

WHEREAS, the Declaration as amended and supplemented, further provides that the terms thereof may be amended by three-fourths (3/4) vote of the Membership of the POA at a duly called meeting of the POA in which a quorum is present; and

WHEREAS, pursuant to the Declaration, as amended, and the By-Laws of the POA notice was given for the Annual Meeting in part to permit the Members of the POA to vote on this Amended and Restated Declaration; and

WHEREAS, pursuant to a vote of more than three-fourths (3/4) of the Membership of the POA present in person or by proxy at the duly called meeting in which a quorum was present the POA approved, ratified, and made this First Amended and Restated Declaration of Covenants and Restrictions for Night Heron Pavilions, Hilton Head Island, South Carolina and Provisions for Night Heron Pavilion Owners' Association, Inc. ("Amended Declaration").

NOW, THEREFORE, the POA 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 this Amended Declaration. This Amended Declaration, the benefits of this Amended Declaration, and the affirmative and negative burdens of this Amended Declaration; 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 and concern, benefit and burden, and run with the land and any estates in the land herein referred to as the Property, and this Amended Declaration is 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.

ARTICLE I Definitions

Section 1.1: Definitions. The following words and terms, when used in this Amended 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 6.2 of this Amended Declaration.

(b) "Company" shall mean Night Heron Development Associates and its successors and assigns.

(c) "Board" shall mean the Board of Directors of the POA as defined in the By-Laws of the POA.

(d) "Declarant" shall mean and refer to the POA.

(e) "Association" shall mean and refer to the Night Heron Pavilion Owners' Association, Inc., a South Carolina non-profit corporation.

(f) The "Properties" shall mean and refer to the Existing Property described in Article II hereof, and additions thereto, as the provisions of Article II hereof.

(g) The "Common Property" shall mean and refer to those areas of land with any improvements thereon which are deeded to the POA and designated in said deed as "Common Property" or "Common Properties". 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 Property, (subject to any fee schedules and operating rules adopted by the POA).

(h) "Lot" shall mean and refer to any improved or unimproved parcel of land intended for the construction of a detached single-family dwelling shown upon any recorded final subdivision map of any part of the Properties with the exception of Common Property as heretofore defined.

(i) "Dwelling Unit" shall mean and refer to any building situated upon the Property intended for use and occupancy by a single family.

(j) "Owner" shall mean and refer to the record owner, whether one or more persons, firms, associations, corporations or other legal entities, of the fee simple title to any Lot or Dwelling Unit situated upon the Properties but, notwithstanding any applicable theory of a mortgagee, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure proceedings or any proceeding in lieu of foreclosure; nor shall the term "owner" mean or refer to any lessee or tenant of an Owner.

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

(l) "Company" shall mean the Night Heron Development Associates and its successors and assigns.

(m) "POA" shall mean and refer to the Night Heron Pavilion Owners' Association, Inc., a South Carolina non-profit corporation.

ARTICLE II Property Description: General Plan

Section 2.1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, leased and occupied, subject to these covenants, is located on Hilton Head Island, Beaufort County, South Carolina, and is more particularly described in Exhibit A hereto attached and by reference incorporated herein. All of the real property hereinabove described shall hereinafter be referred to as "Existing Property". The Company intends to develop the Existing Property in accordance with its Master Plan dated July 30, 1976. However, the Company reserved the right to review and modify the Master Plan from time to time based on its continuing research and design program.

Section 2.2. Additions to Existing Property. Additional lands may become subject to this

Amended Declaration in the following manner:

(a) Additions. Upon approval in writing of the POA pursuant to three-fourths of the vote at a duly called meeting of the owner of any property other than the Company who desires to add it to the plan of these covenants and to subject it to the jurisdiction of the POA, may file of record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the covenants and restrictions of the Declaration to such additional property.

The Supplementary Declaration may contain such complementary additional and modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient, in the judgment of the POA, to reflect the different character, if any, of the added properties and as are not inconsistent with the Plan of this Declaration.

(b) Mergers. Upon a merger or consolidation of the POA with another association as provided for in the By-Laws of the POA, its properties, rights, and obligations may, by operation of law, be transferred to another surviving or consolidated association, or, in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the POA as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property, as herein provided.

ARTICLE III

Membership and Voting Rights in the Association

Section 3.1: Membership. Every person or entity who is a record owner of a fee simple or undivided fee simple interest in any Lot or Dwelling Unit which is subject by the Covenants to assessment by the POA shall be a member of the POA, provided that any such person or entity who holds such title or interest merely as a security for the performance of an obligation shall not be a member of the POA.

Section 3.2: Voting Rights. The POA shall have one (1) class of voting membership.

Class "A". Class "A" Members shall be all those owners as defined in Section 3.1. Class "A" Members shall be entitled to one vote for each Lot or Dwelling Unit in which they hold the interest required for membership by Section 3.1. When more than one person holds such interest or interests in any Lot or Dwelling Unit all such persons shall be members, and the vote for such Lot or Dwelling Unit shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any such Lot or Dwelling Unit. A Member casting a vote representing a Dwelling Unit owned by such Member shall not be entitled to cast an additional vote for the Lot upon which said Dwelling Unit is situate. In the event a single Dwelling Unit is sold in fee with a Lot, the vote with respect thereto shall thereafter be cast on the basis of the Dwelling Unit only. When one or more co-owners sign a proxy or purport to vote for his or her co-owners, such vote shall be counted unless one or more of the other co-owners is

present and object to such vote, to the Secretary of the POA before the vote is counted. If co-owners disagree as to the vote, the vote shall be split equally among the co-owners.

Section 3.3: Quorum for any Action Authorized. The presence at the meeting of any Members, or of proxies, entitled to cast thirty-three percent (33%) of the total vote shall constitute 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 Members via posted publication at the Property and/or via first class U.S. mail, postage prepaid, to the Member address of record. The quorum requirement for the adjourned meeting shall be the presence of Members, or of proxies, entitled to cast twenty-five percent (25%) of the total vote of the Membership.

Section 3.4 By-Laws. The By-Laws of the POA have been drawn and approved by the POA Members to govern meetings, duties, etc. of the POA. The By-Laws, as amended, are or shall be recorded in the Office of the Register of Deeds for Beaufort County, South Carolina. Recordation shall be deemed to be notice to the POA and all Members thereof.

ARTICLE IV Property Rights and Common Property

Section 4.1: Members' Easements of Enjoyment. Subject to the provisions of this Amended Declaration and the rules and regulations of the POA, every Member shall have a right and easement of enjoyment in and to the Common Property and such easement shall be appurtenant to and shall pass with title to every Lot within the property.

Section 4.2: Title to Common Property. As stated above, the Company transferred title to the Common Property to the POA.

Section 4.3: Extent of Members' Easements. The right and easements of enjoyment created hereby shall be subject to the following:

(a) The right 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 Member for any period for which any Assessment remains unpaid, and for any period not to exceed sixty (60) days for any infraction of this Amended Declaration and/or its published Rules, it being understood that a suspension for either non-payment of any Assessment or a breach of the Rules of the POA shall not constitute a waiver or discharge of the Members' obligation to pay the Assessments;

(c) The right of the POA 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 Members, 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 Membership at a duly called meeting and unless written notice of the proposed agreement and action thereunder is sent to every Member 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 Membership.

Section 4.4: Use of Common Property, Liability of POA. Neither the POA, its directors and officers, nor its Members, shall be liable to any Owner, their lessees and/or guests for any damage or injury which results from the use of the Property or any rule or regulation promulgated pursuant to this Amended Declaration 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, 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 members, their guests and invitees. Although the POA will be responsible for the general upkeep and maintenance of the Common Property as provided herein, the POA shall not 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 careless or negligent activities of Members or their guests. All parties acquiring an interest in any portion of the Property hereby agree to hold the POA harmless from any such accident or injury. All Members and their guests agree and acknowledge that any use of the Common Property shall be at their own risk, without recourse to the POA. Any damage to Common Property caused by an Owner or his family or guests shall be the responsibility of the Lot Owner, and 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. 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 V Covenant for Maintenance Assessments

Section 5.1: Creation of the Lien and Personal Obligation of Assessments. 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 this Amended Declaration 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 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 fell due. 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.

Section 5.2: Purpose of Assessments. The assessments levied by the POA shall be used for the 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 to the POA, including but not limited to, the payment of taxes and insurance thereon and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof and third party services such as legal and accounting. Special assessments shall be used for the purposes set forth in this Article V hereof.

Section 5.3: Basis and Maximum of Annual Assessments. The Board shall establish the budget and total annual assessment, as further provided in this Amended Declaration and in the POA By-Laws. Beginning in calendar year 2007, the total annual assessment shall not be increased by more than (8%) percent above the previous year's annual assessment or, in the alternative, an amount equal to the initial annual assessment compounded annually at seven and one-half (7 ½ %) percent, unless such increase shall be approved by a two-thirds (2/3) vote of the POA's total Membership.

Section 5.4: 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 may levy special assessments for the purpose of defraying, in whole or in part, the cost of any substantial 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 other reasonable needs of the POA, provided that any such assessments shall have the assent of a majority of the vote at a duly called meeting of Members, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

Section 5.5: Date of Commencement of Annual Assessments and Due Dates. The annual assessment provided for herein shall commence on January 1, 2007, and shall be payable in semi-annual installments beginning January 1, 2007 for all Lots conveyed prior to January 1, 2007. The assessment for any year thereafter shall be due and payable in semi-annual installments on the first day of January and July each year. The due date of any special assessments shall be fixed in the Resolution authorizing such assessments.

Section 5.6: Proration of Assessments. Commencing January 1, 2007, each Owner who becomes a Member of the POA during a year shall pay a pro rata share of the assessment for that year.

Section 5.7: Duties of the Board. In addition to the duties of the Board 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 and shall be open to inspection by any Owner. Written notice of the assessment shall be sent to every Owner subject thereto.

Section 5.8: 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/Member as set forth in this Amended Declaration 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 land 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.

If the assessment is not paid within thirty (30) days after the due date, the POA may bring an action at law against the Owner/Member personally obligated to pay the same or to foreclose the lien against his Lot, or both, and there shall be added to the amount of said assessment the cost of preparing and filing a complaint in such action as well as any other costs and expenses incurred, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorneys' fees and costs of the action.

Section 5.9: 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 5.10. Notwithstanding all of the provisions of this Section 5.9 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, or as a result of a deed given in lieu of foreclosure, such acquirer of title, its successors 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 or deed in lieu of foreclosure, unless such assessment is secured by a claim of lien for assessments which is recorded prior to the recording of such mortgage. Such unpaid share of the assessments shall be deemed to be collectible prorata from all of the Members, 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 or a deed in lieu 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 5.10: Exempt Property. The following property, individuals, partnerships or corporations, subject to this Amended Declaration, shall be exempted from assessments, charges and liens created herein:

(a) The grantee in conveyances made for the purpose of granting utility easements; and

(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; and

(c) All POA Common Property within the Property, whether or not title to such Common Property has been transferred to the POA.

Section 5.11: Reserves for Replacement. Unless waived by a majority vote of the membership, the POA shall establish and maintain an adequate reserve fund from assessments collected from Lot 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 VI General Land Use Restrictions and Obligations

Section 6.1:

(a) 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 Amended Declaration is recorded, shall be permitted on the Property.

(b) Rental, Restrictions/Leases. The lease or rental of any dwelling within the Property for a period of less than six (6) consecutive months shall be prohibited, excluding rentals to members of an Owner's immediate family. Lease or rental of any dwelling for a period exceeding six (6) consecutive months shall not be considered to be a violation of this Amended Declaration so long as the lease of such dwelling is undertaken in full compliance with the rules and regulations as may be promulgated and published from time to time by the POA. All lessees or tenants of dwellings within the Property shall in all respects be subject to the terms and conditions of this Amended Declaration. Lessees of any dwelling within the Property are not permitted to use POA facilities. Lessees shall be considered non-members for all POA purposes.

Section 6.2: Architectural Review Board. An Architectural Review Board ("ARB") has been established for the purpose of reviewing and approving or disapproving all activities which are made subject to architectural approval by this Amended Declaration. The ARB shall be composed of three to nine members, the members of which need not be Owners of Lots within the Property, and such members shall serve for terms of one (1) to three (3) years. 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 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. Nothing in this Amended Declaration shall be deemed to impede, detract from or lessen covenants and rules of Sea Pines Plantation exercised and/or enforced by designated agents such as Community Services Associates (CSA) or its successors or assigns, or to affect the applicability of such covenants and rules to Lots and Common Property. THE POA SHALL ASSUME NO RESPONSIBILITY FOR THE ACTIONS OR INACTIONS OF THE ARB AND/OR THE POA AND ALL OWNERS AGREE TO HOLD THE POA HARMLESS IN THE EVENT OF ANY DAMAGES SUFFERED THEREBY.

Section 6.3: Architectural Review of Specifications for New Construction or Additions, Reconstruction, Alterations or Changes in Structures, Landscaping, and Siting.

(a) No building, dock/pier, fence, gazebo, retaining wall, sign, landscaping or other structure or landscaping element shall be erected, placed or altered on the Property until the proposed building plans, specifications, tree and topographical survey, exterior color and finish, landscape plan including exterior lighting, 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) A minimum of two (2) copies of all plans and related data shall be furnished to the ARB, or its agent, for its records and a reasonable fee may be required at the time of submittal to cover costs of plan review by professionals. 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 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 forty-five (45) 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 Property 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, total pervious and impervious surface coverage, 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 6.4: Exterior Antennas, Towers, and Solar Panels. Except to the extent otherwise permitted by applicable federal and state law, and subject to such private regulation thereof by the POA and ARB as is permitted by law, television antenna, radio antenna, solar panels, satellite receivers or other rooftop devices may not 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 6.5: Tree Removal. No trees measuring four (4") inches or more in diameter at ground level may be removed without the written approval of the ARB unless located within two feet of a home or deck.

Section 6.6: 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. The Board may promulgate rules governing construction activities which may limit construction activities at certain times, e.g., holidays, etc.

Section 6.7: 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; it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on said Lot after completion of construction and must, during construction, be subject to continuous cleanup. 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 6.8: Water and Sewage. No Dwelling Unit 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 potable water wells may be drilled or maintained on the Lot by anyone other than the POA, provided, however, that this prohibition is not intended to prevent

the ARB from approving irrigation wells and heating and cooling systems which include a closed loop groundwater well system.

Section 6.9: 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.

Section 6.10: Completion of Construction. The exterior of all structures on a Lot must be completed within twelve (12) months after the construction of same shall have commenced, 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 Unit.

Section 6.11: Unsightly Conditions. It shall be the responsibility of the Owner, his 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 6.12: 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 device 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 such 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 material", "hazardous substance", or restricted "hazardous waste".

Section 6.13: Other Buildings and Vehicles. No mobile homes, trailer, tent (other than children's tents on a temporary basis), barn or similar out-building, vehicle or structure 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 a construction process only. No motorcycles or motorbikes may be maintained on the Property.

Section 6.14: 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, including, but not limited to, the Owner, a realtor, a contractor or 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 6.15: Restrictions of Use of Roadways. Subject to the rights of ingress and egress of Owners, Members, and their guests, the Board and its successors shall have the powers to place any reasonable restrictions upon the use of the private roadways within the Property, including

but not limited to restrictions pertaining to the speeds of vehicles, traffic and parking regulations and noise levels of vehicles. 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: 6.16: 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 and attractive condition. Landscaping shall be maintained in a neat, attractive and orderly manner, consistent with the natural wildlife habitat encouraged in the community. In order to implement effective control, 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 this Amended Declaration, and, further, to conduct such landscaping and landscaping maintenance activities as may be authorized as a common expense under this Amended Declaration and the By-Laws. In the event that 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 correction action shall be the responsibility of the Owner, and such expenses may be charged and collected in like manner against such Owner as an assessment obligation.

Section 6.17: Right of Entry. Whenever the POA is permitted by this Amended Declaration to correct, repair, clean, preserve, clear out, or do any action on said Property, entering the Property and taking such action shall not be deemed a trespass.

Section 6.18: Consolidation of Property. Once a Lot has been conveyed by the Company to an Owner, the Lot shall not be further subdivided or its boundary lines changed except with the written consent of the POA. In the event of an Owner, or Owners, owning two (2) or more contiguous Lots, said Owner, or Owners, may apply to the POA for a consolidation of the two (2) or more Lots into one or more Lots. At its discretion, the POA may then take such steps as are reasonably necessary to make this consolidation of record at the requesting Owner's or Owners' cost and expense. At the POA's sole discretion, upon consolidation the consolidated lot may be considered one (1) lot for purposes of this Amended Declaration and membership in the POA, but not as to assessments. The Consolidating Owner shall remain liable for two assessments.

Section 6.19: Common Woods Surrounding Pavilion Homes. That portion of the Properties surrounding or adjacent to each Pavilion Owner's personal lot which is not platted as a separate residential lot (herein referred to as the Common Forest) shall be maintained as a woodland preserve and common forest subject to the covenants and conditions set out below.

(a) The Common Forest or any portion of it shall never be subdivided by plat or deed.

(b) No trees or other vegetation in the Common Forest shall be cut or pruned. The Common Forest shall be left in its wild state for the benefit of deer, raccoons, squirrels, birdlife and other wildlife and for the enjoyment of human being under these conditions and restrictions.

(c) Members of the POA and their guests shall have the right to walk or stroll freely through the Common Forest.

Section 6.20: Road, Parking Spaces and Pathways.

(a) All roads, parking spaces and pathways of Night Heron Lane shall be maintained in a manner which will promote blending with the Common Forest and will not unnecessarily distract from the natural beauty of the area.

(b) No loud vehicles shall be allowed on the roads of Night Heron Lane and motor bikes having a horsepower in excess of one horsepower shall be prohibited.

(c) No exterior high intensity lighting will be allowed on Night Heron Lane and the roads shall be lighted by low intensity lighting only.

Section 6.21: Individual Lots and Dwelling Units.

(a) In order that the Residential Lots of Night Heron Subdivision be preserved and maintained as nearly as possible in their natural state, formal landscaping shall not be permitted on any Night Heron Lot. No large trees measuring four inches or more in diameter at ground level may be removed without the written permission of the ARB. No domestic or exotic plants may be planted in formal arrangements on any Night Heron Lot, but the planting of native wild plants and other food which provide foraging for deer and other animals, or plants and trees which provide food for birds may be planted. Ivy and other ground covers shall be permitted.

(b) In order to encourage the grazing of deer around, among and in site of Night Heron Pavilions no electric fence shall be permitted to be constructed on any Night Heron Lot.

(c) The Night Heron Pavilions have been designed to blend pleasingly with the wooded area surrounding each home. No changes to the exterior design or color of any Pavilion may be made until the proposed changes shall have been approved in writing by the ARB and Community Services Associates (CSA), its successors or assigns. Refusal of approval of plans, location or specifications may be based by the ARB upon any grounds, including purely aesthetic conditions, which in the sole and uncontrolled discretion of the ARB shall seem sufficient.

ARTICLE VII

Functions of Property Owners' Association (POA)

Section 7.1: POA. The POA, its successors and assigns, shall be considered: (a) an assignee of the Company; (b) the authorized and ratified agent of the Owners with respect to the functions specified herein; (c) a third party beneficiary under this Amended Declaration; and (d) as an owner of Property subject to this Amended Declaration. The POA and its successors and assigns shall have the standing and authority at law or in equity to carry out and enforce this Amended Declaration.

Section 7.2: 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 Amended 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/Member, their lessees or guests, for any damage or injury which results from any rule or regulation promulgated pursuant to this Amended Declaration.

Section 7.3: Powers of the POA. The POA shall have and may exercise any right or privilege given to it expressly in this Amended Declaration or, except to the extent limited by the terms and provisions of this Amended Declaration, given to it by law, and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations under this Amended Declaration, including the right to engage necessary labor and acquire use of, or purchase necessary property, equipment or facilities; employ personnel necessary to manage facilities of the POA; 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 7.4: Ownership and Maintenance of Common Property. The POA shall be authorized to own and maintain Common Property, equipment, furnishings, and improvements devoted to the following uses:

- (a) for roads or parkways throughout the Property, if any, provided they are not transferred to 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.

Section 7.5: Authorized Services. The POA shall be authorized but not required to provide the following services:

- (a) cleanup and maintenance of all dwelling unit exteriors, residential lots, roads, roadways, parkways, to the extent that it is necessary or desirable in the judgment of the Board to supplement the service provided by the State and local 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 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 the POA to carry out the POA's obligations and business under the terms of this document;

(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;

(i) to construct improvements on Common Property for use for any of the purposes or as may be required to provide the services as authorized in this ARTICLE;

(j) to provide administrative services including but not limited to: legal; accounting and financial; and communication services informing Members of activities, notice of meetings, referendums, etc., incident to the above listed services.

Section 7.6: 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 as security for such loans made to the POA which loans shall be used by the POA in performing its authorized functions.

Section 7.7: Information. It shall be the responsibility of the POA to make available to Owners and mortgage lenders making loans to Owners, and to holders, insurers or guarantors of any first mortgage on a Dwelling Unit within the Property, current copies of the Amended Declaration, By-Laws, other rules and regulations relating to the Property, and the books, records and financial statements of the POA. "Available" shall mean available for inspection, upon request, during normal working hours or under other reasonable circumstances.

Section 7.8: 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, 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.

The POA's liability policy shall provide for at least ten (10) days' written notice to the POA before the insurer can cancel or substantially modify the policy.

(d) Fidelity Bonds. The POA shall have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the POA, whether or not that person receives compensation for their services. Any management agent retained by the POA that handles funds for the POA shall also 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 bond can be canceled or substantially modified for any reason.

Section 7.9: Indemnification. Except where prohibited under the laws of the State of South Carolina the POA shall indemnify every officer and director against any and all expenses, 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) 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. 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 members of the POA), and the POA shall indemnify and forever hold each such officer and 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, or former officer or director, may be, entitled. The POA shall, as a common expense, maintain, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in this Section.

ARTICLE VIII Rules and Regulations

Section 8.1: Establishment of Rules and Regulations. Subject to the provisions hereof, the POA may establish reasonable rules and regulations concerning the use of Lots, easement areas, Open Space and the Common Property and facilities located thereon. 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, canceled or modified by the Board 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.

Section 8.2: Authority and Enforcement. Subject to the provisions of Section 8.3 hereof, upon the violation of this Amended Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any assessments, the Board 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; and

(c) suspend an Owner's right to use any Common Property other than the right of ingress and egress and the Board shall have the power to impose all or any combination of these sanctions.

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 8.3: Procedure. Except with respect to the failure to pay assessments, the Board shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner for violations of the Amended 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, or if the violation is not a continuing one, a statement that any further violation of the same provision of this Amended 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 past the period allowed in the demand for abatement without penalty, or if the same violation subsequently occurs within twelve (12) months of such demand, the Board may serve such person with written notice of a hearing to be held by the Board 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 giving of the notice;

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

(c) The hearing shall be held in executive session of the Board 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 by the officer, director or other individual who deliver such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

ARTICLE IX
General Rights Reserved by the POA

Section 9.I: Easements Retained by the POA.

(a) The POA 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 therein 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 this Amended Declaration; or (b) such portion of the Property as may be designated as the site for a building on a plot 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 POA 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 eight (8) feet of each Lot, and five (5) feet along both sides of each Lot and such other areas as are shown on the applicable plats. Moreover, the POA, its successors, assigns or licensees, may cut, at its own expense, drain ways for surface water wherever and whenever such action may appear to the POA to be necessary in order to maintain reasonable standards of health, safety and appearance and an easement for such purpose is reserved unto the POA five (5) feet in width along each side lot line and eight (8) feet in width along each rear lot line and such other areas as are shown on the applicable plats.

(c) These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grades 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 POA as best as reasonably possible.

(d) In addition, the POA 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 POA is necessary or desirable to control insects and pests, to cut fire breaks and other activities which in the opinion of the POA are necessary or desirable to control fires on the Property.

(e) The POA further reserves to itself, its successors, assigns, and licensees, the right to locate wells, pumping stations, situation basins and tanks, or spray treated effluent within the Property on any un-subdivided land, in any Common Property or Open Space, or on any property designated for such use on the applicable plat of the Property, or to locate same upon any property with the permission of the respective Owner. These reservations shall not be considered an obligation of the POA to provide or maintain any such utility or service.

(f) Such rights may be exercised by any licensee of the POA or may be delegated to the POA, but this reservation shall impose no responsibility upon the POA to construct or maintain any such utility or service. The POA 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 9.2: Additional Covenants. The POA expressly reserves the right to impose additional restrictive and protective covenants upon the said 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 the POA simultaneously with or subsequent to the imposition of said covenants and shall be made effective upon said Property 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 9.3: 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, the POA shall have the right, but not the obligation, 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, and the POA shall have the right to recover all costs and expenses of suit in such action, including reasonable attorneys' fees. In addition to the foregoing, the POA 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 Amended 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.

ARTICLE X Amendments

Section 10.1: Amendments. The Board specifically reserves to itself, its successors and assigns, the right to amend this Amended Declaration or any portion thereof, on its own motion, for a period of seven (7) years from the date hereof to correct typographical errors or to eliminate scrivener's errors, provided however that the voting power of existing Members is not diluted thereby, nor the amounts of assessments of such existing Members raised or changed in any manner which would adversely affect such Members. As to other types of proposed amendments and all proposed amendments after the initial seven (7) year period, the procedure for amendment shall be as follows: all proposed amendments shall be submitted to the vote of the Members at a duly called meeting of the POA for which notice of the proposed amendment has been given to the Members in the official Notice for the meeting, subject to the quorum requirements set forth above, and 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. If any proposed amendment to this Amended Declaration is approved by the Members as set forth above, the President and Secretary of the POA shall execute an addendum to this Amended 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.

ARTICLE XI Notice

Section 11.1: How Notice Given. Any notice required to be sent to any Owner under the provisions of the Amended 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 11.2: Notice to Co-Owners. Notice to one (1) of two (2) or more Co-Owners of a Lot or Dwelling Unit shall constitute notice to all Co-Owners.

Section 11.3: Notice of Address or Ownership Change. It shall be the obligation of every Member or Owner to immediately notify the Secretary of the POA in writing of any change of address. Any person who becomes an Owner or Member 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 XII
Enforcement, Severability and Interpretation

Section 12.1: Who May Enforce Generally. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Amended Declaration by any Owner or agent of such Owner, the POA 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 the POA hereunder shall not be construed to impose any obligation on the POA for enforcement.

Section 12.2: 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 POA may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce this Amended Declaration. 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 this Amended Declaration in the event the POA prevails in such proceedings.

Section 12.3: 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 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 Amended Declaration.

Section 12.4: Means of Enforcement. Enforcement of this Amended Declaration shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to enforce any lien created by this Amended Declaration.

Section 12.5: Severability. Should any Covenant or restriction herein contained, or any Part, Article, Section, paragraph, sentence, clause, phrase, or term in this Amended 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 12.6: Interpretation. In all cases, the provisions of this Amended 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, and which will preserve the Property as a situs for (an attractive) well maintained, privately-governed residential community.

Contrary to the restrictive common law rule of construction, this Amended Declaration shall by this Covenant be interpreted broadly to touch and concern the Property with recognition of

modern economic, land use planning and real estate finance and development principles, theories and practices. It is the POA's intent, and all Owners who take subject to the Covenants do covenant and agree, and are thereby estopped to deny, that any reserved right or function of the POA, and any other covenant, condition, restriction or obligation within this Amended Declaration is intended to promote the use and enjoyment of the Property, is intended to foster the creation, preservation or enhancement of economic or intangible values associated with the Property, and does touch and concern, benefit and burden and run with the Property.

The provisions of this Amended Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance which allows a less restricted use of the Property.

Section 12.7: Authorized Action. All action which the POA is allowed to take under this instrument shall be authorized actions of the POA if approved by the Board in the manner provided for in the By-Laws of the POA, unless the terms of this instrument provided otherwise.

Section 12.8: Gender, Tense and Number. When necessary for proper construction, the masculine form of any word used in this Amended 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 12.9: No Waiver. Failure to enforce any provisions of this Amended Declaration shall not operate as a waiver of any such provision or of any other provisions of this Amended Declaration.

Section 12.10: Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Amended Declaration.

Section 12.11: No implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE POA PURSUANT TO THIS AMENDED DECLARATION SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY OWNER.

Section 12.12: Duration. The Covenants, Restrictions and Equitable Servitudes of this Amended Declaration and any Supplemental Declaration filed pursuant to the provisions of this Amended Declaration do touch and concern the Property, and shall run with and bind the land, and shall inure to the benefit of and be enforceable by and against, the POA, the Property Owner, their respective legal representatives, heirs, successors and assigns, for a period of twenty (20) years from the date this Amended Declaration is recorded. Upon the expiration of said twenty (20) year period, this Amended Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited with this Amended Declaration being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of the Amended Declaration if, during the last year of the initial twenty (20) year period, or during the last year of any subsequent ten (10) year period, seventy-five (75%) percent of the owners of the Property at a duly held meeting of the Property Owners vote in favor of terminating this Amended Declaration at the end of its then current term. It shall be required that written notice of any meeting at which such a proposal to terminate this

Amended Declaration is to be considered, shall be given each Property Owner at least thirty (30) days in advance of said meeting. In the event that seventy-five (75%) percent of the owners so vote, at the end of such specific periods, to terminate this Amended Declaration, the authorized representative of the Property Owners shall execute and record a certificate which shall set forth the resolution of termination adopted by the Property Owners, the date of the meeting at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of owners, the total number of votes cast in favor of termination, and the names and legal addresses of each owner voting in favor of termination, and their respective percentages of ownership which shall be consistent with the ownership records in the public records of Beaufort County.

Section 12.13: Savings Clauses: The Rules Against Perpetuities, Remote Vesting, and Restraints on Alienation. Unless earlier terminated by a vote of the Owners pursuant to Section 12.12, any provision in this Amended Declaration which, as determined by the highest court to decide such matter, would otherwise be void due to the laws or rules sometimes referred to as the rule against perpetuities or the rule against prohibiting unreasonable restraints on alienations, shall continue and remain in full force and effect for the period of twenty-one (21) years following the death of the survivor of President or Former President Bill Clinton, and his respective children, grandchildren, and great grandchildren living or in the womb of their mother at the time this Amended Declaration is filed and no interest created by these Covenants shall vest at a point in time at or later than the termination of the aforesaid twenty-one (21) year period.

Section 12.14: Protection of Mortgagees and Other Encumbrances. No violation or breach of, or failure to comply with, any provision of this Amended Declaration and no action to enforce any such provision or to prevent a violation shall effect, defeat, render invalid or impair the lien of any mortgage, deed of trust or other lien on any property if such lien or deed of trust is taken in good faith and for value and is perfected by recording in the official real estate records for Beaufort County, South Carolina, prior to the time of recording in said office of an instrument filed by the POA, describing such property and listing the name or names of the Property Owners of fee simple title to the property and giving notice of a claimed violation, breach or failure to comply with the provisions of this Amended Declaration. Any such violation, breach, failure to comply by a Property Owner, or action by the POA or other Property Owner, to enforce, shall not affect, defeat, render invalid or impair the title or interest of the holder of any such mortgage, deed of trust or other lien or title or interest acquired by any purchaser upon foreclosure of any such mortgage, deed of trust or other lien, nor shall such violation, breach or failure to comply result in any liability, personal or otherwise, of any such holder or purchaser. Any such purchaser on foreclosure shall, however, take subject to this Amended Declaration with the exception of violations or breaches of, or failures to comply with, any provisions of this Amended Declaration which occurred prior to the vesting of fee simple title in such purchaser, and such prior acts shall not be deemed breaches or violations hereof or failures to comply herewith with respect to such purchaser, his heirs, personal representatives successors or assigns. Provided, however, that any action of such lien holder, etc. after taking title to, or possession of, such property, which constitutes a violation shall cause such new owner, etc. to be subject to all assessments, charges, restraints, restrictions, burdens and obligations under this Amended Declaration.

Section 12.15: Property Owner's Rights and Obligations Appurtenant. All rights, easements and obligations of a Property Owner under this Amended Declaration are hereby declared to be and shall be appurtenant to the title held by the Property Owner and may not be transferred, conveyed, devised, bequeathed, encumbered or otherwise disposed of separate or apart from the title held by the Property Owner. Every transfer, conveyance, grant, devise, bequest, encumbrance or other disposition of the title held by a Property Owner shall be deemed to constitute a conveyance, grant, devise, bequest, encumbrance, transfer or disposition of such rights and obligations.

Section 12.16: Interpretation of Amended Declaration in Relation to Previous Instruments. The provisions of this Amended Declaration shall supersede and replace in their entirety all rights, easements, obligations, covenants and restrictions created by the Declaration, the Supplement and the July '95 Supplement in connection with, without limit, the Property, Owners and Members.

Witness the execution hereof by the duly authorized officer(s) of the Association this
19th day of Sept, 2010.

WITNESSES:

NIGHT HERON PAVILION
OWNERS' ASSOCIATION, INC.

Douglas D. Walker
(Signature of Witness #1)

By: Robert H. Sturdevant
Robert H. Sturdevant, President

Cindy L. Stevenson
(Signature of Witness #2 - the Notary Public)



CINDY L. STEVENSON, Notary Public
State of Ohio
My Commission Expires Jan. 31, 2011

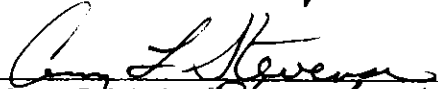
STATE OF OHIO

)
)
)

UNIFORM ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that ROBERT H. STURDEVANT personally appeared before me on this day and duly acknowledge the execution of the foregoing instrument on behalf of the Night Heron Pavilion Owners' Association, Inc.

Sworn to and Subscribed before me
on this 19th Day of Sept, 2010.


Notary Public for Chris Trembull Co
My Commission Expires: 1-31-11



CINDY L. STEVENSON, Notary Public
State of Ohio
My Commission Expires Jan 31, 2011