Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance and an easement for such purpose is reserved unto the Declarant three (3) feet in width along each side lot line and seven (7) feet in width along each rear lot line.

(c) These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Any material disturbance to the grounds of any owner caused by such utility installation shall be repaired and said grounds returned to their prior condition by the Declarant as best as reasonably possible.

(d) In addition, the Declarant reserves unto itself, its successors, assigns and licensees, a perpetual, alienable and releasable easement and right on and over and under the Property to dispense pesticides and take other action which in the opinion of the Declarant is necessary or desirable to control insects and pests.

(e) When any Lot and/or Dwelling within the Property is offered for sale by an Owner or successors in title to the Owner, the Declarant shall have the option to purchase such Lot and/or Dwelling at the price and on the terms of any bona fide offer for such property made in writing to the Owner at such time and submitted to the Declarant for verification. The Declarant shall have thirty (30) days after presentation of such offer to the Declarant to exercise this purchase option. If the Declarant declines to exercise this option, it shall execute a Waiver of Repurchase Option, said Waiver to be an instrument prepared by the Declarant, its successors or assigns, which shall also be executed by the Owner and prospective purchaser and be in recordable form. Should, however, such sale to a third party not be consummated within six (6) months of the date of the offer transmitted to the Declarant, the terms and limitations of this Section shall again be imposed upon any sale by the Owner. If the Declarant shall elect to purchase such property, the transaction shall be consummated within sixty (60) days following delivery of notice by Declarant to the Owner of its decision to purchase.

(f) The Declarant further reserves to itself, its successors, assigns and licensees, the right to locate wells, pumping stations, siltation basins and tanks. These reservations shall not be considered an obligation of the Declarant to provide or maintain any such utility or service. Such rights may be exercised by a licensee of Declarant or may be delegated to the POA, but this reservation shall

impose no responsibility upon Declarant to construct or maintain any such utility or service. Declarant expressly reserves the right to transfer said utilities and utility easements, in whole or in part, to another entity, whether public or private, which undertakes to provide such utility service.

Section 11.02. Ingress and Egress, Roadways. The Owner, in accepting title to a Lot conveyed subject to these Covenants, waives all rights of uncontrolled and unlimited egress and ingress to such Lot (and waives such rights for any person claiming entry rights by virtue of any relationship or permission of such Owner and successors in title) and agrees that such ingress and egress to its Lot may be limited to roads built by the Declarant. No implied reciprocal equitable servitude or easement shall arise with respect to any lands retained by Declarant.

Section 11.03. Additional Covenants. Declarant expressly reserves the right to impose additional restrictive and protective covenants upon the Property provided that the same are not inconsistent with and do not lower the standards of the restrictions as herein provided. Said additional covenants, if any, shall be effective only upon Property transferred by Declarant simultaneously with or subsequent to the imposition effective upon said Property of said covenants and shall be made by reference to said additional or amended provisions in the deed transferring said Property. It shall be the responsibility of each Owner within the Property to comply with any restrictions contained herein or any additional restrictions which may be imposed by governmental authorities.

Section 11.04. Duration of Covenants. All covenants, restrictions and affirmative obligations set forth herein shall run with the land and shall be binding on all parties and persons claiming under them to specifically include but not be limited to, the successors and assigns, if any, of Declarant for a period of forty (40) years from the execution of this Declaration, subject to the right reserved unto Declarant, its successors and assigns, to add additional restrictive covenants in respect to the Property subject to this Declaration and the further right to limit or amend the application of the Covenants herein contained. After the initial forty (40) year period of duration, all said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners of Lots substantially affected by such change of Covenants, has been recorded, agreeing to change said Covenants in whole or part.

Section 11.05. Remedies in the Event of Violation or Breach. In the event of a violation or breach of any of the restrictions contained herein by an Owner, its agents, successors or assigns, Declarant shall have the right, but not the obligation, to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach in any event, and Declarant shall have the right to recover all costs and expenses of suit in such action, including reasonable attorneys' fees. In addition to the foregoing, Declarant, its successors and assigns shall have the right, but not the obligation, whenever there shall have been built on said Property any structure which is in violation of these restrictions, to enter upon said Property where such violation exists and summarily abate or remove the same at the expense of the Owner if, after thirty (30) days written notice of such violation, it shall not have been corrected by the Owner. Any such entry or abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions or conditions contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach, or as to a

breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement. Upon the creation and activation of the POA pursuant to Part Three hereof, the rights and powers of Declarant under this Section shall automatically be assigned to and vest concurrently in the POA, and the POA shall henceforth have independent rights of enforcement as provided herein.

Section 11.06. Declarant Approval. Whenever any matter shall require the approval or consent of Declarant hereunder, or any other action or decision on behalf of Declarant, the vote of Declarant shall control in the event of any dispute.

Section 11.07. Severability and Rule Against Perpetuities. The invalidation by any court of any restrictions of these Covenants shall in no way affect any of the other restrictions, but they shall remain in full force and effect. If any provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions contained herein and imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law or until twenty-one (21) years after the death of the last survivor of the now living descendants of Charles A. Scarminach and the original Owners of Lots in the Property.

Section 11.08. Modifications and Additions. Declarant may include in any contract or deed hereafter made, modifications and/or additions to the Covenants as contained herein, with such modified covenants being made applicable by reference to conveyances of land made subsequent to such modifications.

Section 11.09. Assignment. Declarant reserves the right to assign, in whole or in part, to its successors-in-title to any portion of the Property as a successor Declarant, or to the POA any of the rights reserved in these Covenants. Such assignment shall be in writing and shall be effective upon delivery.

ARTICLE XII: AMENDMENTS

Section 12.1. Amendments. Declarant specifically reserves unto itself, its successors and assigns, the right to amend this Declaration or any portion thereof, on its own motion, for a period of five (5) years from the date of first recordation of the Declaration to amend these Covenants, for any purpose whatsoever; provided however, that the voting power of existing Owners is not diluted thereby. Regarding proposed amendments after the initial five (5) year period, the procedure for amendment shall be as follows: all proposed amendments shall be submitted to the vote of the Owners at a duly called meeting of the POA for which Notice of the proposed amendment has been given to the Owners in the official Notice for the meeting, subject to the quorum requirements set forth above. Any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. Alternatively, an amendment may be approved by mail-referendum if three-fourths (3/4) of the Owners responding to such mail referendum approve the amendment. If any proposed amendment to this Declaration is approved by the Owners as set forth above, the President and Secretary of the POA shall execute an addendum to this Declaration which shall set forth the amendment, the effective date of the amendment, the date of

the meeting of the POA at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, and the total number of votes cast against the amendment. Provided, however, that no amendment to these Covenants may be made which has the effect of diluting any of the reserved rights of Declarant.

ARTICLE XIII:
NOTICE

Section 13.1: How Notice Given. Any notice required to be sent to any Owner under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given when mailed, with the proper postage affixed, to the last known address of the person or entity who appears as Owner in the public records of Beaufort County, South Carolina, on the first day of the calendar month in which said notice is mailed.

Section 13.2: Notice of Co-Owners. Notice to one (1) of two (2) or more co-owners of a Lot shall constitute notice to all co-owners.

Section 13.3: Notice of Address or Ownership Change. It shall be the obligation of every Owner to immediately notify the Secretary of the POA in writing of any change of address. Any person who becomes an Owner following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor in title.

ARTICLE XIV:
ENFORCEMENT, SEVERABILITY AND INTERPRETATION

Section 14.1: Who May Enforce Generally. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Declaration by any Owner or agent of such Owner, the Declarant or any other Owners, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event; provided, however, that the right of Declarant hereunder shall not be construed to impose any obligation on Declarant for enforcement.

Section 14.2: Enforcement by the POA. In addition to the foregoing, the POA shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event.

The POA may engage a person or persons to respond to complaints received as to violations of the Covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Declarant or POA may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these Covenants. Violators shall be obligated to reimburse the POA in full for all its direct and indirect costs, including, but not limited to legal

fees incurred by the POA in maintaining compliance with these Covenants provided the POA prevails in such proceedings.

Section 14.3: Enforcement by the Declarant. In addition to the foregoing, the Declarant shall have the right, but shall not be obligated to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach in any event. No failure of Declarant to exercise or enforce and no delay in exercising or enforcing any right, power or privilege under the Covenants shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. Violators shall be obligated to reimburse the Declarant in full for its direct and indirect costs, including, but not limited to legal fees incurred by the Declarant in maintaining compliance with these Covenants provided Declarant prevails in such proceedings.

Section 14.4: Against Whom May the Covenants Be Enforced. The obligations and benefits prescribed by the Covenants shall run with the Property and shall be enforceable against the Declarant, its successors and assigns, the POA and against any Owner or other person whose activities bear a relation to the Property when the aforesaid parties engage in activities (including omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

Section 14.5: Litigation. Notwithstanding the provisions of Section 14.9, no judicial or administrative proceeding shall be commenced or prosecuted by the POA unless approved by a vote of not less than fifty-one (51%) percent of the votes eligible to be cast by the Owners. In the case of such vote, and notwithstanding anything contained in this Declaration or the Articles or the By-Laws to the contrary, the POA shall not bring or prosecute any such proceeding unless authorized to do so by a vote of not less than fifty-one (51%) percent of all Members of the POA. This Section shall not apply, however, to (a) actions brought by the POA to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided, herein, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the POA in proceedings instituted against it. In the event any claim is made against Declarant or any litigation is instituted against Declarant, the POA shall assess all Owners, other than the Declarant, for the costs of claim or litigation, including, without limitation, attorneys' fees incurred. Furthermore, funds from regular assessments shall not be used for any such claim or litigation.

Section 14.6: Means of Enforcement. Enforcement of these Covenants shall be by a proceeding at law or in equity, whether it be to restrain violation or to recover damages or to enforce any lien created by these Covenants.

Section 14.7: Severability. Should any covenant or restriction herein contained, or any Part, Article, Section, paragraph, sentence, clause, phrase, or term in this Declaration be declared to be void, invalid, illegal or unenforceable for any reason by the adjudication of the highest court or other tribunal which considers such matters and has jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable.

Section 14.8: Interpretation. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best effect consummation of the general plan of land use restrictions and affirmative obligations of the Property, which will carry out the intent of the Declarant as expressed in the recitals of these Covenants, and which will preserve the Property as a site for an attractive, well maintained and privately-governed residential community.

The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance which allows a less restrictive use of the Property.

Section 14.9: Authorized Action. All actions which the POA is allowed to take under this instrument shall be authorized actions of the POA if approved by the Board of Directors of the POA in the manner provided for in the By-Laws of the POA, unless the terms of this instrument provide otherwise.

Section 14.10: Gender, Tense and Number. When necessary for proper construction, the masculine form of any word used in this Declaration shall include the feminine or neuter gender, and the singular, the plural and vice versa, and words used in the present tense shall include the future tense.

Section 14.11: No waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provisions or of any other provision of this Declaration.

Section 14.12: Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

Section 14.13: No implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE DECLARANT OR POA PURSUANT TO THESE COVENANTS SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY OWNER.

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IN WITNESS WHEREOF, Declarant has set its hand and seal hereunto this Declaration this 19th day of June, 2000.

WITNESSES:

Bondie Sargent
[Signature]

B & A CROSSWINDS, LLC,
a South Carolina limited liability company

By: [Signature]
STEPHEN G. ANTHONY
Its: Manager

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that STEPHEN G. ANTHONY, Manager of B & A CROSSWINDS, LLC, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this the 19th day of June, 2000

Bondie Sargent (SEAL)
Notary Public for South Carolina
My Commission Expires: 2/28/2001

EXHIBIT "A"
PHASE I

ALL that certain piece, parcel or tract of land, situate, lying and being on Hilton Head Island, Beaufort County, South Carolina containing 25.23 acres, more or less, as shown on that certain plat entitled "**CROSSWINDS PHASE I PARCEL C-2, MARSHLAND ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA PREPARED FOR B&A CROSSWINDS**" dated December 19, 1998, prepared by Connor & Associates, Inc. by Matthew M. Crawford, S.C.R.L.S. No.: 9756 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 69 at Page 135 on April 13, 1999.

PHASE II

ALL that certain piece, parcel or tract of land, situate, lying and being on Hilton Head Island, Beaufort County, South Carolina containing 6.77 acres, more or less as shown on that certain plat entitled "**CROSSWINDS, PHASE II, 6.77 ACRES, MARSHLAND ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA**" dated March 3, 1999, prepared by Connor & Associates, Inc. by Matthew M. Crawford, S.C.R.L.S. No.: 9756 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 75 at Page 16 on June 22, 2000.

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FILED
JOHN A. SULLIVAN, JR.
CLERK
BEAUFORT COUNTY, S.C.

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