



**AMENDMENT AND RESTATEMENT OF GENERAL DECLARATION  
FOR CALLAWASSIE ISLAND PROPERTY OWNERS ASSOCIATION INC.**

Effective March 1, 2021

(The Amended and Restated Declaration was adopted by referendum  
on December 18, 2020.)

This instrument prepared by:  
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CERTIFICATE OF AMENDMENT AND RESTATEMENT OF  
GENERAL DECLARATION FOR CALLAWASSIE ISLAND AND PROVISIONS FOR THE  
CALLAWASSIE ISLAND PROPERTY OWNERS ASSOCIATION, INC.

(as recorded in Official Record Book 03137, Page 3004, as amended on April 25, 2013, in the  
Official Record Book 03276, Page 1604  
Public Records of Beaufort County, South Carolina)

WE HEREBY CERTIFY that:

The Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc., attached hereto was made effective as of March 1, 2021 (the "Amended and Restated Declaration"). The Amended and Restated Declaration was adopted by referendum on December 18, 2020, in which the total number of Members eligible to vote was 701, the number of votes required to constitute a quorum was 352, the total number of votes necessary to adopt the Amended and Restated Declaration was 467, the total number of votes cast in favor was 486, and the total number cast against was 103.

**SIGNATURES ON FOLLOWING PAGES**



SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

CALLAWASSIE ISLAND PROPERTY  
OWNERS ASSOCIATION, INC.

[Signature]

By: [Signature]  
Name: DENNIS P. McGUIRK  
Title: Secretary

[Signature]

WISCONSIN  
STATE OF ~~SOUTH CAROLINA~~ )  
MILWAUKEE )  
COUNTY OF ~~BEAUFORT~~ )

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 10 day of February, 2021, by DENNIS P. McGUIRK, as Secretary, who is personally known to me or who produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
[SEAL]  
Print Name: Gary Mark  
Notary Public for ~~South Carolina~~ WISCONSIN  
My Commission Expires: is permanent

**AMENDED AND RESTATED GENERAL DECLARATION FOR  
CALLAWASSIE ISLAND  
AND PROVISIONS FOR THE  
CALLAWASSIE ISLAND PROPERTY OWNERS ASSOCIATION,  
INC.**

**Dated as of March 1, 2021**

Official file copies are archived by Beaufort County in their Official Records. The Prior Declaration may be found in Official Record Book 03137 at Page 3004, as amended on April 25, 2013, in the Official Record Book 03276 Page 1604.

Older versions are listed in Exhibit A.

**Exhibits**

- A** Chronology of Declarations and Declarant Assignments
- B** Bylaws
- C** Description of Property
- D** Spring Island Agreement and Easement
- E** Amenities Plan

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Exhibits

- A Chronology of Declarations and Declarant Assignments
- B Bylaws
- C Description of Property
- D Spring Island Agreement and Easement
- E Amenities Plan



been obtained, including without limitation, the approval by the requisite votes of the Property Owners.

**WHEREAS**, the Association desires to provide a means for the preservation of the values and amenities and for the maintenance of common facilities, services and properties, and, to this end, the Association has and does hereby subject the Property, together with such additions as may hereafter be made as provided in Section 1.2.2, to the covenants, restrictions, easements, affirmative obligations, charges and liens hereinafter set forth (collectively, the “**Covenants**”), each and all of which is hereby declared to be for the benefit of the Property and any and all parts thereof; and

**WHEREAS**, this Amended And Restated Declaration will be referred to as “**CIPOA Declaration of 2020**”; or simply as the “**Declaration**”, and will be recorded promptly after the effective date hereof in the Register of Deeds Office and may be incorporated by reference in deeds to Residential Lots by reference to book and page of recording in the realty records in the Register of Deeds Office. The capitalized terms used in these Recitals and elsewhere in this Declaration are defined in Section 1.1. below.

**NOW, THEREFORE**, the Association hereby declares that the Property and such additions thereto as may hereafter be made pursuant to Section 1.2.2 hereof are and shall be held, transferred, sold, conveyed, given, purchased, occupied, and used subject to this Declaration. This Declaration, the benefits of the Covenants and the affirmative and negative burden of the Covenants, shall touch and concern and run with the land herein referred to as the Property. The Association reserves the right to add to the Property and add additional covenants regarding the Property.

## **1. GENERAL REFERENCES**

### **1.1 DEFINITIONS**

#### **1.1.1 Definitions**

The following words and terms, when used in this Declaration or any supplement or amendment hereto or hereof, unless the context shall clearly indicate otherwise, shall have the following meanings:

- a) “**Affiliated Entity**” shall mean and refer to any corporation, partnership, joint venture or unincorporated association more than fifty percent (50%) of the ownership, cash flow interest or voting or similar control of which is owned or possessed by the party in question.
- b) “**Amendment**” shall mean altering provisions of this Declaration by modification, deletion or addition in the manner provided herein.
- c) “**Amenities**” shall mean and refer to the recreational facilities within the Property titled in the name of the Former Club prior to the Merger Date including, but not limited to, the existing golf course (consisting of 27 holes), driving range, putting green, clubhouse buildings and associated dining facilities, fitness center, tennis

courts and swimming pools, the facility known as the “River Club”, dock facilities, barbecue/picnic area and gazebo, together with all maintenance facilities and equipment used in connection therewith and all easements, utility reservations, rights-of-way, strips and gores of land, tenements, hereditaments, privileges, licenses and appurtenances in any way belonging or appertaining thereto, owned and operated by the Association, together with any such additional facilities as may be acquired, constructed or developed by the Association from time to time and designated by the Board as part of the Amenities, all as the same may be modified from time to time. As of the Merger Date, the Amenities are a part of the Common Property.

- d) **“Amenities Assessments”** shall mean and refer collectively to the Amenities Operating Assessments, Amenities Capital Assessments, Amenities Special Assessments, and Participant Initial Capital Contribution Assessments, each as defined herein. For clarity, Property Owners who are not Participants shall not be obligated to pay Amenities Assessments.
- e) **“Amenities Capital Assessments”** shall mean and refer to the Assessments levied in connection with the Amenities, as further provided in Section 3.3.7 of this Declaration, to pay for the costs of capital improvements and other capital expenditures related to Amenities. Amenities Capital Assessments shall only be used to fund Amenities Capital Expenditures.
- f) **“Amenities Capital Expenditures”** shall mean and refer to the costs of capital improvements and other capital expenditures related to the Amenities.
- g) **“Amenities Charges”** shall mean and refer to all charges incurred for food, beverage, merchandise, greens fees, cart fees and other goods and services purchased from the Association by Participants or other permitted individuals.
- h) **“Amenities Expenses”** shall mean and refer to any and all Amenities Operating Expenses and Amenities Capital Expenditures.
- i) **“Amenities Operating Assessments”** shall mean and refer to the Assessments levied in connection with the Amenities Operating Expenses, as further provided in Section 3.3.6 of this Declaration.
- j) **“Amenities Operating Expenses”** shall mean and refer to any and all costs and expenses related to the maintenance, management and operation of the Amenities, including without limitation, any legal costs described in Section 3.3.20.
- k) **“Amenities Participant”** or **“Participant”** shall mean and refer to each Property Owner who is permitted to use the Amenities in accordance with this Declaration, the Bylaws and the Amenities Plan. There are currently two categories of Participants: (i) Island Participants; and (ii) Social Participants, as further described in the Bylaws and the Amenities Plan. For clarity, each Property Owner who has acquired a Residential Lot on or after the Merger Date shall be required

to pay the applicable Participant Initial Capital Contribution Assessment, unless specifically exempted from such payment pursuant to Section 3.3.9. of this Declaration, and shall be an Island Participant. Pursuant to the Plan of Merger, “Island Members”, “Social Members” and “Non-Resident Social Members” in the Former Club were converted to Island Participants, Social Participants and Non-Resident Social Participants, respectively.

- l) **“Amenities Plan”** shall mean and refer to the Amenities Plan attached to this Declaration as Exhibit E, as it may be amended, restated or supplemented by the Board of Directors from time to time. The Amenities Plan shall, among other things, outline the categories of Participants and the rights and benefits of the Participants to use the Amenities.
- m) **“Amenities Special Assessments”** shall mean and refer to the Assessments levied in connection with the Amenities, as further provided in Section 3.3.8 of this Declaration, to pay for the costs of the Amenities that are not funded by the Amenities Operating Assessments or Amenities Capital Assessments. Any such Amenities Special Assessments shall be categorized, maintained, accounted and used separately based on whether such Assessments are required in connection with: (i) Amenities Operating Expenses; or (ii) Amenities Capital Expenditures, as applicable.
- n) **“Appointed Director”** shall have the meaning stated in Section 4.1(b) of the Bylaws.
- o) **“Approved”, “approval”** and words of similar import shall mean written approval issued by the person or entity granting such approval and signed by such person or its Designated Representative, as applicable.
- p) **“Architectural Review Committee” or “ARC”** means the Architectural Review Committee established by the Association pursuant to Section 2.1.2(c).
- q) **“Articles of Incorporation” or “Articles”** shall mean and refer to the Articles of Incorporation of the Association, as may be amended from time to time and filed with the Secretary of the State of South Carolina.
- r) **“Assessment” or “Assessments”** shall mean and refer to every charge, fee and/or other monetary obligation owed to the Association, as further set forth in Article 3 hereof, including without limitation Common Operating Assessments, Common Capital General Assessments, Common Special Assessments, Individual Assessments, Amenities Operating Assessments, Amenities Capital Assessments, Amenities Special Assessments and Participant Initial Capital Contribution Assessments.
- s) **“Association”** shall mean and refer to the Callawassie Island Property Owners Association, Inc., a South Carolina nonprofit corporation, and its successors and assigns.

- t) **“Association Property”** shall mean and refer to all property acquired, owned or otherwise titled in the name of the Association, whether such property is real, personal, tangible or intangible, including but not limited to, the Common Property and any Residential Lots owned by the Association.
- u) **“Board of Directors”** or **“Board”** shall mean and refer to the Board of Directors of the Association, as constituted from time to time. Except as otherwise set forth herein, any approval or other action to be taken by the Association pursuant to this Declaration, the Bylaws, the Amenities Plan or under any rules and regulations of the Association shall be given or taken by the Board of Directors acting on behalf of the Association.
- v) **“Business Purposes”** shall include, but not be limited to, any use as a medical facility, professional office, entertainment, commercial or like facility. The use of a Family Dwelling Unit as a model dwelling display or real estate sales office maintained by the Association or those granted a written license for such use by the Association, however, shall not be deemed use for Business Purposes for a period of twelve (12) months after such building is ready for occupancy.
- w) **“Bylaws”** shall mean and refer to the Amended and Restated Bylaws of the Association, as may be amended from time to time. A copy of the current form of Bylaws is attached hereto as Exhibit “B” and made a part hereof.
- x) **“Callawassie Island”** shall mean and refer to the master planned community developed on the Property and subjected to this Declaration.
- y) **“CIPOA Design Guidelines”** shall have the meaning stated in Section 2.1.1.
- z) **“Common Assessments”** shall mean and refer collectively to the Common Operating Assessments, Common Capital General Assessments, Common Special Assessments and Individual Assessments, each as defined herein.
- aa) **“Common Capital Expenditures”** shall mean and refer to the costs of capital improvements and other capital expenditure related to the Common Property other than the Amenities.
- bb) **“Common Capital General Assessments”** shall mean and refer to the Assessments levied against all Property Owners in connection with the Common Property other than the Amenities, as further provided in Section 3.3.3 of this Declaration.
- cc) **“Common Expenses”** shall mean and refer to any and all Common Operating Expenses and the Common Capital Expenditures. For clarity, in no event shall Common Expenses include any Amenities Expenses.
- dd) **“Common Matters”** shall mean and refer to all matters related to the Association

other than Island Amenity Matters or Social Amenity Matters, which are presented for a vote of the Property Owners. Common Matters include, but are not limited to, election of the Board of Directors and Assessments related to the Common Property other than the Amenities.

- ee) **“Common Operating Assessments”** shall mean and refer to the Assessments levied against all Property Owners in connection with the Common Property other than the Amenities, as further provided in Section 3.3.2 of this Declaration.
- ff) **“Common Operating Expenses”** shall mean any and all costs and expenses related to the maintenance, management, and operation of the Common Property other than the Amenities, including, without limitation, the costs of taxes, insurance, labor, loans and all services which the Association provides pursuant to this Declaration such as security, marketing, architectural review and administrative services.
- gg) **“Common Property” or “Common Properties”** shall mean and refer to all real property dedicated to, owned by, or held by the Association, to be devoted and used in accordance with this Declaration and any personal property acquired by the Association, if such property is designated as part of the “Common Property”. The term “Common Property” shall specifically include the Amenities and the Open Space as well as any Residential Lot(s) or other property which has been acquired by the Association and designated by the Board as Common Property on the Master Plan. All Common Properties other than the Amenities are to be devoted to and intended for the common use and enjoyment of the Property Owners, their tenants, guests and invitees, at uniform fees, charges and Assessments established herein, as may be modified from time to time by the Association. The designation and dedication of land or improvements as Common Properties shall not mean or imply that the public at large or the Property Owners, their tenants, guests and invitees acquire an easement of use or enjoyment therein except at such fees, and under such rules and regulations, as may be established from time to time by the Board.
- hh) **“Common Special Assessments”** shall mean and refer to the Assessments levied in connection with the Common Property other than the Amenities, as further provided in Section 3.3.4 of this Declaration, to pay for the costs of the Common Property other than the Amenities that are not funded by the Common Operating Assessments or Common Capital General Assessments. Any such Common Special Assessments shall be categorized, maintained, accounted and used separately based on whether such Assessments are required in connection with: (i) Common Operating Expenses; or (ii) Common Capital Expenditures, as applicable.
- ii) **“Conveyance”** shall mean the transfer of legal title from one Person to another, whether by deed, will, foreclosure or otherwise.
- jj) **“Cottage(s)”** shall mean and refer the Family Dwelling Units known as the

“Cottages” as further described in Section 4.3.

- kk) **“Cottage Lots”** shall mean and refer to those Residential Lots upon which the Cottages are or will be constructed in accordance with the plans submitted to and approved by the ARC from time to time.
- ll) **“Court of competent jurisdiction”** shall mean and refer to the Court of Common Pleas for Beaufort County, South Carolina, or its successor court.
- mm) **“Covenants”** shall have the meaning stated in the Recitals, as amended, restated or supplemented from time to time.
- nn) **“C.P.I.”** shall mean the Consumer Price Index, U.S. City Average, All Items (1967=100) (“C.P.I.”) issued by the U.S. Bureau of Labor Statistics in its monthly report entitled “The Consumer Price Index, U.S. City Average and Selected Areas”. In the event that the foregoing C.P.I. shall be discontinued, then there shall be used the most similar index published by the United States Government that indicates changes in the cost of living.
- oo) **“Designated Representative”** shall have the meaning stated in Section 3.1.2.
- pp) **“Drainage”** means the removal of surface water or ground water from land by drains, grading or other means, and includes control of runoff to minimize erosion and sedimentation during and after construction or development and means necessary for water supply preservation or prevention or alleviation of flooding.
- qq) **“Duplex Lots”** shall mean and refer to the Residential Lots within Heron Walk Villas, as may be approved by the Association.
- rr) **“Duplex Unit”** shall mean and refer a residential structure within the Property constructed or to be constructed on a Duplex Lot and intended for two Family Dwelling Units as may be approved by the Association.
- ss) **“Emergency”** shall mean and refer to a serious and dangerous situation affecting the Property Owners and/or the Property, regardless of where it occurs or its duration, which arises from an event such as war, crime, riot, hurricane, fire, flood, disease, epidemic or pandemic, shortage of labor, materials or supplies, or acts of terrorism, as reasonably determined by the Board.
- tt) **“Enforcement”** shall mean the authority the Association has over any violations of the Declaration, the Bylaws and rules and regulations in accordance with, and as provided for in, such documents.
- uu) **“Entity”** shall mean and refer to a partnership, corporation, limited liability company, trust or other legal entity.
- vv) **“Exempt Property Owner”** shall have the meaning stated in Section 5.7.2.

- ww) **“Exempt Residential Lot”** shall have the meaning stated in Section 5.7.2.
- xx) **“Fairway Residential Lot”** shall have the meaning stated in Section 4.1.1.
- yy) **“Family Dwelling Unit”** shall mean and refer to a residential Structure, or portion thereof, intended for use as a single-family dwelling within the Property as may be approved by the Association from time to time.
- zz) **“Former Club”** shall have the meaning stated in the Recitals.
- aaa) **“Heron Walk Villas”**, formerly referred to as “Village on the Lake on Callawassie Island”, is that certain development on Callawassie Island, where Duplex Lots and Duplex Units are permitted and governed by this Declaration. The “Heron Walk Villa Association, Inc.” has its own Declaration and Bylaws applicable only to Heron Walk Villas. The following documents have been filed as to Heron Walk Villas, as may be amended, restated or supplemented from time to time.
- Forty (40) Residential Lots as depicted in Plat Book 32 at Page 109
  - Declaration filed in Official Records Book 401, Page 1129 (1984)
  - Bylaws filed in Official Records Book 2953, Page 1321 (June 2010).
- In the event of a conflict or discrepancy between the Declaration and Bylaws of Heron Walk Villas and this Declaration, the provisions of this Declaration shall govern.
- bbb) **“Immediate Family”** shall have the meaning stated in the Amenities Plan.
- ccc) **“Individual Assessment”** shall mean and refer to the Assessments levied against a Property Owner and the Property Owner’s Residential Lot for failure to comply with this Declaration, the Bylaws or the rules and regulations, as further provided in Section 3.3.5 of this Declaration.
- ddd) **“Island Amenity Matters”** shall mean and refer to matters related to: (i) the golf facilities within the Amenities; and (ii) the privileges and obligations of the Participants and others eligible to use such golf facilities, which are presented for a vote of the Participants. Island Amenity Matters include, but are not limited to, Assessments related to the golf facilities within the Amenities.
- eee) **“Master Plan”** shall mean and refer to the Master Plan as approved by the Board of Directors and as amended from time to time in accordance with Section 1.2.1. Copies of such Master Plan are maintained by the Association and made available for inspection by Property Owners and prospective property purchasers. The Master Plan, as presently constituted, reflects the current status of the Property.
- fff) **“Merger”** shall have the meaning stated in the Recitals.
- ggg) **“Merger Date”** shall mean and refer to the effective date of the Merger.

- hhh) **“Offensive or Noxious”** activity or behavior shall include, but not be limited to, a public nuisance or nuisance per se, and shall also include any behavior or activity which is inconsistent with both the pleasurable use of Callawassie Island by the Association and the Property Owners and their reasonable expectations of enjoying their respective property and the available amenities and natural surroundings of Callawassie Island free of boorish, rude, excessively noisy, crude or tasteless behavior, flashing lights, racing vehicles, offensive or tasteless displays of public sexuality, radio, hi-fi or electronic music distractions, or other similar behavior. Public musical or other entertainment, parades, concerts, festivals, carnivals, competitions or shows conducted under permit from the Association shall not constitute Offensive or Noxious activity or behavior unless such permit is withdrawn by the Association.
- iii) **“Open Space”** shall mean and refer to those parcels of land within the Property which may not be developed, improved or altered except as provided in Section 2.3 and are reflected as “Open Space” on the Master Plan. Open Space constitutes a part of the Common Property.
- iii) **“Participant Initial Capital Contribution Assessment(s)”** shall mean and refer to the Assessment established by the Board of Directors for each category of Participant in accordance with Section 3.3.9 and payable by each Participant in accordance with this Declaration, the Bylaws and the Amenities Plan. The Participant Initial Capital Contribution Assessment shall be used for capital improvements and other capital expenditures related to the Amenities.
- kkk) **“Pertinent Laws”** shall mean and refer to all statutes, ordinances, rules and regulations pertinent to the ownership, sale, use and development of the Property, as codified or promulgated by the State of South Carolina, the County of Beaufort, South Carolina, the government of the United States of America and other public authorities having jurisdiction over the Property.
- iii) **“Property”** shall mean and refer to the real property described in Section 1.2.1 hereof and Exhibit “C” hereto, and any additions thereto made pursuant to Section 1.2.2 hereof which are subjected to this Declaration or any supplemental declaration pursuant to the provisions of said Section 1.2.2 hereof. At all times, the Property shall be comprised of the following classes of property for purposes Assessments set forth herein: (1) Residential Lots; (2) Duplex Lots; (3) Common Property; and (4) all lands presently owned by any utility company (e.g., CUC, Inc. etc.) or the Association and used in connection with the sewage treatment facility or maintenance or utility facilities located on Callawassie Island.
- mmm) **“Property Owner”** shall mean and refer to the owner, as shown by the real estate records of the Register of Deeds Office, whether it be one or more persons or Entities, of fee simple title to any Residential Lot; provided, however, that notwithstanding any applicable theory of mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until

such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term “Property Owner” mean or refer to any lessee or tenant of a Property Owner. All Property Owners are members of the Association as further described in Section 3.1.1.

- mm) **“Quorum”** shall mean the percentage of Property Owners eligible to vote on a matter as determined in accordance with Section 3.1.5.
- ooo) **“Recurring Common Assessments”** shall mean and refer collectively to Common Operating Assessments and the Common Capital General Assessments.
- ppp) **“Referendum”** shall mean and refer to the power of all or some specific portion of the Property Owners to vote by mailed or electronic ballots or on special ballots at a duly called special meeting of the Association on certain actions taken or proposed to be taken by the Board as further provided in Section 3.1.4.
- qqq) **“Register of Deeds Office”** shall mean and refer to the Office of the Register of Deeds for Beaufort County, South Carolina, formerly referred to as the Register of Mesne Conveyances (RMC) for Beaufort County, South Carolina, or the successors and assigns of that office.
- rrr) **“Residential Lot”** shall mean any improved or unimproved parcel of land located within the Property which is intended for use as a site for a single-family detached dwelling or a Duplex Unit as shown on the Master Plan or upon any recorded final subdivision plat of any part of the Property. “Residential Lot” shall include the Family Dwelling Unit, if any, located thereon.
- sss) **“Resigning Director”** shall have the meaning stated in Section 4.1(b) of the Bylaws.
- ttt) **“Restricted Reserve Fund for Common Major Repairs”** shall have the meaning stated in Section 3.3.11(a).
- uuu) **“Shall”** or **“will”** indicates a mandatory requirement, condition, or obligation; in contrast, the term **“may”** indicates a permissive action.
- vvv) **“Social Amenity Matters”** shall mean and refer to matters related to: (i) the facilities within the Amenities other than the golf facilities; and (ii) the privileges and obligations of the Participants eligible to use such social facilities, which are presented for a vote of the Participants. Social Amenity Matters include, but are not limited to, Assessments related to the facilities within the Amenities other than the golf facilities.
- www) **“Spring Island POA”** or **“SIPOA”** shall mean and refer to Spring Island Property Owners Association, Inc., a South Carolina nonprofit corporation.

- xxx) **“Structure”** shall mean any construction, object, projection or piece of work artificially built or composed of parts joined together in some definite manner, which is erected or shaped on the Property, including, but not limited to, buildings, roofs, docks, fences, bulkheads, tennis courts, swimming pools, pavilions, tents, gazebos, garage facilities, signs, abutments, ornamental projections, exterior fixtures, masonry structures, shaped earth as a landscape feature, lights or any other object or device which might obstruct or interfere with the quality of the view from any portion of the Property.
- yyy) **“Substantive”** shall mean any amendments to this Declaration which affects the rights or responsibilities of the Association or a Property Owner.
- zzz) **“Successor Association”** shall have the meaning stated in Section 5.6.1.
- aaaa) **“Use of land”** or **“intended for use”** shall mean the use designated in the deed of Conveyance of a lot of land, this Declaration or any declaration supplemental hereto designating the use for which the particular lot of land is restricted. Reference to “uses” of land, or description of lots on maps and promotional material shall not constitute a designation of use for purposes of this Declaration, nor shall such reference (whether or not by reference), create any obligation for the Association, its successors or assigns.
- bbbb) **“Used for residential purposes”** shall mean to be used as one’s residence or normal and customary place of abode and shall not include any use for Business Purposes. The use of a portion of a Family Dwelling Unit as an office shall be considered a residential use if, and only if, such use does not create customer or client traffic to and from the Family Dwelling Unit in question and no sign, symbol, logo, or nameplate identifying such business is affixed to or about the entrance to such Family Dwelling Unit, except where the approval of the Association has been given to such use.

## 1.2 PROPERTY DESCRIPTION

### 1.2.1 Existing Property; Amendments to Master Plan

- a) The real property which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to this Declaration is located on Callawassie Island, Beaufort County, South Carolina, and is more particularly described in Exhibit “C” attached hereto and by this reference made a part hereof. For avoidance of doubt, as of the Merger Date, the real property upon which the Amenities are located is part of the Property.
- b) The Property was developed in accordance with the Master Plan, as a residential community featuring a country club setting including recreational facilities, various amenities and all other activities permitted by law which the Association deems appropriate as uses for the Property.
- c) The Board of Directors may, in its sole discretion, amend or modify the Master

Plan from time to time, so long as such amendments or modifications do not materially and adversely affect the rights of the Property Owners. Any amendment or modification to the Master Plan that materially and adversely affects the rights of the Property Owners must be approved by a majority of the votes of the Property Owners eligible to be cast. The Board of Directors shall provide Property Owners with at least 30 days' notice of any proposed amendment to the Master Plan.

### 1.2.2 Additions to Property

Additional lands may become subject to this Declaration in the following manner:

- a) **Addition of Residential Properties:** The Association shall have the right to bring within the plan and operation of this Declaration additional properties. The additions authorized under this and the succeeding subsections shall be made by either deeding such additional property subject to this Declaration by specific reference in individual deeds or by filing a supplementary declaration of covenants and restrictions with respect to the additional property which shall extend the operation and effect of this Declaration to such additional property.

Such supplementary declaration may contain such complementary additions and modifications of this Declaration as may be necessary or convenient, in the judgment of the Association, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration, but such modifications shall have no effect on this Declaration as it applies to the Property.

- b) **Annexation of Properties:** Upon approval of the Association pursuant to the affirmative vote of seventy five percent (75%) of the votes eligible to be cast by Referendum, the owner of any property who desires to add it to the plan of this Declaration and to subject it to the jurisdiction of the Association may file or record a supplementary declaration with respect to such additional property, which shall extend the operation and effect of this Declaration to such additional property; provided, however, that the adjacent property known as "Spring Island" may not be brought within the plan and operation of this Declaration without the affirmative vote of ninety percent (90%) of the votes eligible to be cast.

Such supplementary declaration may contain such complementary additions and modifications of this Declaration as may be necessary or convenient, in the judgment of the Association, to reflect the different character, if any, of the added properties and as are not inconsistent with this Declaration.

- c) **Merging of Communities:** Upon merger or consolidation of the Association with another association or other entity, as provided for in the Bylaws, its property rights and obligations may, by operation of law, be transferred to such surviving or consolidated entity, or in the alternative, the properties, rights and obligations of said association may, by operation of law, be added to the properties, rights and obligations of the Association, as a surviving corporation pursuant to a merger.

The surviving or consolidated association may administer the Property, together with the covenants and restrictions established upon any other properties owned by such association, as one plan. No merger or consolidation shall affect any revocation, change or addition to this Declaration including, without limitation, the maximum limits on Assessments and dues of the Association or any other matter adversely affecting the interests of Property Owners, except as provided in a duly adopted amendment to this Declaration recorded in the Register of Deeds Office.

- d) **Communities of Interest:** For any property subjected to this Declaration pursuant to the provisions of this Section there may be established by the Association an additional association, limited to the owners and/or residents of such additional property, in order to promote social welfare, including health, safety, education, culture, comfort and convenience, to participate in the election of representatives on the Board of Directors, to receive from the Association a portion, as determined by the Board of Directors, of the Assessments levied pursuant hereto and thereto, to use such funds for its general purposes and to make and enforce rules and regulations and supplementary covenants and restrictions, if any, applicable to such additional property. The extent of such powers, rights and obligations shall be set forth in any document establishing such additional association.
- e) **Effect of Annexation:** Unless otherwise approved in the Referendum approving such Annexation, no bringing of additional property within the plan and operation of this Declaration shall have the effect of increasing the Assessments and other charges which would otherwise be payable by the Property Owners pursuant to this Declaration or diluting their voting or other participatory rights hereunder.

## 2. COVENANTS AND RESTRICTIONS

### 2.1 GENERAL COVENANTS

#### 2.1.1 Purposes

- a) The primary purpose of this Declaration, and the foremost consideration in the origin of the same, has been the creation of a residential community which is aesthetically pleasing, functionally convenient and capable of maintaining itself while retaining private control, and which provides for the ultimate ownership, operation and maintenance, through the Association, of the Association Property. The establishment of objective standards relating to design, size and location of dwellings and other Structures makes it impossible to take full advantage of the individual characteristics of each Residential Lot and of technological advances and environmental values. For this reason, such standards are not established hereby, but are established by the ARC in discussions with and through materials submitted to the Board. The following standards and this Declaration are consistent with and serve to complement the subdivision regulations of Beaufort County, South Carolina. To implement this Declaration, the Association shall, through the ARC, establish and amend from time to time objective standards and guidelines ("CIPOA Design Guidelines") which shall be in addition to and may

be more restrictive than said governmental standards.

- b) All Residential Lots shall be used for residential purposes exclusively. No building shall be erected, altered, placed or permitted to remain on any Residential Lot, other than a Family Dwelling Unit with one (1) small two-story accessory building which may include a detached private garage, provided the use of such accessory building does not overcrowd the site and provided further, that such building is not used for any activity normally conducted as a business, as reasonably determined by the Board. Such accessory building may not be constructed prior to the construction of the main building.
- c) A guest suite or like facility without a kitchen may be included as part of the main dwelling or accessory building, but such suite may not be rented or leased except as part of the entire premises including the main dwelling, and then only if the use of such suite would not result in overcrowding the site, as reasonably determined by the Board; provided, however, that nothing contained herein shall prevent the use of a guest suite or like facility for housing domestic servants and, provided further, that for purposes of this paragraph, a facility shall not be deemed to contain a kitchen unless such facility includes a full-size refrigerator and an oven or stove (other than a microwave oven).
- d) The provisions of this Section shall not prohibit the Association from using a Family Dwelling Unit as a model or office for its or its designee's sales programs. Use of any house as a model or office shall be limited to display purposes for a period not to exceed twelve (12) months unless otherwise determined by the Board.

#### **2.1.2 Architectural and Design Review**

- a) Purpose: In order to preserve the natural beauty of Callawassie Island and its setting, to maintain Callawassie Island as a pleasant and desirable environment, to establish and preserve a harmonious design for the community, and to protect and promote the value of the Property, no clearing, excavation, grading, changing elevation or other site work shall be commenced and no structure shall be erected, placed or altered upon any portion of the Property until the proposed site work and building or improvement plans, specifications, exterior color or finish, plot plan (showing the proposed location of such Structure and related driveways and parking areas), landscape plan and drainage plan shall have been approved in writing as hereinafter provided.
- b) Objectives: Architectural and design review shall be directed toward attaining the following objectives for Callawassie Island:
  - 1. preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property and removal of trees and vegetation which could cause disruption of natural water courses or scar natural landforms;
  - 2. ensuring that the location and configuration of Structures are visually

harmonious with the terrain and vegetation of the subject Residential Lots or Amenities with surrounding Residential Lots and Structures thereon do not unnecessarily block scenic views from existing Structures or tend to dominate any general development or natural landscape;

3. ensuring that the architectural design of Structures and the materials and colors thereof are visually harmonious with (i) Callawassie Island's overall appearance, history and cultural heritage, (ii) surrounding development, natural landforms and native vegetation, (iii) development plans officially approved by the Association and (iv) any Pertinent Laws for the areas in which the Structures are proposed to be located;
4. ensuring that plans for landscaping provide visually-pleasing settings for Structures on the Residential Lots and Common Property and blend harmoniously with adjoining or nearby properties and the natural landscape;
5. ensuring that all development of Structures and landscaping comply with the provisions of this Declaration;
6. ensuring that all future plotting of undeveloped land is in conformance with the overall Island drainage plan as approved by Beaufort County; and
7. promoting building design and construction techniques that respond to energy consumption and environmental quality considerations such as heat loss, air emissions and run-off water quality.

c) Architectural Review Committee (ARC)

1. **Composition and Term:** The Association, through its Board of Directors, shall establish the ARC, which will consist of seven (7) Property Owners appointed by the Board of Directors, plus one member of the Board. The regular term of office for each ARC member shall be two (2) years, coinciding with the first (1st) Board meeting following the annual meeting of the Association. Unless as otherwise approved by the Board of Directors, no ARC member shall serve more than two (2) consecutive terms. The term of ARC members shall be staggered to the maximum extent possible to promote continuity. The Board of Directors will appoint a successor to fill any un-expired terms of ARC members which become vacant during such term. A successor appointed to fill such vacancy shall serve the remainder of the term of the former ARC member. Any ARC member appointed by the Board of Directors may be removed by a majority vote of the Board of Directors.
2. **Officers and Procedures:** The ARC shall report to the Board. The ARC shall nominate an ARC Chairman annually for Board approval. The

ARC Chairman, or a designated representative of the ARC Chairman, shall attend regular Board of Director meetings. The ARC Chairman, or in such person's absence, the Vice-Chairman of the ARC, shall be presiding officer of ARC meetings. ARC meetings shall be held at least once in each calendar month or more frequently upon call of the ARC Chairman. ARC meetings shall be held at the offices of the Association on Callawassie Island, South Carolina, or at such other place as may be designated by the ARC Chairman. The majority of the existing ARC members shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the ARC members shall constitute the action of the ARC on any matter before it. The ARC shall operate in accordance with its own rules of procedure, subject to approval by the Board of Directors, which shall be deemed to be incorporated herein by reference, and in the event of any inconsistency between such rules and this Declaration, this Declaration shall control.

3. Use of Outside Professionals: Subject to the approval of the Board of Directors, the ARC is hereby authorized to retain the services of professional consultants, including, but not limited to, one or more consulting architects, landscape architects, arborists, engineers, and/or attorneys, to advise and assist the ARC in performing the design review functions herein prescribed.
- d) Architectural Review Authority. The ARC, which shall be under the control of the Association through its elected Board of Directors, will have architectural and design review authority over all of the Property. The CIPOA Design Guidelines and any related rules and procedures of the ARC shall be subject to approval by the Board of Directors. Consequently, any approval or disapproval made by the ARC concerning its architectural and design review is subject to appeal by affected Property Owners, and subject to the approval of the Board of Directors. The ARC's rules of procedure and the CIPOA Design Guidelines shall be filed with the Association and maintained in the records of the Association.
  - e) Review and Approval of Plans for Construction of or Additions, Alterations or Changes to Structures and Landscaping. No Structure of any kind shall be commenced or erected upon any Residential Lot, the exterior of any Family Dwelling Unit or the Common Properties, nor shall any landscaping be done, nor shall any addition to any existing Structure or alteration or change therein be made until the proposed building plans, specifications (including height, materials and exterior finish), plot plan, landscape plan and construction schedule shall have been submitted to and approved by the ARC.
  - f) Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans. Two (2) copies of all required plans and related data shall be furnished to the ARC. One (1) copy shall be retained in the records of the ARC. The second copy shall be returned to the Property Owner, if requested. The ARC shall establish and collect a fee sufficient to cover the expense of reviewing such

plans and related data at the time they are submitted for review and to compensate any consulting architects, landscape architects, engineers and attorneys retained in accordance with subparagraph (c)(3) above. The ARC shall have the right to increase this fee amount not more than once in any subsequent twelve (12) month period, unless otherwise as approved by the Board. All review fees shall be deposited and administered by the Board. Following the submission and review of the plans, the ARC will provide the applicant with a letter of approval or disapproval within ten (10) days. Approvals shall be dated and shall not be effective for construction commenced more than six (6) months after the date of approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event that approval of such plans and related data is neither granted nor denied within thirty (30) days following receipt by the ARC of written request for approval, the proposed plans shall be deemed approved. Refusal or approval of such plans and related data may be based by the ARC upon any ground which is consistent with the objectives of this Declaration, including purely aesthetic considerations, so long as such ground is not arbitrary, capricious or contrary to any Pertinent Law.

- g) Collection of Compliance Deposit. Each Property Owner shall be required to restore, or cause to be restored, all grassed parkways, street pavement and graded surfaces on adjacent Common Properties or private property to their original condition and contours, as well as to complete all landscape work on the subject property according to the plans and specifications approved by the ARC within one-hundred twenty (120) days after receipt of the Certificate of Occupancy from Beaufort County. In addition to all other rights and powers conferred upon the ARC by this Declaration and pursuant to its rules of procedure, the ARC is expressly authorized to collect a compliance deposit in an amount approved by the Board of Directors (which amount may be raised or lowered from time to time, but not waived, by the Board of Directors without amendment of this Declaration) as a condition to the approval of all plans and related data, to insure compliance with the requirement established by this Section. The Board may modify such compliance deposit with respect to any Property Owner based on past performance of that Property Owner or the applicable builder or other facts and circumstances determined relevant by the Board. The Board shall establish a fund into which all such compliance deposits shall be deposited and said escrow account shall be administered by the Board. All compliance deposits shall be returned to the Property Owner once the work is completed as approved and in a timely manner. If such work is not timely completed, the Board shall have the right to use such amount to contract for and complete such work; provided, however, that should such amount be insufficient to complete such work, the Property Owner shall remain liable therefor, and shall be subject to an action for specific performance by the Board of Directors to compel the completion of such work, in addition to any and all remedies available to the Association and all affected Property Owners pursuant to this Declaration, the Bylaws, at law or in equity.
- h) Approval Not a Guarantee or Representation of Proper Design or Good

Workmanship. No approval of plans, location or specifications, and no publication of architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly-designed Structure. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Structure or improvement thereto will be built in a good and workmanlike manner. Neither the Association nor the ARC nor any professionals retained by the Association or the ARC (unless such professional is retained by the Owner in connection with such work) shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved under this Declaration nor for any defects in construction pursuant to such plans and specifications. Each Property Owner shall have sole responsibility for compliance with approved plans and specifications and by its acceptance of its portion of the Property does hereby hold the ARC, the Association, and the Board of Directors, and their respective members, directors, officers, partners, agents, employees and independent contractors, harmless for any failure thereof caused by the architect, builder or Property Owner. The Association reserves the right to prohibit the builder and/or general contractor of the Property Owner from the site, in the event that it is determined that any failure to comply with approved plans and specifications occurs.

- i) Right to Appeal Decisions by the ARC. In the event that any required plans and related data are disapproved by the ARC, the affected Property Owner(s) shall have the right to appeal the decision of the ARC. Such appeal shall be to the Board of Directors. Likewise, in accordance with Section 2.1.2(d), other affected Property Owners may also appeal decisions by the ARC. Such appeal shall be perfected by a written notice of appeal which must be received by the Board of Directors within thirty (30) days of the date of such approval or disapproval. Procedures for such appeal shall be determined by the Board of Directors, but the scope of review shall be strictly limited to ascertaining whether or not the ARC properly approved or disapproved such plans and related data based upon the CIPOA Design Guidelines in effect at the time of such approval or disapproval. No action may be brought against the ARC, the Association, or the Board of Directors unless and until such appeal is made by the affected Property Owners and a decision on such appeal is made by the Board of Directors, which shall be made within sixty (60) days of receipt of the notice of such appeal.

### **2.1.3 Siting**

To assure that Structures will be located so that the maximum view, privacy and breeze will be available to each Structure, and that Structures will be located with regard to the topography of each portion of the Property and taking into consideration the location of large trees and other aesthetic and environmental considerations, the ARC reserves unto itself, its successors and assigns, the right to control and to decide, (a) so long as its decisions are not arbitrary, capricious or contrary to any Pertinent Law; and (b) subject to the provisions of all Pertinent Laws, the location of Structures on all portions of Callawassie Island. The ARC will consider comments from neighboring Property Owners for a period of fifteen (15) days after posting a notice that development plans have been submitted for a particular portion of the Property.

The location shall be determined only after reasonable opportunity is afforded to the affected Property Owner to recommend a specific location, and if the location recommended by such Property Owner substantially complies with the criteria set forth in this Section, the ARC shall not substitute its judgment for that of the Property Owner.

#### **2.1.4 Parking**

Each Property Owner shall provide space for the parking of at least two (2) automobiles within the boundaries of the Residential Lot prior to the issuance of a Certificate of Occupancy for any Structure constructed on such Residential Lot in accordance with reasonable standards established by the ARC. Overnight parking on streets within the Common Property in excess of one (1) night is prohibited, except adjacent to Heron Walk Villas. The Association shall provide adequate parking within the Common Property to meet the needs of the Property Owners, their guests, and invitees as reasonably determined by the Board. No vehicle may be parked except in a designated parking space or on the street within the Common Property provided it does not block any driveway, fire hydrant, utility facility, or other improvement. No vehicle may be parked in violation of any Pertinent Law or rule or regulation of the Association.

#### **2.1.5 Completion of Construction**

The exterior of all Structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible, or would result in hardship to the Property Owner, the Association, or their builder, due to Emergencies. Buildings may not be temporarily or permanently occupied until the exteriors thereof have been completed and a Certificate of Occupancy has been issued. During the continuance of construction, the Property Owner and the Association shall require the contractor and subcontractors (and such contractor and subcontractors shall require their laborers and material men) to maintain the Residential Lot in a reasonably clean and uncluttered condition. Upon completion of construction, the Property Owner and the Association shall require such contractor and subcontractors to immediately remove all equipment, tools and construction material from the subject Residential Lot. Any damage to roads, bike paths, or other portions of the Common Property or Residential Lots owned by others which is caused by the Property Owner's contractor, subcontractors or other parties providing labor or services to the Property Owner shall be repaired by, or at the cost of, the Property Owner. In the event that such repair is not completed within thirty (30) days of such damage, such repair may be effected by the Association at the Property Owner's expense. The landscaping plan for all Residential Lots must be completely implemented consistent with CIPOA Design Guidelines in effect at the time of such completion.

#### **2.1.6 Service Yards**

Each Property Owner shall provide within the boundaries of the Residential Lot a visually screened area to serve as a service yard, an area in which garbage receptacles, home fuel tanks and similar storage receptacles, electric and gas meters, air conditioning equipment, clothes lines, and other unsightly objects must be placed or stored in order to conceal them from view from the abutting community road(s) and properties.

Plans for such visually-screened area, delineating the size, design, texture, appearance and location, must be approved by the ARC prior to construction. Garbage receptacles and fuel

tanks may be located outside of such screened areas only if located underground and also concealed from view from the abutting community road(s) and properties and approved by the ARC.

### **2.1.7 Signs**

No signs shall be erected or maintained on the Property by any persons, including, but not limited to, the Association, the Property Owner, realtor, contractors and subcontractors, except with the prior written approval of the ARC or except as may be required by legal proceedings, such as tax notices; provided, however, that the foregoing is not intended to restrict the erection or maintenance of signs which are not visible from abutting community road(s) and properties, such as "Beware of Dog", "No Trespassing" and similar purposeful signs. If such permission is granted, the ARC reserves the right to restrict the size, color and content of such signs.

### **2.1.8 Other Buildings, Vehicles, and Golf Carts**

- a) Other Buildings. No mobile home, trailer, tent, barn or other similar Structures shall be placed on the Property at any time, either temporarily or permanently, without the prior written approval of the ARC.
  
- b) Motor Vehicles, Trailers, Boats, etc. Each Property Owner and the Association shall provide for parking of permitted automobiles off of community streets and roads within the Property prior to the issuance of a Certificate of Occupancy for the subject Family Dwelling Unit or other permitted improvements in accordance with Section 2.1.4 above. Except as otherwise expressly provided in this Declaration, there shall be no outside storage or parking upon any Residential Lot or within any portion of the Common Property (other than areas that may be designated therefor within the Common Property by the Association, for which the Association may collect a reasonable storage fee in connection therewith) of any mobile or manufactured home, trailer (either with or without wheels), motor home, tractor, truck (as defined hereafter), commercial vehicle of any type, camper, motorized camper or trailer, boat or other watercraft, boat trailer, motorcycle, motorized bicycle, motorized go-cart, golf cart or any other related forms of combustion or electric-driven or towed transportation devices. 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 trade or business in which the truck is used because of its commercial capabilities and not merely as a means of transportation, or which displays identification on the exterior of the vehicle to a commercial enterprise. This definition is not intended to include such dual purpose vehicles as station wagons, jeeps, mini-vans, sports utility vehicles, or sports trucks and trucks of three-quarter (3/4) ton or less that do not have exposed signage or logo other than discreet identification approved by the ARC and do not have exposed equipment or supplies, nor does it include similar, attractive vehicles driven and maintained primarily as a means of personal transportation. Neither motorcycles nor motorized bicycles shall be driven or operated on the community streets and roads within the Property. Boats, which are not stored in a garage or under the Family Dwelling Unit, and motor homes may enter onto a Residential Lot or the

Common Properties only temporarily for the limited purposes of loading, unloading and cleaning. The Property Owner shall be responsible for any spillage of fuel or oil. Furthermore, the Association may at any time prohibit mobile homes, motor homes, campers, trailers of any kind, motorcycles, motorized bicycles, motorized go-carts and other vehicles from entering and being kept, placed, stored, maintained or operated upon any portion of the Property if, in the opinion of the Board of Directors, such prohibition shall be in the best interests of Callawassie Island and the Property Owners. No Property Owners or other occupants of any portion of the Property shall repair or restore any vehicle of any kind upon or within any Residential Lot or within any portion of the Common Property, except (i) within enclosed garages or workshops, or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility. In the sole discretion of the Board of Directors, rental storage space for the above-mentioned vehicles, boats, etc., may be provided in the maintenance areas of the Association, or such other area as may be provided for such purpose.

- c) Golf Carts. Use and storage of golf carts shall be pursuant to the rules and regulations of the Association.

#### **2.1.9 Unsightly Conditions**

It shall be the responsibility of each Property Owner to prevent the accumulation of litter, trash, packing crates or rubbish or the development of any unclean, unsightly or unkempt condition of Structure or grounds on its Residential Lot or the Common Property (as a result of such Property Owner's action or inaction) either before, during or after construction, and to prevent accumulations which shall tend to substantially decrease the beauty of the Property as a whole or the abutting areas. The Association, acting on Property Owner complaints or through personal inspection activities, may initiate corrective action.

#### **2.1.10 Lights**

The design and location of all exterior lighting fixtures shall be subject to the prior written approval of the ARC; provided, however, such approval shall not be required for Christmas lights and related ornaments and decorations (which may be installed no sooner than November 15th in any year and must be removed no later than January 15th of the following year), subject to the restrictions set forth in the following sentence. Neither such fixtures, nor any other illumination devices located upon the Structures or grounds of any Residential Lot shall be located, directed, or of such intensity so as to adversely affect the night-time environment of any adjacent Residential Lot.

#### **2.1.11 Animals**

No animals, livestock or poultry of any kind shall be raised, bred, kept or pastured on the Property, except that a reasonable number of common household pets such as dogs and cats may be kept in any one Family Dwelling Unit. In order to preserve the aesthetic qualities of the Common Properties, to maintain sanitary conditions within the Property, to prevent the spread of worms and infectious diseases within the Property, and to maintain a proper respect for other Property Owners, and users of the Common Property, each Property Owner or other person who keeps a pet within a Family Dwelling Unit shall abide by the following restrictions, conditions, and affirmative obligations:

- a) No pets may be kept, bred or maintained for any commercial purpose.
- b) The owner of such pet or pets shall exercise his, her or its best efforts not to allow such pet(s) to excrete upon any portion of the Property;
- c) The owner of such pet(s) shall use a scoop or other device to clean up any defecation or solid excrement left by their pet(s) upon any portion of the Property;
- d) The owner of such pet(s) will not allow such pet(s) to roam unattended on the Property;
- e) The owner of such pet(s) shall muzzle any pet which consistently barks or makes noises which would be reasonably expected to disturb other Property Owners; and
- f) The Board of Directors shall have the authority to establish rules and regulations relating to animals and pets on the Property.

#### **2.1.12 Water and Sewage**

No private water wells may be drilled or maintained on any Residential Lot for domestic or irrigation purposes as long as a water distribution line is available within one hundred (100) feet of such Residential Lot, with average daily water pressure in such line adequate for the normal household use in dwellings served thereby. Wells may be drilled for use in connection with water-source heating and cooling, subject to approval by the ARC and subject to all Pertinent Laws. No septic tanks may be installed on any Residential Lot as long as a sewage distribution line is available within one hundred (100) feet of such Residential Lot. No sewage shall be emptied or discharged into any creek, marsh, river or other body of water abutting or within the Property at any time.

#### **2.1.13 Repairs**

Any building or other improvement on the Property that is partially or totally damaged or destroyed by fire, storm or any other means shall be repaired or demolished within a reasonable period of time, and the land restored to an orderly and attractive condition. Such repair or demolition must be commenced within sixty (60) days of the date of damage or destruction and such work must be completed within no more than sixty (60) days thereafter in the case of demolition and not more than three (3) months thereafter in the case of repair, unless a different time frame is agreed upon between the Property Owner and the Board in writing.

#### **2.1.14 Offensive Activity**

No offensive or noxious activity shall be carried on upon or within any portion of the Property or Structure thereon, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance, or nuisance to any Property Owner or other person lawfully upon Callawassie Island.

### **2.1.15 Certain Easements**

The Association reserves unto itself a perpetual, alienable and releasable easement and right across, under and through the ground (but not above ground, unless required by law or for safety purposes) of the Property to erect or install, maintain and use gas, electric, water, sewer, Drainage, cable television, and telephone, wires, cables, conduits, Drainage ways, sewers, wells, pumping stations, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, cable television, gas, sewer, water, Drainage and other public conveniences or utilities as may be reasonably required for such purposes; provided, however, that no such 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 Structure whose plans were approved pursuant to this Declaration or the Prior Declaration or any declaration listed on Exhibit "A" by the Association or the ARC, or (b) be designated as the site for a Structure on the Master Plan or for erection of a Structure which has been approved in writing by the ARC.

The foregoing easement and right expressly includes the right to cut any trees, bushes or shrubbery, make any grading 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 Property Owner or to any Common Property or other property owned by the Association caused by such utility installation shall be promptly repaired and said grounds returned to their prior condition by the Association or its successor or assigns.

The Association further reserves to itself and its successors and assigns the right to locate wells, pumping stations, siltation basins and tanks and to spray treated effluent within Callawassie Island on the Common Properties, or on any property designated for such use on the Master Plan, or to locate or spray the same upon any portion of the Property with the permission of the affected Property Owners. Such rights may be exercised by any successor, assignee or licensee of the Association or its successors or assigns, but this reservation shall not be considered an obligation of the Association to provide or maintain any such utility or service.

### **2.1.16 Antennas**

Consistent with federal and state law, no television antenna, (other than as described in Section 2.1.16(b)) radio receiver or sender or other similar device shall be attached to or installed on the exterior portion of the Property or Structure thereon, nor shall any radio or television signals or any other form of electromagnetic radiation (other than that emitted by household microwave cooking devices) be allowed to originate from any portion of the Property which may unreasonably interfere with the reception of television or radio signals upon any other portion of the Property, except as follows:

- a) Only soffit or internal antennas are authorized.
- b) The provisions of this Section 2.1.16 shall not prohibit the erection of a communications tower or the installation of equipment necessary for a master community antenna, security, cable television, wireless communications or other similar systems within Callawassie Island; further the height limitation of Section 2.1.21 of this Article shall not be applicable to such facilities; and

- c) Satellite dishes of eighteen (18) inches in diameter or less are authorized.

#### **2.1.17 Sound Devices**

No exterior speaker, horn, whistle, bell or other sound device which is unreasonably loud or annoying, except safety and security devices used exclusively for safety and security purposes, shall be located, used or placed upon any portion of the Property. The playing of loud music within any Family Dwelling Unit or from the exterior thereof shall be offensive or noxious behavior constituting a nuisance.

#### **2.1.18 Trespass**

Whenever the Association is permitted by this Declaration to correct, repair, clean, preserve, clear or take any other action on any portion of the Property entering such portion of the Property and taking such action shall not be deemed to be a trespass, and neither the Association, nor any of its directors, officers, partners, agents, employees or independent contractors, shall be liable therefor.

#### **2.1.19 Parcels**

No Residential Lot shall be subdivided, or its boundary lines changed, nor shall application for the same be made to any governmental authority, except with the written consent of the Board, or its successors or assigns.

The provisions of this Section shall not prohibit the combining of two (2) or more contiguous Residential Lots into one (1) larger Residential Lot. Following the combining of two (2) or more Residential Lots into one (1) larger Residential Lot, only the exterior boundary lines of the resulting larger Residential Lot shall be considered in the interpretation of this Declaration. Consolidation of Residential Lots, as described above, must be approved by the Board, upon such terms and conditions as may be established by the Board from time to time, including specific provisions for the payment of Assessments.

#### **2.1.20 Bridges**

The Association expressly reserves to itself the right to build, in full compliance with all Pertinent Laws, bridges, walkways, or fixed spans across any or all natural or man-made canals, creeks, bike paths or lagoons within Callawassie Island. Nothing in this Section 2.1.20 shall be construed as placing an affirmative obligation on the Association to provide or construct any of the foregoing.

#### **2.1.21 Building Height**

No Structure shall be constructed upon any portion of the Property which at its highest point exceeds forty-five (45') feet above the minimum first floor elevation established by applicable flood zone regulations of any applicable governmental authority, nor shall any Structure exceed three (3) stories; provided, however, that for purposes of this Section, the first parking level or deck underneath a Structure built above grade, shall not be considered a story.

#### **2.1.22 Repurchases, Right of Association to Purchase**

- a) When any Residential Lot is offered for sale by a Property Owner, the Property Owner shall notify the Association in writing. The Property Owner shall also notify the Association of any offer it intends to accept, as well as any changes to the offer. The Association shall have the option to purchase such Residential Lot

at the price and upon the terms acceptable to the Property Owner set forth in any bona fide offer for such Residential Lot made in writing by a potential purchaser. The Association shall have no more than ten (10) business days after presentation of such offer to the Association to exercise its option by giving written notice to such Property Owner within such ten (10) day period. If the Association declines to exercise its option or does not respond to the Property Owner submitting such offer within ten (10) business days after receiving such offer, the Association shall promptly execute and deliver to such Property Owner a waiver of repurchase option in recordable form, to be prepared by the Association, at its sole cost and expense. Upon closing, the Property Owner shall provide to the Association the date of closing and the name, address and telephone number of the purchaser.

- b) In the event that the sale pursuant to the offer waived by the Association is not consummated within six (6) months of the date of such offer, the terms and limitations of this Section shall again be imposed at such time upon any sale by the Property Owner. In the event that such sale is consummated, the terms and limitations of this Section shall again be imposed upon any sale by the new Property Owner.
- c) If the Association shall elect to purchase the subject property, the transaction shall be consummated within sixty (60) days following delivery of written notice by the Association of its decision to purchase.
- d) Notwithstanding the foregoing, the option contained in this Section shall not be applicable, and the Association shall promptly execute and deliver to any party requesting the same the waiver of repurchase option or any other instrument reasonably required to confirm the inapplicability of such option, in the case of any sale or transfer of all or any interest in a Residential Lot which is:
  - 1. between or among Affiliated Entities.
  - 2. between or among family members.
  - 3. not pursuant to an offering of the same to the general public (i.e., a privately-arranged sale to a party known to the affected Property Owner prior to an offer being made without public advertisement);
  - 4. at a price below the fair market value thereof to a friend or business associate of the Property Owner, where the intention to make a full or partial gift thereof is evidenced;
  - 5. by operation of law (including, without limitation, bankruptcy and the laws of descent and distribution); or
  - 6. pursuant to will or other trust instrument.

### **2.1.23 Ingress and Egress; Roadways**

The Association and all Property Owners, in accepting title to property subject to this Declaration, waive all rights of uncontrolled and unlimited egress and ingress to such

property (and waive such rights for any person claiming entry rights by virtue of any relationship or permission of such Property Owner and for successors in title), and agree that such ingress and egress may be reasonably limited to existing roads provided that no Residential Lot shall be created which does not have sufficient rights of ingress and egress.

The Association reserves the right for itself, its successors and assigns, but not the obligation, to:

- a) Maintain guarded gates controlling access to such roads;
- b) Require payment of toll charges or gate fees for use of such roads by members of the general public including business invitees, except that
  1. no such toll shall be applicable to Property Owners, or any lessees or tenants of Property Owners, nor shall the toll be applicable to any person who gives reasonable evidence satisfactory to entry guards that their entry into the premises of a Property Owner is with the specific permission of such Property Owner, or his duly authorized agent, provided, however, that this exception shall not apply to commercial or construction vehicles of any kind;
  2. no such toll charge shall be applicable to guests of the Association or of any Property Owner;
  3. no such toll charge shall be applicable to persons entitled to use the "Spring Island Owners" easement as hereinafter defined.
- c) Determine in its reasonable discretion the types of vehicles that will be permitted access to the Property and the Spring Island Easement and use of such roads; provided, however, that this discretionary right shall not be exercised in a manner that would unduly limit or restrict the flow of construction vehicles and materials incident to the improvement of property on Callawassie Island or Spring Island; and
- d) Provided, however, that the Association reserves the right to limit access to the Property, Property Owners and their lessees, tenants, guests and invitees, and to the Spring Island Owners (as to that portion of the Property comprising the aforesaid access easement to Spring Island).

#### **2.1.24 Easement for Spring Island Owners**

The Spring Island Property Owners' Association ("SIPOA"), is the homeowner's body on Spring Island analogous to the Association. Easement rights were granted to Spring Island Association, L.P. and Spring Island Property Owners' Association over certain portions of Callawassie Island as are more particularly described on Exhibit "D" (the "Spring Island Easement"). Other terms and conditions of the Easement are also covered in Exhibit "D", which shall be considered part of this Declaration. To the extent such Spring Island Easement refers to the Former Club or its facilities, such references shall be deemed to

mean the Association or the Amenities, as applicable.

#### **2.1.25 Location of Guard House and Spring Island Easement**

The guard house providing controlled access to Callawassie Island and Spring Island is located on the mainland end of the causeway connecting Callawassie Island with the mainland at the point of the southern terminus of State Road S-7-27. The guard house parcel constitutes a portion of the Common Property.

#### **2.1.26 Certain Expenses to be Shared Between the Association and SIPOA**

The Association and SIPOA have agreed to share certain expenses associated with the Spring Island Easement, per Exhibit "D".

#### **2.1.27 Special One-Time Contribution of Spring Island to Association Reserves**

See Exhibit D, Section 2.3.

#### **2.1.28 Easement for Members of the Former Club**

Prior to the Merger, members of the Former Club were granted easement rights over the Property pursuant to the easement recording in the Beaufort County Records, Official Record Book 01505, Pages 0974 and 0975 (the "Former Club Easement"). While the Former Club Easement remains of record, the easement was automatically terminated by operation of law as a result of the Merger.

#### **2.1.29 Restriction on Multiple Ownership of Properties and Timeshares; Ownership of Properties by Entities**

- a) No Residential Lot may be owned by more than three (3) Property Owners at one time. Further, no Residential Lots shall be subjected to, sold under, or occupied pursuant to any "Transient Use". For purposes of this Article, "Transient Use" shall include any timeshare, fractional, interval, vacation club, destination club, right to use, or points based occupancy products, programs, services or plans but shall not include rentals and leases expressly permitted pursuant to 2.1.30.
- b) A Residential Lot may be owned by an Entity but only if the requirement for a personal guaranty is satisfied in accordance with Section 3.1.1(b).

#### **2.1.30 Rental of Properties**

Except for the Heron Walk Villas, the Cottages and Residential Lots owned by the Association, no Residential Lot shall be rented or leased by the Property Owner thereof for a period of less than one (1) month or rented more than three (3) times in any one (1) calendar year, without the prior written approval of the Board. The Board shall have the authority to regulate and adopt rules and regulations relating to, among other things, the rental of Residential Lots.

#### **2.1.31 Use of Abutting Common Property**

No Property Owner shall make any permanent, exclusive or semi-exclusive use of any of the Common Property without the prior written approval of the Board. The Association acknowledges that due to the configuration of the streets within Callawassie Island, there may be occasions when it will be aesthetically desirable to allow Property Owners to extend their landscaping plans to portions of the street rights-of-way abutting their

Residential Lots. In the event that the Association consents to any such use, it is expressly on condition that:

- a) At no time thereafter shall the subject Property Owner or any successor owner of such Residential Lot be entitled to claim prescriptive or other rights in the portion of the Property thus used or make a claim for adverse possession of such portion of the Property, it being understood that, notwithstanding any consent to such use by the Association, such use shall be deemed to be strictly adverse to the fee interest therein of the Association;
- b) such use shall be made at the subject Property Owner's sole cost and expense, and, notwithstanding any previous consent, should the Association at any time wish to remove, or require the subject Property Owner to remove, any plant or Structure from any affected right-of-way, such removal shall be effected at the subject Property Owner's sole cost and expense, and the Association shall have no liability whatsoever therefore;
- c) the Association shall have no responsibility or liability for the maintenance or repair of any plant or Structure placed within any such right-of-way; and
- d) such use shall not be made in a manner to obstruct visibility at curves, cart crossings and intersections or to otherwise create a hazardous condition to pedestrians or vehicles.

#### **2.1.32 Fires, Firearms and Fireworks**

No portion of the Property shall be used in a manner which would increase the hazard of fire or any other portion thereof. No open fires are authorized except those under permit by the County of Beaufort and the Association.

The discharge of firearms, fireworks and firecrackers within the Property is prohibited without the prior written approval of the Board.

#### **2.1.33 Pools**

No exterior above ground swimming pools shall be erected, constructed or installed on any portion of the Property. Diving boards and pool slides are prohibited. Pools that may be visible from the golf course or neighboring properties must be screened from view from the golf course or such neighboring properties by landscaping. All exterior in-ground pools and above-ground and in-ground spas and Jacuzzis must be approved by the ARC in accordance with Section 2.1.2 of this Declaration.

#### **2.1.34 Irrigation**

No sprinkler or irrigation systems of any type which draw upon water from rivers, lakes, ponds, wetlands, canals or other ground or surface waters within the Property shall be installed, constructed or operated within the Property unless prior written approval has been received from the Board. All sprinkler and irrigation systems shall be subject to approval in accordance with Section 2.1.2 of this Declaration. In the event that a non-potable irrigation system is hereafter provided to the Property, each Property Owner which desires irrigation shall connect to that system. No private irrigation wells shall be permitted on any

portion of the Property (excluding the Common Property).

#### **2.1.35 Sight Distance at Intersections**

All portions of the Property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

#### **2.1.36 Air Conditioning Units**

Except as may be approved in accordance with Section 2.1.2 of this Declaration, no window air conditioning units may be installed upon any portion of the Property.

#### **2.1.37 Energy Conservation Equipment and Greenhouses**

No solar energy collector panels or attendant hardware or other energy conservation equipment or greenhouse shall be constructed or installed upon any portion of the Property unless it is an integral and harmonious part of the architectural design of a Structure, as determined in the sole discretion of the ARC pursuant to Section 2.1.2 of this Declaration.

#### **2.1.38 Alteration of Waterfront Property**

The elevation of the land shall not be altered and fill shall not be used to extend the boundaries of any portion of the Property or to change the bulkhead line on any portion of the Property bounded by a wetland, lake or other body of water unless approved in accordance with Section 2.1.2 of this Declaration and Pertinent Laws.

#### **2.1.39 Use of Common Property**

The Common Property shall be used at the risk of the user, and the Association shall not be held liable to any person for any claim, damage or injury occurring thereon or related to use thereof.

#### **2.1.40 Driveways and Mailboxes**

The style and design of all driveways, access ways, and mailboxes located on the Property must be in accordance with the CIPOA Design Guidelines in effect from time to time and approved by the ARC.

#### **2.1.41 Helicopter and Aircraft Pads**

No helicopter or aircraft pad shall be permitted on any portion of the Property, unless specifically approved by the Board of Directors for health and safety use only.

#### **2.1.42 Recreation and Play Yard Equipment**

All permanent and/or vertical play yard or recreational equipment must be approved by the ARC. No manufactured metal or plastic swing sets, slides, jungle gyms, etc., or personal (individual) basketball backboards of any type will be permitted.

#### **2.1.43 Commercial Activity**

Other than those functions specifically associated with the Amenities, or Association sponsored events, there will be no commercial activity on Callawassie Island permitted at any time except with the prior written approval of the Board. The foregoing shall not be interpreted to limit the ability of Property Owners to cause construction of improvements on their Residential Lots or repairs or renovations to existing improvements thereon.

#### **2.1.44 Violations**

The breach of any of the foregoing restrictions, conditions, obligations and duties, or any provisions of this Declaration, or of any rules and regulations adopted by the Board of Directors by any Property Owner or other person entering Callawassie Island shall constitute a violation. Each Property Owner or other person who commits any such violation shall be subject to sanctions imposed by the Board of Directors, including, but not limited to, reasonable monetary fines, suspension of voting rights and/or rights to use the Amenities, which fines shall be enforceable as an Assessment pursuant to Section 3.3.5 below. Continuing violations, without correction, will be considered as a separate occurrence for each day they go uncorrected. The manager of the Association, as directed by the Board of Directors, shall be entitled to enforce the foregoing restrictions, this Declaration, and/or the rules and regulations adopted by the Board of Directors.

## **22 ENVIRONMENTAL CONTROLS**

### **2.2.1 Topography and Vegetation**

Topographic and vegetation characteristics of a Residential Lot shall not be altered by removal, reduction, cutting, excavation or any other means without the prior written approval of the ARC. Written approval will be granted for the minimum amount of earth movement and vegetation reduction required in plans and specifications approved pursuant to the provisions of this Declaration.

### **2.2.2 Tree Removal**

No trees or bushes of any kind having a diameter of six inches (6") or more at a point four feet (4') above ground level may be removed without the written approval of the ARC. Approval for the removal of trees located within ten feet (10') of any building or within ten feet (10') of the approved site for any building will be granted unless such removal will substantially decrease the beauty of the Property as determined by the ARC. The ARC reserves the right to have specimen trees preserved and to require that site planning provide for their retention so long as it does not render a Residential Lot unusable for its intended purpose.

### **2.2.3 Certain Controls**

- a) To implement effective and adequate erosion control and protect the beauty of the Property, the Association shall have the right to enter upon any portion of the Property before or after any Structure has been constructed thereon for the purpose of performing any grading or landscaping work reasonably required provided, however, that, prior to exercising such right, the Association shall give all affected Property Owners the opportunity to take any corrective action required, by giving such Property Owner(s) written notice indicating what type of corrective action is required and specifying in such notice that immediate corrective action must be taken by such Property Owner(s). If such Property Owner(s) fail(s) to take the corrective action specified within ten (10) days, the Association may then exercise its right to enter upon the affected property in order to take the necessary corrective action. The cost of such measures when performed by the Association on a Residential Lot shall be paid by the applicable Property Owner.

- b) To implement effective insect, reptile and fire control, and to ensure removal of safety hazards, the Association shall have the right to enter upon any Residential Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, removing dead or infected trees, 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 become an obligation of the affected Property Owner. Such entry shall not be made until thirty (30) days after the Property Owner has been notified in writing of the need of such work and only if such Property Owner fails to perform the required work within said thirty (30)-day period.
- c) The provisions of this Section 2.2.3 shall not be construed as an obligation on the part of the Association to mow, clear, cut or prune any portion of the 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 Residential Lot.
- d) Entrance upon any portion of the Property pursuant to the provisions of this Section 2.2.3 shall not be deemed a trespass.
- e) The rights reserved unto the Association in this Section 2.2.3 shall not be unreasonably employed and shall be used only where necessary to affect the stated intents and purposes of this Declaration.
- f) Property Owners wishing to have their Residential Lot(s) "bush hogged" shall submit a request in writing to the manager of the Association. The cost of "bush hogging" shall become the responsibility of the Property Owner.

#### **2.2.4 Environmental Hazards**

- a) To secure the natural beauty of Callawassie Island, the Association may promulgate and amend, from time to time, rules and regulations which shall govern activities which may, in its reasonable judgment, be environmentally hazardous, such as the application of certain types of fertilizers, pesticides or other chemicals. Failure of any Property Owner, tenant or other occupant of Callawassie Island to comply with the requirements of such rules and regulations shall become a violation of this Declaration.
- b) The Association hereby reserves unto itself a perpetual, alienable and releasable easement and right on, over, under, across and through all portions of the Property for the purpose of taking any action necessary to effect compliance with such environmental rules, regulations and covenants. The cost of such action by the Association shall become an obligation of the owners of the property upon which such work is performed.

#### **2.2.5 Further Siting Authority**

To prevent excessive "run-off" or Drainage resulting from any improvements to neighboring properties, the Association hereby reserves to itself the right to establish a

maximum percentage of any Residential Lot which may be covered by one or more Structures or impervious improvements. In the establishment of such maximum percentage the Association shall consider topography, percolation rate of the soil, soil types and conditions, vegetation cover and other relevant environmental factors. Neither this nor any other right reserved herein by the Association shall be construed, however, to be an obligation of the Association to take any such action.

#### **2.2.6 Erosion in Common Property**

The Association shall have the obligation to protect the Common Property from erosion by planting trees, plants and shrubs where and to the extent reasonably necessary within the Common Property, by mechanical means such as construction and maintenance of siltation basins within the Common Property or by such other means deemed expedient or reasonably necessary by the Association. The right is likewise reserved to the Association to take steps reasonably necessary to provide and insure adequate Drainage ways in the Common Property, to cut fire breaks, and to remove diseased, dead or dangerous trees and to carry out other similar activities, the cost of which services may be paid from the Assessments collected from the Property Owners in accordance with the provisions of Section 3.3 of this Declaration.

#### **2.2.7 Wildlife Control**

- a) The Board may request required approvals for the removal of alligators when they are threatening to Property Owners or persons entering Callawassie Island. Feeding or provoking alligators is a violation of South Carolina law and subject to a fine. Request for removal shall be made to the Association's security personnel.
- b) The Association shall recognize the impact of property development of Callawassie Island on the ability to support a healthy deer herd. As properties are developed, the Association shall work with professional naturalists and state wildlife employees to determine the level of deer population Callawassie Island can support. When deer population control is required the thinning will be conducted by licensed hunters, employed by the Association, at times announced to the Property Owners prior to the thinning hunt.
- c) Feeding of wild animals (other than birds), such as deer, feral cats and raccoons presents a safety and health hazard to Property Owners and other persons entering Callawassie Island and is prohibited.

#### **2.2.8 Standard of Reasonableness**

The rights reserved unto the ARC and the Association in this Section 2.2 shall not be unreasonably employed and shall be used only where necessary to effect the stated intentions and purposes of this Declaration.

### **23 OPEN SPACE**

#### **2.3.1 Dedication of Open Space.**

In order to preserve and protect natural, scenic, historic and recreational resources, soils, wetlands, game and birds in evidence on the Property, the Association has designated

certain lands and ponds, lagoons and other bodies of water to which it holds title as the Open Space on the Master Plan. Any lands or ponds, lagoons or other bodies of water now or at any time hereafter dedicated as Open Space shall not at any time thereafter be filled or developed, and shall be used only as expressly provided in this Section 2.3. Nothing within this Declaration places on the Association an affirmative obligation to dedicate any areas as Open Space except as indicated on the Master Plan. Similarly, the Association may at any time designate other portions of the Common Property as Open Space and access thereto may be made available to the Property Owners and their tenants and guests. In addition, any Property Owner may designate as Open Space any property to which it holds title, but only with the prior written approval of the Board of Directors and such property is dedicated in the following manner:

- a) It is described as Open Space in a declaration signed and formally executed by the title owner of record; and
- b) It is accompanied by a surveyor's plat reciting the number of square feet or acres of Open Space in the closed survey, which, together with the declaration required by the foregoing subsection, shall be recorded in the Register of Deeds Office.

No designation of any portion of the Property as Open Space on any map, aerial photo, unrecorded plat or drawing other than the Master Plan shall be effective as a "dedication" of such property.

### **2.3.2 Affirmative Obligations of Association.**

It is expressly understood and agreed that the Association is not bound to make any of the improvements noted herein, or to extend to any Property Owner any service of any kind, except as such may be consented to by the Association on its own behalf and as may be undertaken at the expense of the Property Owner.

### **2.3.3 Offensive Materials in Common Property.**

No trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon any Common Property, except in receptacles intended for that purpose.

## **3. THE ASSOCIATION**

### **3.1 MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

#### **3.1.1 Membership in the Association; Personal Guaranty of Designated Representative**

- a) Every Property Owner shall be a member of the Association, which membership represents the Property Owner's legal interest in the Association as a corporate entity. In addition to membership in the Association, each Property Owner must also be an Island Participant or a Social Participant unless specifically exempt from such requirement, in accordance with Section 5.7 and the Amenities Plan.
- b) In the event that the Property Owner is an Entity, the individual identified as the Designated Representative (as defined in Section 3.1.2(d)) of such Property Owner shall deliver to the Association a personal guaranty of all obligations of the Property Owner as a member of the Association, including all financial and other obligations of Property Owners set forth in this Declaration, the Bylaws and rules and regulations established from time to time by the Association.

The Board of Directors may elect to waive the requirement for a personal guaranty of the Designated Representative by resolution of the Board, or accept a guaranty from an individual who is not the Designated Representative, if the Board determines that such action is appropriate in the context of the particular circumstances. Each personal guaranty shall be in form and substance reasonably satisfactory to the Board of Directors.

### **3.1.2 Voting Rights**

The Association shall have three categories of voting rights for Property Owners who are eligible to vote in accordance with this Declaration as follows: (i) Common Matters; (ii) Social Amenity Matters; and (iii) Island Amenity Matters.

- a) For Common Matters, one (1) vote may be cast for each Residential Lot owned.
- b) For Social Amenity Matters, one (1) vote may be cast for each Residential Lot owned by either a Social Participant or an Island Participant.
- c) For Island Amenity Matters, one (1) vote may be cast for each Residential Lot owned by an Island Participant.
- d) In the event of multiple ownership of any kind (other than by spouses), including, without limitation, by an Entity, the Property Owner shall be the member of the Association, but only the individual submitted in writing to the Association by the Property Owner, not later than the 1st day of January of each year, shall be eligible to vote on behalf of such Property Owner in any vote of Property Owners ("Designated Representative"); provided that, (i) any appointment by a Property Owner of a Designated Representative shall remain effective until such appointment is withdrawn or superseded in writing submitted to the Association; and (ii) a new Designated Representative may not be appointed more than three (3) times in any year, unless otherwise approved by the Board.
- e) Notwithstanding the foregoing, in any matter subjected to a vote of the Property Owners, (i) no Property Owner whose rights to vote have been suspended by the Association may cast a vote; (ii) only eligible Property Owners, or the Property Owner's Designated Representative appointed in accordance with Section 3.1.2(d), may cast a vote; and (iii) no more than one (1) vote may be cast in respect of any Residential Lot. Any vote attempted to be cast that is not in compliance with this Section 3.1.2 shall be disregarded.
- f) Once a Quorum is established, a majority of the votes cast by eligible Property Owners and/or Participants, as applicable, is required for the passage of such matter except as specifically provided otherwise in this Declaration or the Bylaws.
- g) The principles of this Section 3.1.2 shall apply, insofar as possible, to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

### **3.1.3 Board of Directors**

The Association shall be governed by the Board of Directors, with the number to be

determined by the members of the Board of Directors as provided for in the Bylaws.

#### **3.1.4 Property Owners Have Power of Referendum in Certain Instances**

- a) The Board of Directors may not undertake any action requiring a Referendum without complying with the provisions of this Section 3.1.4.
- b) If the Board takes any action which involves extraordinary expenditures or commitments by the Association that have a material effect on the Property Owners or the Participants, as the case may be, other than those (i) to address an Emergency; (ii) to restore the balance of the Restricted Reserve for Common Major Repairs pursuant to Section 3.3.11(a); (iii) which were previously approved in all material respects by a vote of the applicable Property Owners or Participants; or (iv) expressly otherwise permitted by this Declaration, Property Owners or Participants, as applicable, representing twenty-five (25%) percent or more of the votes eligible to be cast on the matter, shall have forty-five (45) days after the effective date of such action to file a written request for a Referendum with the Secretary of the Association. In such event, the action proposed by the Board shall either be repealed or submitted to a vote of the Property Owners or Participants, as applicable.
- c) In the event that a majority of the votes eligible to be cast within the specified time shall be in favor of the action, a Referendum shall be deemed to have "passed" and the action voted upon will be deemed to have been authorized by the Property Owners or Participants, as applicable; provided however, if a higher percentage vote is required by this Declaration or established by the Board to "pass" a Referendum issue, then such higher percentage shall control in that instance.

#### **3.1.5 Quorum Required for any Action Authorized at Association Meetings**

The "Quorum" required for any action which is subject to a vote of the Property Owners at a meeting of the Association (as distinguished from a Referendum) shall be as follows: The first time a meeting of the Property Owners is called to vote on a particular action proposed to be taken by the Association, the presence at the meeting of Property Owners or proxies entitled to cast a majority of the votes eligible to be cast of the Property Owners on such action shall constitute a Quorum. However, if the required Quorum is not established at any such meeting, a second meeting may be called, subject to the giving of proper notice, and the required Quorum at such meeting shall be the presence of Property Owners or proxies entitled to cast thirty-three percent (33%) of the votes eligible to be cast on such action. In the event that the required Quorum is not established at the second meeting, a third meeting may be called, subject to the giving of proper notice, and the required Quorum at such meeting shall be the presence of Property Owners or proxies entitled to cast twenty-five percent (25%) of the votes eligible to be cast on such action. Unless otherwise provided in this Declaration, any reference hereafter to "votes cast at a duly called meeting" shall be construed to be subject to the quorum requirements established by this Section, and any other requirements for such "duly called meeting" which may be established by the Bylaws. For the purpose of this Section, "proper notice" shall be deemed to be given when given to each Property Owner not less than fourteen (14) but not more than thirty (30) days prior to the date of the meeting at which any proposed action is to be considered.

### **3.1.6 Proxies**

All Property Owners may vote and transact business at any meeting of the Property Owners by proxy authorized in writing; provided, however, that proxies shall not be required for any action which is subject to a Referendum, in which case the votes of all the Property Owners polled shall be made by specially-provided ballots mailed or electronically delivered (if permitted by the Board) to the Association or as provided in Section 3.1.4 above.

### **3.1.7 Methods for Voting**

Votes of Property Owners eligible to vote may be cast either in person or by proxy, using written or electronic ballot forms, as approved by the Board of Directors for each meeting of the Property Owners or Referendum, as applicable.

## **3.2 COMMON PROPERTY**

### **3.2.1 Property Owner's Easements of Enjoyment in Common Property**

Subject to the provisions of this Declaration, the reasonable rules and regulations of the Association, and any permitted fees or charges established by the Board of Directors, every Property Owner, every tenant and every guest of every Property Owner shall have a continuing, non-exclusive right and easement of enjoyment in and to the Common Property other than the Amenities, for the purposes for which it was intended and such right and easement shall be appurtenant to and shall pass with the title to every Residential Lot. The rights and easement granted to guests and tenants of Property Owners to use and enjoy the Common Property (but not the right and easement to use the roads belonging to the Association, subject to the reasonable rules and regulations, if any, established by the Board of Directors on behalf of the Association for such use) may be denied to or withdrawn from such guests or tenants by the Board of Directors on behalf of the Association. For clarity, use of the Amenities is restricted to Participants and their guests as further provided in the Bylaws and the Amenities Plan.

### **3.2.2 Extent of Property Owner's Easements**

The rights and easements of enjoyment created hereby shall be subject to the following:

- a) The right of the Association, by the Board of Directors in accordance with its Bylaws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Property and providing services authorized herein, and in aid thereof, to mortgage the Common Property;
- b) The right of the Association, by the Board of Directors, but not the obligation, to assume and pay any liens or encumbrances against the Common Property at the time of Conveyance. In no event shall the Association be obligated to take a Conveyance thereof subject to any lien or encumbrance or to assume the payment of principal or interest thereon;
- c) The right of the Association, by the Board of Directors, to dedicate or transfer to any public or private utility company utility easements on any part of the Common Property;
- d) The rights of the Association to give or sell all or any part of the Common

Property, including, without limitation, lease-hold interests, to any public agency, authority, public service district, utility or private concern for such purposes and subject to such conditions as may be agreed to by the Property 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 dedication, transfers and determinations as to purposes and conditions shall be authorized by the affirmative vote of two-thirds (2/3) of the votes eligible to be cast in a Referendum. A true copy of such resolution, together with a certificate of the results of the vote taken thereon, shall be made and acknowledged by the President, or Vice President, the Secretary, or Assistant Secretary of the Association, and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Property prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the Property Owners.

### **3.3 MAINTENANCE AND ASSESSMENTS**

#### **3.3.1 Payment of Assessments to Association**

Notwithstanding any provision hereinafter contained, the Assessments described in this Declaration shall be due and payable to the Association. There are hereby created Assessments for Association expenses as may from time to time specifically be authorized by the Board of Directors to be commenced at the time and in the manner set forth in this Section. There shall be eight (8) types of Assessments as further described below:

a) Assessments Applicable to all Property Owners:

- (i) Common Operating Assessments (see Section 3.3.2)
- (ii) Common Capital General Assessments (see Section 3.3.3)
- (iii) Common Special Assessments (see Section 3.3.4)
- (iv) Individual Assessments (see Section 3.3.5)

b) Assessments Applicable to Amenities Participants:

- (i) Amenities Operating Assessments (see Section 3.3.6)
- (ii) Amenities Capital Assessments (see Section 3.3.7)
- (iii) Amenities Special Assessments (see Section 3.3.8)
- (iv) Participant Initial Capital Contribution Assessments (see Section 3.3.9)

Assessments shall be paid in such manner and on, such dates as may be fixed by the Board of Directors and such determinations by the Board may include, without limitation, acceleration of that fiscal year's Assessments for delinquencies in accordance with Section 6.6 of the Bylaws. This Section 3.3 shall be interpreted to mean that the Association may make, in any one (1) fiscal year, each of the Assessments, and all such Assessments (other than the Common Operating Assessments) shall be in addition to the Common Operating Assessments. Only the Recurring Common Assessments and the Amenities Operating Assessments are subject to a maximum increase in any fiscal year and assessing such maximum shall not affect the Association's right to make any other Assessments during such year.

### **3.3.2 Common Operating Assessments**

In addition to all other Assessments, the Association (by the Board of Directors) shall levy a Common Operating Assessment, which shall be used for Common Operating Expenses and, if so determined by the Board of Directors, may be used for Common Capital Expenditures. All funds necessary for Common Operating Expenses need not be derived from the Common Operating Assessments but may also be derived from user charges and fees for the particular facility as determined by the Board. Such user charges fees shall be in addition to, and not in lieu, of any Assessments provided for herein consistent with the applicable Association budget.

Each year, the Association (by the Board of Directors) shall prepare a budget of estimated Common Operating Expenses and, based on such budget, determine the amount of the Common Operating Assessments (rounded to the nearest dollar) which shall be levied equally on all Residential Lots except for Residential Lots owned by the Association.

In the event the Board fails, for whatever reason, to prepare such Common Operating Expenses budget, then the Common Operating Assessment for the immediately preceding year shall continue until the Board adopts a new budget.

Common Operating Assessments for each year shall be on a calendar year basis and shall become due and payable on the first business day of January in each fiscal year in conjunction with the Common Capital General Assessment, unless otherwise determined by the Board.

### **3.3.3 Common Capital General Assessments**

Common Capital General Assessments shall be used exclusively for Common Capital Expenditures. Each year the Association (by the Board of Directors) shall prepare a budget of estimated Common Capital Expenditures and, in addition to all other Assessments, shall levy a Common Capital General Assessment for the purpose of defraying, in whole or in part, the cost of any routine acquisition, replacement, improvement, enhancement, or enlargement of the Common Property other than the Amenities.

In the event the Board fails, for whatever reason, to prepare such Common Capital Expenditures budget, then the Common Capital General Assessment for the immediately preceding year shall continue until the Board adopts a new budget.

Common Capital General Assessments shall be levied equally on all Residential Lots except for Residential Lots owned by the Association and shall be payable on the first business day of January in each year in conjunction with the Common Operating Assessment, unless otherwise determined by the Board of Directors.

Common Capital General Assessments shall be held in an interest-bearing, federally insured account or similar investment in obligations of the United States Government until the Board of Directors authorizes the expenditure of such funds for the foregoing purposes.

### **3.3.4 Common Special Assessments**

In addition to all other Assessments, the Association (by the Board of Directors) may levy Common Special Assessments with respect to Common Property (including expenses

relating thereto) other than the Amenities for the purpose of defraying, in whole or in part, the cost (i) of any acquisition, construction or reconstruction, repair or replacement of an improvement upon the Common Property other than the Amenities, including the necessary fixtures, equipment and personal property related thereto; (ii) to offer the services authorized in this Declaration and the Bylaws; (iii) to repay any loan made to the Association; and (iv) to fund revenue shortfalls and capital or operating expenses; provided however, any Common Special Assessments shall be subject to the affirmative vote of two-thirds (2/3) of the Property Owners entitled to vote unless the purpose of the Assessment is to (i) address an event of Emergency declared by the Board or (ii) restore the balance of the Restricted Reserve for Common Major Repairs pursuant to Section 3.3.11(a). The Common Special Assessments shall be in addition to the other Assessments and shall not be limited by the limits applicable to Recurring Common Assessments as set forth in Section 3.3.10(a). Common Special Assessments shall be levied equally on all Residential Lots except for Residential Lots owned by the Association. Common Special Assessments shall be declared and charged separately in relation to Common Capital Expenditures or Common Operating Expenses, as applicable, based on the purpose of such Common Special Assessments.

### **3.3.5 Individual Assessments**

In addition to all other Assessments, the Association (by the Board of Directors) may impose an Individual Assessment against a Property Owner and the Property Owner's Residential Lot for failure to comply with this Declaration, the Bylaws or the rules and regulations, including without limitation, (i) the costs of any maintenance, repair or replacement whether to the Common Property, a Residential Lot or any personal property rendered necessary by the negligence or intentional act of any Property Owner or Property Owner's Designated Representative, family, guests, employees, agents, licensees, contractors or lessees; (ii) costs incurred by the Association in connection with correction by the Association of violations of the maintenance and architectural requirements of this Declaration, in which event the Association may, in addition to other remedies provided for herein, enter the Residential Lot and perform such maintenance or repairs as may be required; and (iii) Amenities Charges owed by a Participant that are not paid when due. The amount of each Individual Assessment shall be equal to the cost of action taken by the Association, together with a charge equal to ten percent (10%) of such amount for reimbursement of overhead and administrative expenses, plus costs and legal fees incurred or anticipated to be incurred by the Association in connection with the action. Additionally, any charge for individual services rendered to a Residential Lot, Property Owner or Designated Representative, whether provided on a mandatory or optional basis, may, if not included in the Common Expense budget, be provided as an Individual Assessment. Further, any fine levied by the Association against any Residential Lot, Property Owner or Designated Representative in accordance with this Declaration and the Bylaws shall be an Individual Assessment. For clarity, any Amenities Charges not paid when due shall constitute Individual Assessments and shall be subject to collection as described in Section 3.3.14.

### **3.3.6 Amenities Operating Assessments**

In addition to all other Assessments, the Association (by the Board of Directors) shall levy an Amenities Operating Assessment which shall be used for Amenities Operating Expenses

and, if so determined by the Board of Directors, may be used for Amenities Capital Expenditures. All funds necessary for Amenities Operating Expenses need not be derived from the Amenities Operating Assessments but may also be derived from user charges and fees for the particular facility as determined by the Board. Such user charges and fees shall be in addition to, and not in lieu of, any Assessments provided for herein consistent with the applicable Association budget.

Each year, the Board shall prepare a separate budget of estimated Amenities Operating Expenses and, based on such budget, determine the amount of the Amenities Operating Assessments (rounded to the nearest dollar) which shall be levied and allocated to the applicable Residential Lots owned by Participants based on the applicable category of participation as determined appropriate by the Board; provided however, in determining the Amenities Operating Assessments, Social Participants shall not be responsible for operating expenses related to Island Amenity Matters. For clarity, Property Owners of Residential Lots for which there are no Participants will be exempt from Amenities Assessments.

In the event the Board fails, for whatever reason, to prepare such Amenities Operating Expenses budget, then the Amenities Operating Assessments for the immediately preceding year shall continue until the Board adopts a new budget for such Amenities Operating Expenses.

Amenities Operating Assessments for each year shall be on a calendar year basis and shall become due and payable on a monthly basis unless otherwise determined by the Board.

### **3.3.7 Amenities Capital Assessments**

Amenities Capital Assessments shall be used exclusively for Amenities Capital Expenditures. Each year the Association (by the Board of Directors) shall prepare a budget of estimated Amenities Capital Expenditures and, in addition to all other Assessments, shall levy an Amenities Capital Assessment for the purpose of defraying, in whole or in part, the cost of any acquisition, replacement, improvement, enhancement, or enlargement of the Amenities, including the necessary fixtures, equipment and personal property related thereto.

In the event the Board fails, for whatever reason, to prepare such an Amenities Capital Expenditure budget, then the Amenities Capital Assessment for the immediately preceding year shall continue until the Board adopts a new budget.

Amenities Capital Assessments shall be levied equally on all Residential Lots owned by Participants and shall be payable in such manner and on, such dates as may be fixed by the Board of Directors; provided however, Social Participants shall be exempt from Amenities Capital Assessments in connection with Island Amenity Matters. For clarity, Property Owners of Residential Lots for which there are no Participants will be exempt from Amenities Capital Assessments.

Amenities Capital Assessments for each year shall be on a calendar year basis and shall become due and payable on a monthly basis unless otherwise determined by the Board.

Amenities Capital Assessments shall be held in an interest-bearing, federally insured account or similar investment in obligations of the United States Government until the Board of Directors authorizes the expenditure of such funds for the foregoing purposes.

### **3.3.8 Amenities Special Assessments; Limitation on Single Expenditure or Project**

- a) In addition to all other Assessments, the Association (by the Board of Directors), subject to Sections 3.3.8(b), may levy Amenities Special Assessments with respect to the Amenities (including expenses relating thereto) for the purpose of defraying, in whole or in part, the cost (i) of any acquisition, construction or reconstruction, repair or replacement of an improvement, including the necessary fixtures, equipment and personal property related thereto, (ii) to offer the services authorized in this Declaration, the Bylaws and the Amenities Plan, (iii) to repay any loan made to the Association or (iv) of revenue shortfalls and capital and operating expenses in connection with the Amenities. Amenities Special Assessments shall be levied upon Participants and their respective Residential Lots and allocated among the categories of Participants on the same basis as the Amenities Operating Assessments. For clarity, Social Participants will be exempt from paying Amenities Special Assessments relating to Island Amenity Matters, and Property Owners of any Residential Lots for which there are no Participants will be exempt from paying Amenities Special Assessments. Amenities Special Assessments shall be declared and charged separately in relation to Amenities Capital Expenditures or Amenities Operating Expenses, as applicable, based on the purpose of such Amenities Special Assessments.
- b) Unless there is an Emergency declared by the Board, any single expenditure or project relating to the Amenities in excess of Two Hundred Fifty Thousand Dollars (\$250,000), as increased each year by C.P.I., whether or not funded by Amenities Special Assessments, shall require the affirmative vote of a majority of the votes eligible to be cast by the applicable Participants, as further provided in accordance with Section 4.11 of the Bylaws. For clarity, (i) Social Participants will not be permitted to vote on any such expenditure or project relating to Island Amenity Matters and will be exempt from paying any charges or Amenities Special Assessments related thereto and (ii) Property Owners of any Residential Lots for which there are no Participants will not be permitted to vote on any such expenditure or project and will be exempt from paying any charges or Amenities Special Assessments related thereto.

### **3.3.9 Participant Initial Capital Contribution Assessments**

Each Property Owner acknowledges that the value (including the resale value) of each Residential Lot is inextricably related to the care, condition and value of the Amenities and that improving the value of the Amenities improves the value of the Residential Lots. Therefore, each Property Owner/Participant, by having accepted a deed or other Conveyance of a Residential Lot, covenants to contribute in addition to all other Assessments, a Participant Initial Capital Contribution Assessment as established from time to time by the Association (by the Board of Directors) for each category of Participant

available pursuant to the Amenities Plan. The Participant Initial Capital Contribution Assessment is payable by each Participant upon the purchase or other acquisition of a Residential Lot in order to become a Participant as required by Section 5.7.2. However, no Participant Initial Capital Contribution Assessment shall be payable:

(i) upon the Conveyance by a Participant of a Residential Lot between spouses, parents or children of such Participant; or

(ii) in the event a Participant who has previously paid a Participant Initial Capital Contribution Assessment (or the comparable payment required by the Former Club prior to the Merger Date) purchases or acquires another Residential Lot and within ninety (90) days before or after the date of that purchase or acquisition, sells or otherwise disposes of the Residential Lot for which the prior Participant Initial Capital Contribution Assessment (or the comparable payment required by the Former Club prior to the Merger Date) was paid, (other than to the Participant's spouse, parents or children); or

(iii) if pre-approved by the Board, by any builder who acquires a Residential Lot for construction, reconstruction or renovation of a Family Dwelling Unit for sale to a third party unrelated to the builder (including for use as a model home for a period not to exceed one (1) year), provided the Residential Lot shall not be used for occupancy purposes while such builder is the Property Owner.

For purposes of this section, if a Participant Initial Capital Contribution Assessment (or the comparable payment required by the Former Club prior to the Merger Date) has been paid with respect to a Residential Lot, and the Conveyance, acquisition or purchase of such Residential Lot is exempt from payment of a new Participant Initial Capital Contribution Assessment under clauses (i) or (ii) of the preceding sentence, then a subsequent Conveyance, acquisition or purchase of such Residential Lot also may qualify for an exemption under clauses (i) or (ii) if the requirements for such exemption are separately satisfied.

Any portion of the Participant Initial Capital Contribution Assessments remaining after payments by the Association to the former Participants in accordance with Section 14.2 of the Bylaws shall be held, together with the funds derived from the Amenities Capital Assessment, in an interest-bearing, federally insured account or similar investment in obligations of the United States Government separate and apart from all other accounts of the Association until the Board of Directors authorizes the expenditure of such funds solely for capital additions, alterations or improvements to the Amenities, for reduction of capital debt related to the Amenities (whether incurred by the Association or by the Former Club) or other capital purpose determined necessary or appropriate by the Board.

### **3.3.10 Adjustments to Recurring Common Assessments and Amenities Operating Assessments**

- a) Notwithstanding anything to the contrary in this Declaration, the Recurring Common Assessments may be increased each year by the Board of Directors by

an amount not in excess of the greater of: (i) ten (10%) percent of the prior year's total Recurring Common Assessments; or (ii) the percentage increase in the C.P.I. during the preceding annual assessment period applied to the prior year's total Recurring Common Assessments. Any such increase may be allocated among the respective Recurring Common Assessments as determined appropriate by the Board. To the extent that the Recurring Common Assessments are not increased in any year as permitted, the right to institute an increase in any future year shall be non-cumulative.

- b) If the Board of Directors levies the Recurring Common Assessments in an amount less than the then-applicable maximum allowable Recurring Common Assessments and the Board of Directors subsequently determines that the amount assessed will not be sufficient for such year, the Board of Directors shall have the power to make supplemental Recurring Common Assessments, but in no event shall the sum of: (x) the amount of the initial Recurring Common Assessments and (y) such supplemental Recurring Common Assessments in any one (1) year, exceed the amount of the maximum permissible Recurring Common Assessments for such year in accordance with Section 3.3.10(a) above.
- c) Two-thirds (2/3) of the votes eligible to be cast by Property Owners in a Referendum may vote against such increase of the Recurring Common Assessments (in which event, the Recurring Common Assessments shall remain equal to the Recurring Common Assessments for the prior year), vote to increase the Recurring Common Assessments by a greater amount or vote to decrease the Recurring Common Assessments.
- d) The Amenities Operating Assessment may be increased each year by the Board of Directors by an amount not in excess of the greater of: (i) ten (10%) percent of the prior year's total Amenities Operating Assessment; or (ii) the percentage increase in the C.P.I. during the preceding annual assessment period applied to the prior year's total Amenities Operating Assessment. If the Board of Directors levies the Amenities Operating Assessment in an amount less than the then-applicable maximum allowable Amenities Operating Assessment and the Board of Directors subsequently determines that the amount assessed will not be sufficient for such year, the Board of Directors shall have the power to make supplemental Amenities Operating Assessments, but in no event shall the sum of: (x) the amount of the initial Amenities Operating Assessments; and (y) such supplemental Amenities Operating Assessments in any one (1) year, exceed the amount of the maximum permissible Amenities Operating Assessments for such year in accordance with the preceding sentence.
- e) Two-thirds (2/3) of the votes eligible to be cast by Participants in a Referendum may vote against such increase of the Amenities Operating Assessment (in which event, the Amenities Operating Assessment shall remain equal to the Amenities Operating Assessment for the prior year), vote to increase the Amenities Operating Assessment by a greater amount or vote to decrease the Amenities Operating Assessment.

### 3.3.11 Reserve Funds

- a) Restricted Common Reserve Fund for Major Rehabilitation, Major Repairs, and Emergencies Affecting Association Property, Excluding Amenities. The Association (by the Board of Directors) has established a restricted common reserve fund for major rehabilitation, major repairs, and emergencies affecting the Association Property, excluding the Amenities (the “Restricted Reserve Fund for Common Major Repairs”) as a separate restricted reserve fund to be available for use at the direction of the Board for (i) major rehabilitation or major repairs, including but not limited to paving, Drainage, lagoon maintenance and causeway repair, (ii) emergency and other repairs required as a result of storm, fire, natural disaster or casualty loss and (iii) repayment of any loan or other indebtedness incurred relative to (i) and (ii) above. The Restricted Reserve Fund for Common Major Repairs shall be funded annually in an amount equal to ten (10%) percent of the Recurring Common Assessments received by the Association for such fiscal year. In addition, in the event that funds are utilized from the Restricted Reserve Fund for Common Major Repairs, the balance in the Restricted Reserve Fund for Common Major Repairs may be restored in such amount as determined by the Board in its sole discretion. Such restoration may be funded (i) from the proceeds of insurance; (ii) as part of one (1) or more Common Capital General Assessments (subject to the applicable limits on Recurring Common Assessments as set forth in Section 3.3.10(a)); and/or (iii) by one (1) or more Common Special Assessments. Any such restoration from a Common Capital General Assessment and/or a Common Special Assessment may be payable over a period of up to five (5) years after the end of the then current fiscal year. Any such Common Special Assessment for the purpose of restoring the balance in the Restricted Reserve Fund for Common Major Repairs shall neither be limited by the limits applicable to Recurring Common Assessments as set forth in Section 3.3.10(a) nor be subject to Referendum pursuant to Section 3.3.10(c). The Restricted Reserve Fund for Common Major Repairs shall be held in reserve in an interest-bearing, Federally insured account or similar investment in obligations of the United States Government and controlled and managed by the Board of Directors.
- b) Other Reserve Funds. The Association (by the Board of Directors) may establish one or more additional reserve funds as determined by the Board from time to time for: (i) operating reserve funds for the purpose of insuring liquidity in the Association’s operations and fulfilling the duties, services and activities of the Association, (ii) capital reserve funds to fund capital costs related to the acquisition, replacement, repair and upkeep of the Common Property or the Amenities and (iii) repayment of any loan or other indebtedness incurred relative to (i) and (ii) above. Such reserve funds shall be funded from Assessments as determined by the Board in accordance with this Declaration; provided however, any reserve fund related to the Common Property shall be separate from any reserve fund related to the Amenities. Any such reserve funds shall be held in separate interest-bearing, federally insured accounts or similar investments in obligations of the United States Government, controlled and managed by the Board.

### **3.3.12 Changes in Recurring Common Assessments Upon Merger or Consolidation**

The limitations of Section 3.3 shall apply to any merger or consolidation in which the Association is authorized to participate under Section 1.2.2(c), hereof and under the Bylaws.

### **3.3.13 Duties of the Board of Directors Regarding Assessments**

- a) The Board of Directors shall fix the amount of each Assessment against each applicable Residential Lot in the case of Common Assessments and each applicable Residential Lot owned by Participants in the case of Amenity Assessments as provided hereinabove, and shall, at that time, direct the preparation of an index of the Property and all such Assessments applicable thereto, which shall be kept in the office of the Association and which shall be open to inspection by any Property Owner. Written notice of all such Assessments shall thereupon be sent to every Property Owner no less than forty-five (45) days prior to the due date of such Assessments. At least annually, the Board shall provide the Property Owners with a summary of the operating and capital budgets of the Association, as approved by the Board, including the general formula for calculation of the Amenities Operating Assessment, Amenities Capital Assessment and Recurring Common Assessments for the applicable fiscal year. Any such summary may be provided to the Property Owners by verbal presentation and/or other communication method determined appropriate by the Board.
- b) The Association shall, upon demand at any time, furnish to any Property Owner liable for any Assessment a certificate in writing setting forth whether or not said Assessment has been paid and the amount of any outstanding Assessments. Statements in any such certificate that any Assessment has been paid may be relied upon by all persons and Entities other than the applicable Property Owner.

### **3.3.14 Creation of the Lien and Personal Obligations of Assessments**

Each and every Property Owner, whether or not it shall be so expressed in any deed or other form of Conveyance, agrees to all terms and provisions of this Declaration, and covenants to pay to the Association all Assessments fixed, established and collected from time to time as provided in this Declaration. No Property Owner may waive or otherwise be exempt from liability for Assessments for any reason. No diminution or abatement of Assessments or set-off shall be claimed or allowed by reason of any alleged failure of the Association or Board to take some action or perform some function required to be taken or performed by the Association or the Board, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken to comply with any law, ordinance, or with any order or directive of any municipal or other governmental authority. In addition, each and every Property Owner and Designated Representative covenants to pay to the Association all Amenities Charges incurred by such Property Owner and Designated Representative, if any.

All Assessments and applicable Amenities Charges, together with (i) interest on all unpaid Assessments from the date the delinquency first occurs; (ii) interest on all Amenities

Charges computed from the later to occur of: (a) the date the delinquency first occurs, or (b) the Merger Date; (iii) late fees; (iv) costs of collection; and (v) reasonable attorney's fees, shall be a charge and continuing lien on the Residential Lot and improvements thereon against which each such Assessment and/or Amenities Charges are made. All of the foregoing amounts shall also be the personal obligation of the person or entity who was the owner of such Residential Lot at the time when such Assessment and/or Amenities Charges first became due and payable. In the case of co-ownership of a Residential Lot, all of such co-owners, including all shareholders, members, grantors and beneficiaries, shall be jointly and severally liable for the entire amount of such Assessments and/or Amenities Charges. In the case of ownership of a Residential Lot by an Entity, the Designated Representative (or other person providing a personal guaranty as set forth in Section 3.1.1(b)) shall be liable for the entire amount of such Assessments and/or Amenities Charges.

**3.3.15 Effect of Non-Payment of Assessments; Personal Obligations; Remedies of Association.**

- a) If any Assessment is not paid on or before the thirtieth (30th) day after the applicable due date, then such Assessment shall become delinquent and shall, together with interest thereon at the rate of sixteen percent (16%) per annum from the due date and all costs of collection thereof as hereinafter provided, thereupon become a charge and continuing lien on the subject Property Owner's Residential Lot and all improvements thereon, against which such Assessment was made. The personal obligation of the Property Owner at the time when such Assessment first became due and payable to pay such Assessment, however, shall remain such Property Owner's personal obligation and shall not pass as a personal obligation to his, her or its successors-in-title unless expressly assumed by them, but notwithstanding the foregoing, the amount of such Assessment shall remain a lien and charge against such Property Owner's Residential Lot.
- b) If any Assessment is not paid within thirty (30) days after the due date, the Association may, in its sole discretion,
  - i) bring an action at law or in equity against the Property Owner personally, and, for purposes thereof, there shall be added to the amount of such Assessments the costs of preparing and filing the complaint in such action, and in the event that a judgment is obtained, such judgment shall include interest on the Assessment as above provided and attorney's fees, together with the costs of the action, or
  - ii) bring an action to foreclose on such Property Owner's Residential Lot and all improvements thereon, in which the Association may claim the amount of the past-due Assessment plus all costs specified in clause (i) above.
- c) The Association, acting on behalf of all Property Owners, shall have the power to bid for any such Residential Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. During the period in which any such Residential Lot is owned by the Association following foreclosure:

- i) no right to vote shall be exercised on its behalf;
  - ii) no Assessment shall be levied on it; and
  - iii) each other Residential Lot shall be charged, in addition to its usual Assessments, its equal pro rata share of the Assessments that would have been charged any such Residential Lot had it not been acquired by the Association as a result of foreclosure. Any suit to recover a money judgment for unpaid Assessments, interest, costs and attorney's fees shall be maintainable without foreclosing or waiving the charge and lien securing the same.
- d) In addition to the foregoing, the Association may also suspend the right of any Property Owner who is delinquent in the payment of any Assessment then due to vote in any Association matters and/or to use the Amenities until such Property Owner pays all delinquent amounts to the Association. In such event, the total number of voting interests shall be adjusted accordingly for all voting purposes, including establishment of Quorum.

### **3.3.16 Subordination of Lien to Mortgage**

The charge and perfected lien of past-due Assessments provided for above shall be subordinate to (a) the lien of all governmental taxes, bonds, assessments and other levies which would in any event be superior thereto by law; (b) the lien of any mortgage or mortgages placed of record upon any portion of the Property subject to Assessments prior to June 30, 1992; (c) the lien of any first mortgage hereafter placed on any portion of the Property subject to Assessments if and to the extent that, at the time such first mortgage is executed and delivered, no such Assessments are due and owing hereunder; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to a sale or transfer of any such portion of the Property pursuant to a decree of foreclosure or deed in lieu of foreclosure. Such sale or transfer shall not relieve any such Property from liability for any Assessments accruing after Conveyance to any mortgagee or to any subsequent owner.

### **3.3.17 Exempt Property**

The following property shall be exempted from Assessments, charges and liens created herein:

- a) all Common Property;
- b) all property dedicated to any governmental authority or public utility;
- c) all lands below the mean high-water mark of Colleton River and all surrounding rivers and creeks;
- d) any Residential Lots owned by the Association during such ownership; and
- e) the Amenities.

### **3.3.18 Annual Statements**

The Board of Directors shall each year, within ninety (90) days after the close of the fiscal

year of the Association, prepare a general itemized statement, showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. The Board shall furnish to each Property Owner who may make request therefor in writing a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be furnished to the Property Owner either in person, by mail or email.

### **3.3.19 Annual Audit**

The annual audit report shall be presented at the annual meeting (or made available to all Property Owners as soon thereafter as it is received) and may be reviewed in the Association office. A copy of this report will be provided to any Property Owner upon request for a reasonable fee.

### **3.3.20 Accounting for Legal Proceedings Related to Former Club; Obligations Owed to the Former Club**

- a) Prior to the Merger Date, the Former Club was a party to various legal proceedings. As a result of the Merger, all of the Former Club's rights and obligations with respect to those legal proceedings are the rights and obligations of the Association as the surviving entity, as of the Merger Date. Notwithstanding anything to the contrary in this Declaration, any legal costs related solely to the Amenities (and not the other Common Property), including without limitation any judgment, court fee and/or attorney's professional fees incurred by either the Former Club or the Association, shall be Amenities Operating Expenses regardless of whether such costs were incurred before or after the Merger Date. In addition, any recoveries, whether by judgment, settlement or otherwise, arising out of legal matters related solely to the Amenities (and not the other Common Property) or membership in the Former Club, whether received before or after the Merger Date, shall be applied solely to pay Amenities Operating Expenses or Amenities Capital Expenditures, as directed by the Board of Directors.
- b) All amounts owed to the Former Club on the Merger Date by Property Owners, Participants, former Property Owners or former members of the Former Club shall continue as obligations owed by such persons or entities to the Association and shall continue to be subject to interest, late fees and related charges until paid in full.

## **34 BINDING ARBITRATION REGARDING SPRING ISLAND**

This section and subsections have been moved to Exhibit D.

## **35 FUNCTIONS OF ASSOCIATION**

### **3.5.1 Authorized Uses of Association Property**

The Association, subject to the rights of the Property Owners set forth in this Declaration, shall be authorized to acquire property as Association Property and to own, operate, sell and maintain the Association Property including equipment, furnishings, and improvements devoted to the following uses:

- a) for streets, roads, roadways and parkways along said streets, roads or roadways throughout the Property;
- b) for sidewalks, walking or jogging paths or trails and bicycle paths throughout the Property;
- c) for transportation facilities throughout the Property;
- d) for police and fire protection, including, without limitation, police stations, maintenance buildings, guardhouses, police equipment, security equipment, fire stations and firefighting equipment;
- e) buildings used in maintenance functions;
- f) for emergency health care, including, without limitation, ambulances and emergency care medical facilities and the equipment necessary to operate such facilities;
- g) for providing any of the services which the Association is authorized to offer under Section 3.5.3;
- h) for lakes, playing fields, historic parks, wildlife and natural preservation areas, fishing facilities, community dock facilities and other facilities of any nature, including, without limitation, community meeting facilities serving the Property;
- i) for sports, recreation and social purposes; and
- j) for marketing, renovation and/or resale purposes.

In the event of any acquisition of real property by the Association, the Board shall provide notice of such acquisition to all Property Owners within a reasonable period of time after such acquisition. Any real property acquired by the Association shall be used in accordance with the Master Plan.

### **3.5.2 Ownership and Maintenance of Association Property**

The Association shall be authorized to acquire, own and maintain the Association Property, which shall be held and maintained for the use and benefit of all Property Owners subject to the provisions of this Declaration. Additionally, the Association, acting through the Board of Directors, shall have the authority to designate Residential Lots or other property owned by it as Common Property and to reflect any such designation(s) in any Master Plan update(s). The Association shall be authorized to acquire, own and maintain the Amenities, which shall be exclusively for the use and benefit of Participants in accordance with this Declaration, the Bylaws and the Amenities Plan. The Association shall have exclusive management and control of all of the Common Property and all improvements thereon and furnishings and equipment related thereto.

### **3.5.3 Services**

The Association shall be authorized, but not required, to the extent that the applicable Assessments actually collected pursuant to this Declaration are sufficient to so do, to provide services and to take actions, including without limitation the following:

- a) clean-up, maintenance, landscaping, and lighting of all streets, roads, medians, parkways, lagoons, signage, Common Property and also all public properties

which are located within or in a reasonable proximity to the Property such that their deterioration would affect appearance of the Property as a whole;

- b) transportation and equipment, other than privately owned automobiles, paid for by applicable Assessments;
- c) security and gatehouse personnel;
- d) garbage, recycling and trash collection and disposal;
- e) insect, wildlife and pest control, to the extent that it is necessary or desirable, in the judgment of the Board of Directors, to supplement the service provided by state and local governments;
- f) the real and personal property management and services necessary or desirable, in the judgment of the Board of Directors, to carry out the Association's obligations and business under the terms of this Declaration;
- g) any and all actions necessary to enforce all covenants and restrictions affecting the Property, and to perform any of the functions or services reserved to the Association in this Declaration and in any other covenants or restrictions at any time applicable to the Property;
- h) establish and operate the ARC as provided for herein;
- i) conduct recreation, sport, craft, and cultural programs of interest to Property Owners and their children, lessees and guests;
- j) provide safety equipment for storm emergencies;
- k) construct improvements on the Common Property for any of the purposes or as may be required to provide the services as authorized in this Section 3.5;
- l) provide administrative services, including but not limited to, legal, accounting and financial, and communication services informing Property Owners of activities, notice of meetings, referendums, etc. incident to the above listed services;
- m) provide liability and hazard insurance covering improvements and activities on the Common Properties;
- n) provide marketing, promotional and sales activities;
- o) provide services to the Heron Walk Association; and
- p) pursue recourse against third parties as necessary and appropriate.

#### **3.5.4 Obligation of the Association Regarding Functions and Services**

The Association shall not be obligated to carry out or offer any of the functions and services specified or implied in this Declaration. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors, taking into consideration the funds available to the Association and the needs of the Property Owners. Common Special Assessments and Amenities Special Assessments, if required, shall be submitted for Referendum as herein provided. The functions and services which the Association is authorized to provide may be added or reduced at any time by a Referendum conducted by the Board of Directors under the same

procedures as for a Common Special Assessment or Amenities Special Assessment, as applicable.

### **3.5.5 Authority to Borrow; Mortgage and Pledge**

The Board of Directors may borrow funds necessary to pay Common Expenses or Amenities Expenses incurred or to be incurred in accordance with this Declaration, which borrowing may be from a third-party lender or from the various segregated accounts of the Association; provided however, in no event shall any funds maintained by the Association for capital purposes be used for operating expenses. In the event of any such borrowing, the liability for repayment shall be that of the Association and the expenses of such borrowing shall be part of the Common Expenses or the Amenities Expenses, as applicable.

The Board of Directors shall also have the power and authority to mortgage and/or pledge the real and personal property of the Association, and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association only in performing its authorized functions hereunder as provided for in the Bylaws.

In the event that the Board determines to borrow funds from a third-party lender, the Board shall provide notice of such borrowing to all Property Owners within a reasonable period of time, which may occur after any related agreement with the third-party lender has been executed.

### **3.5.6 Rules and Regulations**

The Association, by the Board of Directors, may make and enforce reasonable rules and regulations governing, among other things, the operation and parking of automobiles, trucks and other motorized vehicles, the use of the Property and the conduct of Property Owners and their guests and designees, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions for failure to comply with such rules and regulations may be specified in the rules and regulations established by the Board and may include reasonable monetary fines, suspension of privileges, including suspension of the right to use the Amenities, suspension of electronic access devices and other convenience equipment (provided that such sanctions shall not prevent a Property Owner from accessing such Property Owner's Residential Lot), and the suspension of the right to vote. The Board of Directors shall, in addition, have the power to seek relief in any court for violations or to abate nuisances or other violations of this Declaration or the Bylaws. Imposition of sanctions shall be as provided in this Declaration and the Bylaws.

The Association, by the Board of Directors, by contract or other agreement, shall have the right to enforce county or municipal ordinances and to permit Beaufort County, South Carolina and all other state and local governmental agencies and instrumentalities to enforce ordinances on the Property for the benefit of the Association and the Property Owners.

### **3.5.7 Implied Rights**

The Association may exercise any other right or privilege given to it expressly by this Declaration or the Bylaws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to

effectuate any such right or privilege.

### **3.6 INSURANCE AND CASUALTY LOSSES**

#### **3.6.1 Insurance**

- a) To the extent available on commercially reasonable terms, the Board of Directors, or its duly authorized agent, shall have the authority to obtain:
  - i. blanket all-risk casualty insurance for all insurable improvements on the Association Property. If blanket all-risk coverage is not reasonably available, then, at a minimum, to the extent that funds are available therefor, an insurance policy providing fire and extended coverage may be obtained. The face amount of such insurance shall be sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard; and
  - ii. public liability policy covering the Association Property, insuring all or any of the Association and its directors and officers and the Property Owners for all damage or injury caused by the negligence of the Association, or its directors or officers, any of the Property Owners or agents or any other person who has a right to occupy the Property. The public liability policy shall have at least a ONE MILLION AND 00/100 DOLLARS (\$1,000,000.00) single person limit as respects bodily injury and property damage, a THREE MILLION AND 00/100 DOLLARS (\$3,000,000.00) limit per occurrence, if reasonably available, and a FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00) minimum property damage limit.
- b) Premiums for all insurance on the Association Property shall be expenses of the Association and shall be included in the Common Operating Assessments and Amenities Operating Assessments (with respect to the Amenities) levied by the Association. All policies of insurance obtained hereunder may contain a reasonable deductible, and, in the case of casualty insurance, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance, and in the event of multiple parties, shall be allocated in relation to the amount each party's loss bears to the total.
- c) All insurance coverage obtained by the Board of Directors shall be written in the name of the Association, for itself and as trustee for the respective benefited parties, as further identified herein or in such insurance policies. Such insurance shall be governed by the provisions hereinafter set forth.
- d) All policies shall be written with an entity authorized to do business in South Carolina which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A. M. Best Association, Inc., if reasonably available, or, if not available, the most nearly equivalent rating which is available.

- e) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board of Directors; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- f) In no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder be brought into contribution with insurance purchased by individual Property Owners, occupants or their mortgagees.
- g) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement, with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Beaufort County, South Carolina area.
- h) The Board of Directors may use reasonable efforts to secure insurance policies that will provide the following:
  - i) a waiver of subrogation by the insurer as to any claims against the Board of Directors, its directors and officers, the Property Owners and their respective Designated Representatives, tenants, servants, agents, independent contractors and guests;
  - ii) a waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
  - iii) a statement that no policy may be canceled, invalidated, suspended or subject to non-renewal on account of any one or more individual Property Owners or their Designated Representatives;
  - iv) a statement that no policy may be canceled, invalidated, suspended or subject to non-renewal on account of the conduct of any director, officer, agent, independent contractor or employee of the Association without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any of its directors, officers, agents, independent contractors or employees, any Property Owner, Designated Representative or any mortgagee of the Association's property;
  - v) a statement that any "other insurance" clause in any policy exclude individual Property Owners' policies from consideration; and
  - vi) a statement that the Association will be given at least thirty (30) days' prior written notice of any cancellation, substantial modification or non-renewal.
- i) In addition to the other insurance required by this Section, the Board of Directors will obtain worker's compensation insurance and any other insurances as required by law, and if reasonably available, directors' and officers' liability coverage, a fidelity bond or bonds on directors, officers, agents, independent contractors and employees, and other persons handling or responsible for the Association's funds and flood insurance, if required. The amount of fidelity coverage shall be determined by the Board. Bonds shall contain a waiver of all defenses based upon

the exclusion of persons serving without compensation, and shall require at least thirty (30) days' prior written notice to the Association of any cancellation, substantial modification or non-renewal.

- j) If any of the foregoing insurance is not available on commercially reasonable terms, then the Board may elect to adopt a program of self-insurance and/or set aside Association funds to be used in the event of an otherwise insured loss.

### **3.6.2 Damage and Destruction**

- a) Immediately after damage or destruction by fire or other casualty to all or any part of the Association Property covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of such damaged or destroyed Association Property. Repair or reconstruction, as used in this Section 3.6.2(a), means repairing or restoring such Association Property to substantially the same condition in which it existed prior to the fire or other casualty, allowing for any changes or improvements necessitated by changes in applicable building codes.
- b) In the event that it should be determined by the Board of Directors that the damage or destruction to such Association Property shall not be repaired or reconstructed and that no alternative improvements are authorized, then and in that event the affected portion of the Association Property shall be restored to its natural state and maintained by the Association, in a neat and attractive condition.

### **3.6.3 Disbursement of Proceeds**

If the damage or destruction for which the proceeds of insurance policies held by the Association are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repair or reconstruction shall be retained by and for the benefit of the Association. In the event that no repair or reconstruction is made, any proceeds remaining after making such settlement as is necessary and appropriate with any mortgagee(s) as their interests may appear, shall be retained by and for the benefit of the Association. This is a covenant for the benefit of any mortgagee of the Common Property and may be enforced by such mortgagee.

### **3.6.4 Repair and Reconstruction**

If the damage or destruction for which insurance proceeds are paid is to be repaired or reconstructed, and such proceeds or reserves are not sufficient to defray the cost thereof, the Board of Directors may levy a Common Special Assessment (for damage to the Common Properties other than the Amenities) or Amenities Special Assessment (for damage or destruction to the Amenities) to cover the cost thereof as provided for in Section 3.3.4 and Section 3.3.8, respectively.

## **3.7 NO PARTITION**

There shall be no judicial partition of the Common Properties or any part thereof, nor shall any person acquiring any interest in the Property or any part thereof seek any judicial

partition, unless such property has been removed from the provisions of this Declaration. This Section 3.7 shall not be construed to prohibit the Board of Directors from acquiring and disposing of tangible personal property nor from acquiring or disposing of title to real property which may or may not be subject to this Declaration.

### **38 CONDEMNATION**

Whenever all or any part of the Association Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board of Directors acting on the written direction of at least two-thirds (2/3) of the votes eligible to be cast) by any authority having the power of condemnation or eminent domain, each Property Owner shall be entitled to notice thereof. The award made for such taking shall be payable to the Association, as trustee for all Property Owners, to be disbursed as follows:

- a) If the taking involves a portion of the Association Property on which improvements have been constructed, then, unless within sixty (60) days after such taking the Property Owners representing at least 75% votes eligible to be cast shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Association Property, to the extent lands are available therefor, in accordance with plans approved by the Board of Directors. If such improvements are to be repaired or restored, the above provisions in Sections 3.5.3 and 3.5.4 hereof, regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired, shall apply; or
- b) If the taking does not involve any improvements on the Association Property, or if the Board of Directors decides not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

## **4. SPECIAL RESTRICTIONS AFFECTING GOLF FAIRWAY RESIDENTIAL AREAS, COTTAGE AREAS, AND WATERFRONT AND MARSHFRONT LOTS**

### **4.1 GOLF FAIRWAY RESIDENTIAL AREAS AND OTHER INTERIOR LOTS**

#### **4.1.1 Landscaping**

The landscaping plan for the areas of any Residential Lot within fifty (50) feet of the boundary of any Residential Lot adjacent to the golf course ("Fairway Residential Lot") shall be in general conformity with the overall landscaping pattern for the golf fairway property established by the golf course architect, and all individual Residential Lot landscaping plans must be approved by the ARC before implementation.

#### **4.1.2 Golf Course Maintenance Easement**

There is reserved to the Association and its agents, successors and assigns a "Golf Course Maintenance Easement Area" on each Residential Lot adjacent to any portion of the golf fairway property developed on Callawassie Island. This reserved easement shall permit the

Association and its agents, successors and assigns, at its election, to enter onto any Residential Lot adjacent to the golf course at any reasonable hour and maintain or landscape the Golf Course Maintenance Easement Area. Such maintenance and landscaping shall include regular removal of underbrush, trees less than six (6) inches in diameter, stumps, trash or debris, planting of grass, watering, application of fertilizer and mowing of the Golf Course Maintenance Easement Area. The Golf Course Maintenance Easement Area shall be limited to the portion of such Residential Lot within thirty (30) feet of the lot line bordering the golf course, or such lesser area as may be shown as the "Golf Course Maintenance Area" on the recorded plat of such Residential Lot; provided, however, that the above described maintenance and landscaping rights shall apply to the entire Residential Lot until there has been filed with the ARC a landscaping plan for such Residential Lot by the Property Owner thereof, or alternatively, a Family Dwelling Unit is constructed on such Residential Lot.

#### **4.1.3 Entry by Golfers**

Until such time as a Family Dwelling Unit is constructed on a Residential Lot, the Association and its agents, successors and assigns, reserves an easement to permit and authorize registered golf course players and their caddies to enter upon a Residential Lot to recover a ball or play a ball, subject to the official rules of the golf course, without such entering and playing being deemed a trespass and without being liable to the affected Property Owner therefor. After a Family Dwelling Unit is constructed on any such Residential Lot, such easement shall be limited to that portion of the Residential Lot included in the Golf Course Maintenance Easement Area, and recovery of balls only, not play, shall be permitted in such easement area. Registered players or their caddies shall not be entitled to enter on any such Residential Lot with a golf cart or other vehicle, nor spend unreasonable time on such Residential Lot, or in any way commit a nuisance while on such Residential Lot.

#### **4.1.4 Prohibited Activities**

Owners of Residential Lots adjacent to the golf course shall be obligated to refrain from any actions which would detract from the playing qualities of the Callawassie Island golf course or the development of an attractive overall landscaping plan for the entire golf course area. Such prohibited actions shall include, but are not limited to, burning trash or other substances on a Residential Lot when smoke would cross onto the fairway, and permitting dogs or other pets to interfere with play whether due to barking, running on the fairways, having contact with golf balls or other similar interference.

#### **4.1.5 Size of Residential Lots**

Except for plats filed for record by the Association or its predecessors in title prior to June 30, 1992, no block of property adjacent to the golf course shall be subdivided into Residential Lots in the future which do not either (i) have a minimum of ninety (90) feet of frontage on the golf course; or (ii) contain a minimum of twenty thousand (20,000) square feet of ground area, except where such smaller Residential Lot shall have been approved in writing by a declaration of the Association entered of record in connection with the filing of a subdivision plat showing such property divided into individual Residential Lots.

#### **4.1.6 Size of Family Dwelling Unit**

Except as provided in Section 4.3 hereafter, no plans will be approved for a Residential Lot unless the proposed Family Dwelling Unit has a minimum of one thousand eight hundred (1,800) square feet of enclosed heated/air-conditioned space.

## **42 WATERFRONT AND MARSHFRONT AREAS**

#### **4.2.1 Size of Dwelling Unit**

Except as provided in Section 4.3 hereafter, no plans will be approved for waterfront or marshfront Residential Lots unless the proposed Family Dwelling Unit has a minimum of two thousand (2,000) square feet of enclosed heated/air-conditioned space.

#### **4.2.2 Docks**

- a) The Association may erect docks upon the Common Property on any adjacent interior lake, pond or lagoon area (boat houses, gazebos, or other Structures will not be permitted), upon complying with the following terms and conditions:
  - i) Complete plans and specifications, including site, color or finish, must be submitted to the ARC in writing;
  - ii) Written approval of the ARC of such plans and specifications must be secured, the ARC reserving the right in its sole discretion to disapprove such plans and specifications on purely aesthetic reasons; and
  - iii) Full compliance with all Pertinent Laws must be made.
- b) Any alterations of such plans and specifications or alterations of the completed Structure must also be submitted to the ARC in writing and the ARC's approval in writing must be similarly secured prior to construction based thereon, the ARC reserving the same rights to disapprove alterations as it retains for disapproving the original Structures.
- c) Unless otherwise authorized in writing by the ARC, no Property Owner owning a Residential Lot adjacent to any interior lake, pond or lagoon area shall be allowed to construct any dock or docking Structure between the boundary of such Residential Lot and such lake, pond or lagoon area, or upon such lake, pond or lagoon area.

#### **4.2.3 Maintenance of Docks**

Any Property Owner who is permitted by the ARC to construct or cause to be constructed docks must maintain said Structures in good repair and keep the same safe, clean and orderly in appearance at all times, and shall paint or otherwise treat with preservatives all wood or metal located above the high-water mark, exclusive of pilings, and maintain such paint or preservatives in an attractive manner. The ARC shall determine whether such docks are safe, clean, orderly in appearance, and properly painted or preserved in accordance with reasonable standards. Where the ARC notifies a particular Property Owner in writing that his, her or its dock fails to meet acceptable standards, said Property Owner shall thereupon remedy such conditions within thirty (30) days, to the reasonable

satisfaction of the ARC. The Property Owner hereby agrees that the Association may, but is not obligated to, make the necessary repairs in the event the Property Owner shall fail to do so. There is no obligation of the Association to make such repairs or take such actions as will bring said dock in compliance with reasonably acceptable standards. All such repairs and actions shall be at the sole cost and expense of the Property Owner in question, and any such cost and expense shall constitute a charge and perfected lien against such Property Owner's Residential Lot pursuant to Section 3.3.10 above.

#### **4.2.4 Trespass**

Whenever the Association is permitted by this Declaration to correct, repair, clean, preserve, clear out or do any action on the property of any Property Owner, or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass, and neither the Association, nor its members, directors, officers, partners, agents, employees, independent contractors, successors or assigns shall be liable for such action.

### **43 COTTAGE AREAS**

#### **4.3.1 Size of Dwelling Unit**

Notwithstanding anything hereinabove to the contrary, no building plans may be approved by the ARC for Cottage Lots unless the proposed Cottage to be constructed thereon has a minimum of one thousand six hundred and forty (1,640) sq. ft. of enclosed heated/air conditioned space.

#### **4.3.2 Restrictions**

In the event that a Cottage Lot also qualifies as a Fairway Residential Lot as described in Section 4.1, such Cottage Lots shall be subject to the applicable restrictions and easements set forth in Sections 4.1.1 through 4.1.6 except for the provisions relating to the size of the proposed Cottage.

## **5. GENERAL PROVISIONS**

### **5.1 DURATION**

#### **5.1.1 Duration**

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association and any Property Owner (as applicable), or their respective personal or legal representatives, heirs, executors, administrators, successors and assigns, for a period of twenty-five (25) years from the date of the Prior Declaration dated April 25, 2013, as amended and restated. Upon the expiration of said twenty-five (25) year-period, this 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 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 this Declaration if, during the last year of the initial twenty-five (25)-year period, or the last year of any subsequent ten (10) year period, Property Owners representing three-fourths (3/4) of all votes eligible to be cast vote in favor of terminating this Declaration at the end of its then-current term. It shall be required that written notice of any meeting or

Referendum at which a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given to each Property Owner at least thirty (30) days in advance of said meeting. In the event that the Association votes to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination adopted by the Association, the date of the meeting or Referendum of the Association at which such resolution was adopted, the date that notice of such meeting or Referendum was given, the total number of votes of the Property Owners, the total number of votes required to establish a Quorum at such meeting of the Association, if applicable, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution and the total number of votes cast against such resolution. Said certificate shall be recorded in the Register of Deeds Office, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

### **5.1.2 Perpetuities**

- a) If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violating of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now-living descendants of Elizabeth II, Queen of England or as provided in the Uniform Statutory Rule Against Perpetuities, Section 27-6-10 et seq., Code of Laws of South Carolina, 1976, as amended.
- b) If a Property Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Property Owner shall have the authority so to consent and no contrary provision in any mortgage or contract between such Property Owner and a third party will affect the validity of such amendment.

## **5.2 INDEMNIFICATION AND SECURITY**

### **5.2.1 Indemnification**

The Association shall indemnify every officer, director and committee member(s) (including, without limitation, all members of the ARC) against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer, director or committee member in connection with any action, suit or other proceeding (including settlement of any suit or proceeding, if approved by the Board of Directors) to which such person may be a party by reason of being or having been an officer, director or committee member of the Association. The officers, directors and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers, directors and committee members shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers, directors or committee members may also be Property Owners, in which case such liability shall be in the form of Assessments charged against such Property Owner's Residential Lot), and the Association shall indemnify and forever hold each such officer, director and committee member free and harmless against any and all liability to others in 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, director or committee member, or former officer, director or committee member, may be entitled. The Association shall, at its sole cost and expense, provided that sufficient funds are available therefor, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

### **5.2.2 Security**

The Association may, but shall not be obligated to, maintain or support certain activities within the Property designed to make the Property safer than it otherwise might be. Neither the Association, nor any of its successors or assigns shall in any way be considered insurers or guarantors of security within the Property and neither the Association, nor any of its successors or assigns shall be held liable for any loss or damage by reason or failure to provide adequate security or ineffectiveness of security measures undertaken. All Property Owners, Designated Representatives and occupants of any Residential Lot and tenants, guests and invitees of any Property Owner or Designated Representative, as applicable, acknowledge that neither the Association, nor the Board of Directors, nor any successors or assigns represents or warrants that any fire protection system, burglar alarm system or other security system designed by or installed according to guidelines established by it may not be compromised or circumvented, that any fire protection or burglar alarm system or other security system will prevent loss by fire, smoke, burglary, theft, hold-up or otherwise, nor that fire protection or burglar alarm systems or other security systems will in all cases provide the detection or protection for which the system is designed or intended. Each Property Owner and Designated Representative and each occupant of any Residential Lot, and each tenant, guest and invitees of a Property Owner or Designated Representative, as applicable, acknowledges and understands that the Association, the Board of Directors, the committees of the Board, and any successor or assign are not insurers and further acknowledges that neither the Association, nor the Board of Directors, nor committees of the Board, nor any successor or assign has so made the representation or warranty, nor may any Property Owner, Designated Representative, occupant, tenant, guest or invitee rely upon any representation or warranty, express or implied, including any warranty of merchantability of fitness for any particular purposes, relative to any fire and/or burglar alarm systems or other security systems recommended or installed or any security measures undertaken within the Property.

### **5.3 AMENDMENTS**

All proposed amendments of this Declaration which are Substantive shall be submitted to a vote of the Property Owners by Referendum, and any such proposed amendment shall be deemed approved if two-thirds (2/3) of the votes eligible to be cast are voted in favor of the amendment. If any proposed Substantive amendment of this Declaration is approved by the Property Owners as set forth above, the President and Secretary of the Association shall execute an addendum to this Declaration, which shall set forth the amendment, the effective date of the amendment, the date of the Referendum by which such amendment was adopted, the total number of votes eligible to be cast, the number of votes required to establish a Quorum at such meeting of the Association, if applicable, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of such amendment and the total number of votes cast against the amendment. Such addendum shall be recorded in the Register of Deeds Office.

Notwithstanding the foregoing, the Board of Directors shall have the absolute and sole authority to alter, amend, or supplement provisions of this Declaration which are merely technical and not Substantive, provided such changes do not reduce or prejudice any right or privilege of the Property Owners. Such alterations, amendments, or supplements shall not require a Referendum or any other approval by the Property Owners, but the Property Owners shall be notified of such changes.

## **5.4 NOTICES**

### **5.4.1 Notices**

Any notice required to be sent to any Property Owner under the provisions of this Declaration or the Bylaws 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 such Property Owner in the public records of Beaufort County, South Carolina or as a Property Owner in the records of the Association, as the case may be, on the first day of the calendar month in which said notice is mailed. Alternatively, any such notices may be transmitted electronically if the applicable Property Owner has given the Association general authority in writing to deliver such notices electronically.

### **5.4.2 Notices to Co-Owners**

Notice to one of the owners of a Residential Lot shall constitute notice to all co-owners. It shall be the obligation of every Property Owner to immediately notify the Secretary of the Association in writing of any change of address.

### **5.4.3 New Property Owner**

Any person who becomes a Property 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 such Property Owner's predecessor-in-title.

## **5.5 ENFORCEMENT, SEVERABILITY AND ENFORCEMENT**

### **5.5.1 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 Property Owner, Designated Representative or agent of such Property Owner, the Association and any other Property Owners, or any of them, jointly or severally, shall have the right to proceed at law or in equity, including, without limitation, by specific performance or injunction, to compel compliance with the terms hereof or to prevent the violation or breach hereof.

### **5.5.2 Enforcement by the Association**

- a) In addition to the foregoing, the Association shall have the right to proceed at law or in equity, including, without limitation, by specific performance or injunction, to compel compliance with the terms hereof or to prevent the violation or breach hereof.
- b) The Association may engage a person or persons to respond to complaints received as to violations of this Declaration and shall inform the violators of such

complaint. If the violation is not expeditiously cured, the Association may engage legal counsel to bring an appropriate specific performance or injunctive action, including any appeals, to enforce this Declaration. Violators shall be obligated to reimburse the Association in full for all of its direct and indirect costs, including, but not limited to, legal fees and court costs incurred by the Association in maintaining compliance with this Declaration.

### **5.5.3 Against Whom May the Covenants Be Enforced**

The obligations and benefits prescribed by this Declaration shall run with the Property and shall be enforceable against any Property Owner or other person or entity whose activities bear a relation to the Property when the aforesaid parties engage in activities (including, without limitation, omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

### **5.5.4 Means of Enforcement**

Enforcement of this Declaration shall be by any proceeding available at law or in equity, whether it be to restrain violation, to recover damages or to create any charge or lien permitted by this Declaration.

### **5.5.5 Severability**

Should any covenants or restriction herein contained, or any section, sub-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 any court or other tribunal having jurisdiction over the properties, parties affected hereby and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof, which are hereby declared to be severable and which shall remain in full force and effect.

### **5.5.6 Interpretation**

In all cases, the provisions of this Declaration shall be given the interpretation of construction which will best tend toward the consummation of the general plan of development of the Property. The provisions of this Declaration shall be given full force and effect, notwithstanding the existing of any zoning or development ordinance which allows a less restrictive use of the Property.

### **5.5.7 Authorized Action**

All action which the Association is allowed to take under this Declaration shall be authorized actions of the Association if approved by the Board of Directors in the manner provided for in the Bylaws, unless the terms of this Declaration provided otherwise.

## **56 TERMINATION OF ASSOCIATION**

### **5.6.1 Invalidity of Declaration**

In the event that this Declaration for any reason is declared to be void, invalid, illegal or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the properties and parties affected hereby and the subject matter hereof, and such adjudication occurs within ten (10) years of the date of recordation of this Declaration, all of the Common Properties belonging to the Association at the time of such adjudication shall revert to such successor

association or permitted entity (“Successor Association”) as may be provided by law or as may be determined by a court of competent jurisdiction.

#### **5.6.2 “Successor Association” as Trustee**

Following any such reversion, the “Successor Association” shall own and operate the Common Properties as trustee for use and benefit of the Property Owners subject to the terms, covenants, conditions, restrictions and easements set forth herein. The “Successor Association” may, at any time, re-convey the Common Properties to the Association.

#### **5.6.3 Association as Trustee.**

If the foregoing adjudication shall occur on a date more than ten (10) years after the date of recordation of this Declaration, or if the Property Owners should vote not to renew and extend this Declaration as provided for herein, all of the Common Properties owned by the Association at such time shall be retained by the Association, which shall own and operate the same for the use and benefit of the Property Owners subject to the terms, covenants, conditions, restrictions and easements set forth herein.

### **5.7 AMENITIES**

#### **5.7.1 General**

Neither membership in the Association nor ownership or occupancy of any Residential Lot shall confer any ownership interest in or right to use the Amenities except as provided herein. Rights to use the Amenities will be granted only to Participants and such persons, and upon such terms and conditions, as may be determined from time to time by the Association in accordance with this Declaration, the Bylaws and the Amenities Plan. For clarity, Property Owners who are not Participants shall not be permitted to use the Amenities. Upon the Conveyance of a Residential Lot owned by a Social Participant to a successor Property Owner (other than a Conveyance to an heir, family member or family trust of such Social Participant or, if pre-approved by the Board, by any builder who acquires such Residential Lot for construction, reconstruction or renovation of a Family Dwelling Unit for sale to a third party unrelated to the builder (including for use as a model home for a period not to exceed one (1) year), provided the Residential Lot shall not be used for occupancy purposes while such builder is the Property Owner), the new Property Owner shall be required to become an Island Participant and pay all applicable Assessments.

#### **5.7.2 Mandatory Participation**

Except as specifically provided below, each and every Property Owner other than the Association shall be a Participant with respect to each Residential Lot owned by such Property Owner, shall pay the Assessments related to the Amenities, and shall remain in good standing with the Association for so long as such Property Owner owns the applicable Residential Lot. Each such Participant shall be vested with all of the rights, privileges and obligations relative to the applicable category in accordance with the Bylaws and Amenities Plan provided that such Participant remains in good standing with the Association. Any applicable Participant Initial Capital Contribution Assessment shall be paid as of the date such Property Owner purchases or otherwise acquires the applicable Residential Lot.

By acquisition of title to a Residential Lot, each Property Owner other than the Association

acknowledges and agrees that each Participant is required to pay Assessments related to the Amenities (including applicable Amenities Charges) as such Assessments are determined from time to time in accordance with this Declaration.

Notwithstanding the foregoing, any Property Owner who: (i) held legal title to a Residential Lot as of the Merger Date; and (ii) was not a member of the Former Club as of the Merger Date (each an "Exempt Property Owner"), shall not be required to be a Participant in connection with the Residential Lot owned by such Property Owner as of the Merger Date (the "Exempt Residential Lot"). However, upon Conveyance of the Exempt Residential Lot by an Exempt Property Owner to a successor Property Owner (other than a Conveyance to an heir, family member or family trust of such Exempt Property Owner or, if pre-approved by the Board, by any builder who acquires such Residential Lot for construction, reconstruction or renovation of a Family Dwelling Unit for sale to a third party unrelated to the builder (including for use as a model home for a period not to exceed one (1) year), provided the Residential Lot shall not be used for occupancy purposes while such builder is the Property Owner), the new Property Owner shall be required to become an Island Participant and pay all applicable Assessments, and the Exempt Residential Lot shall no longer be classified as exempt. Further, if an Exempt Property Owner acquires any Residential Lot after Conveyance of the Exempt Residential Lot, such Property Owner shall not be an Exempt Property Owner and shall be required to be a Participant.

The provisions of this Section shall run with the title of and be appurtenant to all Residential Lots transferred or otherwise conveyed and shall be binding upon and inure to the benefit of all Property Owners and their respective heirs, executors, legal representatives, successors and assigns. Each Property Owner, by having accepted a deed or other Conveyance pursuant to purchase of a Residential Lot or Family Dwelling Unit consents and agrees to the obligations of Property Owners and Participants.

#### **5.7.3 Privileges for Designated Representatives; Use of Amenities by Co-Owners**

In the event of multiple ownership of any kind (other than by spouses), including, without limitation, by an Entity, the applicable Property Owners shall be deemed to have delegated their privileges to use the Amenities to their Designated Representative as the designated user. Only the Designated Representative and the Immediate Family of the Designated Representative shall be permitted to use the Amenities, which shall be on the same basis as the Participants and the Immediate Family of other Participants, respectively. For clarity, in the event of multiple ownership of a Residential Lot, the co-owners who are not the Designated Representative and the family of such co-owners shall only be permitted to use the Amenities as a guest of the Designated Representative and upon payment of applicable guest fees. Notwithstanding the foregoing: (i) each Property Owner shall remain obligated for all applicable Assessments and shall be responsible for the conduct of any such Designated Representative; and (ii) pursuant to Section 3.1.2(d), the Property Owner may not appoint a new Designated Representative more than three (3) times in any year, unless otherwise approved by the Board.

#### **5.7.4 Designated User Privileges for Approved Tenants**

A Property Owner who has leased such Property Owner's Residential Lot may designate the tenant thereof as the designated user who shall be permitted to use the Amenities at the same participation level as the Property Owner, subject to written approval of the tenant by the Board or compliance with applicable Board policies. During the period that a tenant

is designated as the designated user, the Property Owner and Designated Representative, if any, shall not be entitled to use the Amenities but shall remain obligated for all applicable Assessments and shall be responsible for the conduct of any such designated user.

**5.8 DISCLAIMER**

The adoption of this Declaration, while by its nature intended to recite matters and circumstance in their present state as a result of changed circumstances or intervening events as discussed in the recitals on the initial pages hereof, is not intended to and shall not be construed as modifying, in and of itself, any separate or independent documents having their own existence or independent legal significance such as, for example, Property Records filed with the County of Beaufort.

[Signatures on Following Pages]



**Amended and Restated General Declaration for Callawassie Island  
Property Owners Association, Inc.**

**Index of Exhibits**

- Exhibit A    Chronology of Declarations and Declarant Assignments**
- Exhibit B    Bylaws**
- Exhibit C    Description of Property**
- Exhibit D    Spring Island Agreements and Easement**
- Exhibit E    Amenities Plan**

## EXHIBIT "A"

### Chronology of Declarations and Declarant Assignments

The following table provides a chronological history of General Declarations, Addenda, Amendments, Supplements, and Declarant Assignments for Callawassie Island, as filed in the Official Record Books of Beaufort County South Carolina.

Callawassie Island - Chronology of Declarations, Addenda, Supplements, and Assignments						
Chron Order	Title of Document History of Prior Declarations	Entitles Involved	Date of Document	Date of Filing	Official Records	
					Book	Page
1	General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.	TFV	12/22/1983	12/30/1983	384	1813
3	General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.	TFV	12/22/1983	11/19/1985	435	329
4	First Addendum to Declaration	CI-POA*	5/17/1986	6/17/1986	451	1600
5	Second Addendum to Declaration	CI-POA*	2/13/1988	6/10/1988	503	1366
6	Supplementary Declaration (to First Addendum)	CGLP	4/28/1988	6/10/1988	503	1372
8	Second Supplementary Declaration	CDG	12/22/1988	12/22/1988	518	1845
9	Third Addendum to Declaration	CI-POA*	6/30/1989	7/11/1989	532	1739
12	Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.	CIC; CI-POA*	3/20/1993	4/20/1993	623	546
13	First Addendum to Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.	CIC; CI-POA*	11/3/1993	6/22/1994	713	2398
14	Second Addendum to Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.	CIC; CI-POA*	3/8/1995	3/20/1995	766	536
15	Third Addendum to Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners, Inc.	CIC; CI-POA*	8/19/1996	8/26/1996	883	1032
17	Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.	CIPOA	12/31/1997	3/11/1998	1021	2263
18	Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners, Inc.	CIPOA	12/31/1997	5/6/1998	1040	111
19	Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners, Inc.	CIPOA	12/1/2001	12/3/2001	1505	850
20	Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.	CIPOA	12/5/2011	4/24/2012	3137	3004
21	First Amendment to the Amended and Restated General Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc. of December 15, 2011	CIPOA	9/23/2013	10/1/2013	3276	1604
<b>History of Assignments (Ownership)</b>						
2	Assignment of Declarant's Rights Under Certain Covenants	TFV/VLJV to CGLC	10/31/1985	11/5/1985	434	544
7	Assignment of Declarant's Rights Under Certain Covenants	CGLC to CDC	12/21/1988	12/22/1988	518	1836
10	Assignment of Declarant's Rights Under Certain Covenants	CDC to CLLA	5/31/1990	5/31/1990	554	812
11	Assignment of Declarant's Rights Under Certain Covenants	CLLA to CIC	5/31/1990	5/31/1990	554	837
16	Supplementary Declaration of Covenants and Assignment of Declarant Rights	CIC to CIPOA	4/30/1997	11/20/1997	992	100

**Entities:**

TFV - Three Fountainview Corp  
CGLC - Callawassie Group Limited Partnership \*  
CDG - Callawassie Development Group  
CDC - Callawassie Development Corp \*  
CLLA - CLL Associates, LP \*  
CIC - Callawassie Island Company, LP \*  
CIPOA - Callawassie Island Property Owners Association, Inc.  
CIMC - Callawassie Island Members Club, Inc.  
CICA - Callawassie Island Community Assoc  
VLJV - Village on the Lake Joint Venture

**NOTES:**

\* Also did business as CI-POA, Distinct from CIPOA  
1. Book/Page Numbers in **Large Bold** were  
Incorrect/Omitted In previous Declarations  
2. Title of Document may be in an abbreviated form.  
Consult the official records book as necessary.

Ownership passed through many entities as shown, culminating in CIPOA. The applicable documents prior to the updates in 2011 are shaded. CI-POA was the POA sponsored by the declarant prior to CIPOA, Inc being formed in 1997.

**EXHIBIT “B”**

**CALLAWASSIE ISLAND PROPERTY  
OWNERS ASSOCIATION, INC.**

**Bylaws**

AMENDED AS OF MARCH 1, 2021

**BYLAWS OF CALLAWASSIE ISLAND PROPERTY OWNERS ASSOCIATION, INC**

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**Callawassie Island Property Owners Association, Inc.**

**Bylaws**

**ARTICLE 1. IDENTITY**

The following bylaws (these "Bylaws") shall govern the operation of the Callawassie Island Property Owners Association, Inc. (the "Association").

The Association is a nonprofit corporation organized and existing under the laws of the State of South Carolina for the purposes set forth in Section 3.5 of the **Amended and Restated Declaration for Callawassie Island and Provisions for the Callawassie Island Property Owners Association, Inc.** (the "Declaration") (but not exclusively so unless so provided in the Association's Articles of Incorporation). Certain provisions of the Declaration may be repeated in whole or in part or incorporated herein by reference.

**Section 1.1 OFFICE OF ASSOCIATION**

The offices of the Association shall be at such place as may be designated by the Board.

**Section 1.2 CORPORATE SEAL**

The seal of the Association shall bear the name of the Association, the words "South Carolina", the words "Non-Profit Corporation" and the year of its incorporation. In the event the Association elects to adopt an emblem, such emblem shall be of a style and design to be approved by the Board of Directors from time to time in its sole discretion.

**Section 1.3 ASSOCIATION DEFINED**

As used herein, the word "Association" shall refer to "Callawassie Island Property Owners Association, Inc." as further defined in the Declaration. All other words, as used herein, shall have the same definitions as applied to them in the Declaration.

**ARTICLE 2. MEMBERSHIP AND VOTING PROVISIONS**

**Section 2.1 MEMBERSHIP IN THE ASSOCIATION**

There is one type of membership in the Association which results from property ownership, as per the Declaration, Section 3.1.1.

**Section 2.2 VOTING RIGHTS**

Voting rights are described in the Declaration, Section 3.1.2.

**Section 2.3 BOARD OF DIRECTORS**

The Association shall be governed by the Board of Directors, with the number to be determined by the members of the Board of Directors as provided for in Article IV of these Bylaws.

**Section 2.4 PROPERTY OWNERS TO HAVE POWER OF REFERENDUM IN CERTAIN INSTANCES**

Referendum may be called by the Association and through initiative of Property Owners as described in the Declaration, Section 3.1.4.

### **Section 2.5 PROXIES**

All Property Owners may vote and transact business at any meeting of the Association by proxy authorized in writing, as per the Declaration, Section 3.1.6.

## **ARTICLE 3. MEETINGS OF THE ASSOCIATION**

### **Section 3.1 PLACE**

All meetings of the Association shall be held at the offices of the Association, or at such other place and at such time as shall be designated by the Board of Directors and stated by the Secretary of the Association in the notice of such meeting, and shall be open to all Property Owners. Meetings of the Association may be held electronically via the internet or other communication system in the event of an Emergency; provided all Property Owners are permitted to see and/or hear the proceedings and participate to the same extent as they would be entitled to participate in an “in-person” meeting.

### **Section 3.2 PROPERTY OWNER LIST**

At least ten (10) but not more than forty (40) days before every meeting of the Association or election of directors, a complete list of the Property Owners shall be prepared by the Secretary of the Association. Such list shall be maintained in the offices of the Association for at least ten (10) days prior to any such meeting or election and ten (10) days after any such meeting or election.

### **Section 3.3 NOTICES**

It shall be the duty of the Secretary of the Association to mail or deliver a notice of each annual or special meeting of the Association, stating the time and place thereof, to each Property Owner of record at least fourteen (14), but not more than thirty (30), days prior to such meeting. Notices of any special meeting shall state the purpose thereof. All notices shall be mailed to or served at the last known address of the Property Owner as it appears on the books of the Association. Alternatively, following the Association’s receipt from a Property Owner of a general authorization permitting electronic transmissions, notices may be sent electronically to the email on file for such Property Owner. It shall be the duty of each Property Owner to notify the Secretary of the Association of any change in address or email.

### **Section 3.4 ANNUAL MEETING**

The annual meeting shall be held at 10:00 A.M., Eastern Standard time, on the first Saturday in March of each year, for the purpose of electing directors and transacting any other business authorized to be transacted by the Property Owners; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next secular day following. At such annual meeting, the Property Owners shall elect new members of the Board of Directors by plurality vote (i.e. non-cumulative) and in accordance with Section 4.1 of these Bylaws, and shall transact such other business as may properly be brought before the meeting.

### **Section 3.5 SPECIAL MEETINGS**

Special meetings of the Property Owners for any purpose, unless otherwise proscribed by statute, may be called by the President of the Association and must be called by the President or the Secretary of the Association following the request, in writing, of Property Owners representing

twenty-five percent (25%) or more of the votes eligible to be cast, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the subjects stated in the notice thereof.

**Section 3.6 WAIVER AND CONSENT**

Whenever the vote of Property Owners at a meeting is required or permitted by any provision of these Bylaws to be taken in connection with any action of the Association, the meeting and vote of Property Owners may be waived if the Property Owners representing a majority of votes eligible to be cast on the action if such meeting were held, shall consent in writing to such action being taken; however, notice of any action so taken shall be given to all Property Owners, unless all Property Owners participated in such action.

**Section 3.7 ADJOURNED MEETING**

If any meeting of the Property Owners cannot be held because a Quorum is not established, then the meeting may be adjourned and reconvened in accordance with the provisions of Article II, Section 4 of these Bylaws.

**Section 3.8 APPROVAL OR DISAPPROVAL**

Approval or disapproval of any matter by the Property Owners shall be governed by the Declaration, Section 3.1.2.

**ARTICLE 4. DIRECTORS**

**Section 4.1 BOARD OF DIRECTORS**

(a) The Association shall be governed by the Board of Directors presently consisting of nine (9) Property Owners with the number of directors in subsequent years to be determined by the Board of Directors as provided for in these Bylaws and by the Declaration. All directors must be Property Owners entitled to vote; provided however, co-owners of any Residential Lot(s) shall not serve on the Board at the same time. Election of directors shall be by regular voting, each Property Owner entitled to the number of votes as specified in the Declaration, Section 3.1.2. Directors will be elected by a plurality of votes cast, provided a Quorum has been established.

(b) Notwithstanding anything to the contrary in Section 4.1(a), in order to effectuate the Merger and assure continuity through the Merger process:

- i. The Merger Date shall be March 1, 2021.
- ii. Effective as of the Merger Date, (i) three (3) members of the Board of Directors whose terms are not expiring at the 2021 annual meeting of the Association, shall resign their positions on the Board (each a "Resigning Director"); and (ii) three (3) members of the board of directors of the Former Club, who shall be chosen by such Former Club board of directors (each an "Appointed Director"), shall fill the vacancies on the Board of Directors created by the Resigning Members and shall hold office for the balance of the unexpired terms of the Resigning Directors; provided that in each case, the

length of their terms shall not be longer than their remaining terms on the board of directors of the Former Club.

- iii. The nine (9) members of the Board of Directors, including the six (6) previously elected directors and the three (3) Appointed Directors, will serve as the Board until the 2021 annual meeting of the Association.
- iv. At the annual meeting of the Association, three (3) Board members will be elected to replace those Board members whose terms expire on the date of the annual meeting.
- v. Resigning Directors and members of the board of directors of the Former Club shall be eligible to be elected at 2021 annual meeting of the Association provided that they have been nominated in accordance with Section 4.14 of the Bylaws and have not served two (2) consecutive full three (3) year terms on the Board of Directors or the board of directors of the Former Club, as applicable.
- vi. To determine consecutive full three (3) year terms served by a Resigning Director, an Appointed Director or other member of the board of directors of the Former Club, any partial year of service on either board that ended on or prior to the Merger Date shall be counted as a full year of service. Such persons shall be eligible for election at the annual meeting of the Association to a new three (3) year term, provided that directors who have, or have been deemed to have, completed two (2) consecutive three (3) year terms on the Board of Directors and/or the board of the directors of the Former Club may not serve on the Board of Directors again for one (1) year.

#### **Section 4.2 TERM AND REMOVAL OF DIRECTORS**

Except as provided in Section 4.1, (i) the term of each director's service shall be for three (3) years; and (ii) no director shall serve more than two (2) consecutive three (3) year terms; provided that the term of each member of the Former Club board of directors shall be included in determining service for consecutive terms. Any one (1) or more of the directors may be removed, with or without cause, by the affirmative vote or Referendum of the Property Owners representing at least two-thirds (2/3) of votes eligible to be cast, and a successor may then be elected to fill the vacancy thus created as provided in Section 4.1(a). Should the Association fail to elect said successor, the Board of Directors may fill the vacancy in the manner provided in Section 4.3 below. Upon the expiration of a President's term, the Board of Directors may request that the retired President be allowed a non-voting seat upon the Board of Directors for a one (1) year term. The directors shall be elected on a staggered term basis, with at least three (3) directors being elected annually. Any director may be elected for a period of one (1) year if necessary to accomplish such staggering.

#### **Section 4.3 VACANCIES ON BOARD OF DIRECTORS**

If the office of any director becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise (other than removal pursuant to Section 4.2 hereof), a majority of the remaining members of the Board of Directors, though less than a quorum, as defined in Section 4.9 below, shall choose a successor or successors, who shall hold office for

the balance of such unexpired term. For purposes of Section 4.2, the completion of the unexpired term shall not count as one of the terms for which the appointed director shall be eligible to serve if elected as a director upon the completion of such unexpired term.

**Section 4.4 DISQUALIFICATION AND RESIGNATION OF DIRECTORS**

Any director may resign at any time by sending a written notice of such resignation to the offices of the Association, delivered to the Secretary of the Association. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary of the Association. The transfer of title of all of his, her or its property on Callawassie Island by a director shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors. No director shall continue to serve on the Board of Directors should he be more than thirty (30) days delinquent in the payment, as a Property Owner, of any Assessment against his, her or its property, and said delinquency shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors. Additionally, any director failing to attend (whether in person or by telephone or other telecommunication device) a minimum of two-thirds (2/3) of all regular meetings of the Board of Directors during any twelve (12) month period shall automatically be disqualified from serving for the remainder of his or her term, except as otherwise may be determined by the Board of Directors.

**Section 4.5 CHAIRMAN**

The President of the Association shall also be Chairman of the Board of Directors.

**Section 4.6 REGULAR MEETINGS**

The Board of Directors may establish a schedule of regular meetings to be held at such time and place as the Board of Directors may designate. Notice of such regular meetings shall nevertheless be given to each director personally or by email, mail, telephone or facsimile transmission at least five (5) days prior to the day named for such meeting. All meetings of the Board of Directors, including special meetings in accordance with Section 7 below, shall be open to all Property Owners; provided however, the President may convene the Board in executive session not open to all Property Owners to consider and evaluate legally privileged matters, employment issues and disciplinary actions.

**Section 4.7 SPECIAL MEETINGS**

Special meetings of the Board of Directors may be called by the President of the Association, and in his absence, by the Vice-President of the Association, or by a majority of the members of the Board of Directors, by giving five (5) days' notice of the time and place of said meeting, in writing, to all of the members of the Board of Directors. All notices of special meeting shall state the purpose or purposes of such meeting.

**Section 4.8 DIRECTORS' WAIVER OF NOTICE**

Before or at any meeting of the Board of Directors, any director may waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice. Attendance by a director at any meeting of the Board of Directors shall be a waiver of notice by him, her or it of the time and place thereof. If all the directors are present at any meeting of the Board of Directors, no notice shall be required and any business may be transacted at such meeting. Directors may also participate in meetings by telephone or other telecommunication device, if all directors can be heard simultaneously (i.e., by conference call or employing a speaker phone).

**Section 4.9 QUORUM FOR BOARD MEETINGS**

At all meetings of the Board of Directors, a majority of the members of the Board of Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the members of the Board of Directors present at such meetings at which a quorum is present, shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there is less than a quorum present, the majority of those present may adjourn the meeting. At each such adjourned meeting, any business which might have been transacted at the meeting, as originally called, may be transacted without further notice. The joinder of a director in the action of a meeting by signing and concurring in the minutes thereof, shall constitute the presence of such director for the purpose of determining a quorum.

**Section 4.10 COMPENSATION**

The members of the Board of Directors shall serve without compensation of any kind, other than the reimbursement of sums actually expended by any such director as authorized by, and on behalf of, the Association.

**Section 4.11 POWERS AND DUTIES**

The Association shall be governed by the Board of Directors. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law, by the Declaration, by the Association's Articles of Incorporation or by these Bylaws, directed to be exercised and done by Property Owners or others. These powers shall specifically include, but shall not be limited to, the following:

- a) To exercise all powers specifically set forth in the Declaration, in the Association's Articles of Incorporation and in these Bylaws, and all powers incidental thereto.
- b) To make Assessments, collect said Assessments, adopt and offer limited incentive programs that may include a reduction or waiver of Assessments for a specific but limited period of time, to negotiate and settle any delinquent Assessments and/or Amenities Charges, to borrow/lend funds of the Association except as specifically restricted by the Declaration, and to use and expend the Assessments to carry out the purposes and powers of the Association.
- c) To employ, dismiss and control the personnel necessary for the security, marketing and sales, administration, maintenance and operation of the Association Property including the right and power to employ attorneys, accountants, contractors and other professionals as the need arises.
- d) To make and amend reasonable rules and regulations respecting, among other things, the operation and use of the Property, including, but not limited to Open Space and Common Properties, and the conduct of Property Owners and other persons permitted to use the Property and, when determined appropriate by the Board, to enforce such rules and regulations and impose discipline, in accordance with the Declaration, these Bylaws and applicable law.
- e) To contract for the management and maintenance of the Association Property and to delegate to such contractor all of the powers and duties of the Association in connection with the

carrying out of such management and maintenance of the Association Property, except those which may be required by the Declaration to have approval of the Property Owners or others, and to contract for the management or operation of portions of the Common Properties the separate management or operation thereof, and to lease or concession such portions.

- f) To increase or decrease the real or personal property constituting the Association Property by acquisition, disposition or otherwise, whenever determined by the Board to be beneficial to the Association or the Property Owners in general, subject to the provisions of Section 1.2.2 of the Declaration.
- g) To further improve the Association Property, both real and personal, including the right to purchase realty and items of furniture, furnishings, fixtures and equipment for the foregoing, and the right to acquire and enter into agreements, subject to the provisions of the Declaration, the Association's Articles of Incorporation and these Bylaws.
- h) Subject to the limitation on any single expenditure or project relating to the Amenities set forth in Section 3.3.8(b) of the Declaration, to acquire, construct or reconstruct, repair or replace an improvement, including the necessary fixtures, equipment and personal property related thereto, comprising Association Property (which by definition includes the Amenities).
- i) To designate one or more committees of the Board of Directors which, to the extent provided in the resolution designating said committee, shall have the powers of the Board of Directors in the management and affairs and business of the Association. The size and membership of such committees shall be as established by the Board of Directors. Such committee(s) shall have such name or names as may be determined from time to time by the Board of Directors, and said committee(s) shall keep regular minutes of their proceedings and report the same to the Board of Directors, as required by the Board of Directors.
- j) To acquire Residential Lots for marketing, renovation and/or resale purposes.
- k) To issue, cancel and transfer certificates evidencing the right of Property Owners who are Participants to use the Amenities in accordance with the Declaration, these Bylaws and the Amenities Plan.
- l) To declare an Emergency and without a vote of the Property Owners, spend all such amounts determined necessary to protect the Property Owners and/or the Property as a result of the Emergency, without regard to any spending limits in Section 3 of the Declaration. The Board shall notify the Property Owners of the declaration of an Emergency as promptly as feasible.

The foregoing powers shall be exercised by the Board of Directors, subject only to approval by Property Owners when such is specifically required by the Declaration.

#### **Section 4.12 FIDELITY BONDS**

The Board of Directors may require that any and all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premium on such bonds shall be paid by the Association.

#### **Section 4.13 LIABILITY OF BOARD OF DIRECTORS**

The members of the Board of Directors and its committees (including, without limitation, the ARC) shall not be liable to the Property Owners or the Association for any mistake of judgment, gross negligence or actions taken or otherwise, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the members of the Board of Directors against all liability to others arising out of contracts made or actions taken by the Board of Directors on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Declaration, the Association's Articles of Incorporation or these Bylaws. It is intended that the members of the Board of Directors and its committees (including, without limitation, the ARC) shall have no personal liability with respect to any contract or action made or taken by them on behalf of the Association. It is also intended that the liability of any Property Owner arising out of any contract made or actions taken by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board of Directors and its committees (including, without limitation, the ARC) shall be limited to such proportions of the total liability thereunder as his interest in the Common Properties bears to the interests of all Property Owners in the Common Properties. The foregoing indemnity shall be in addition to, and not in lieu of, any indemnities contained in the Declaration.

#### **Section 4.14 NOMINATING COMMITTEE**

- a) On or before November 1 of each year or such other date as may be prescribed by the Board, the Board of Directors shall appoint a Nominating Committee consisting of five (5) Property Owners entitled to vote, three (3) of whom shall be members of the Board of Directors. Property Owners on the Nominating Committee shall serve for a term of one (1) year or until their successors are appointed and qualified.
- b) On or before the 3<sup>rd</sup> Monday in December of each year or such other date as may be prescribed by the Board, the Nominating Committee shall file with the Secretary and recommend to the Board of Directors for approval by the Board each year the names of Property Owners to be submitted to the Property Owners for election to the Board of Directors. Unless specifically requested by a majority of the Board of Directors, the Nominating Committee shall not nominate candidates to fill any vacancies occurring by reason of death, resignation or otherwise, for any unexpired term.
- c) Property Owners representing ten percent (10%) or more of the votes eligible to be cast who are not on the Nominating Committee or the Board of Directors may also nominate candidates for the Board of Directors by petition, signed by them, and filed with the Secretary no later than such date as determined by the Board of Directors, but in no event later than the January 15 prior to the annual meeting. The names of such nominees, after having been certified by the Secretary or any other officer as qualified for election and as having been nominated in accordance with the provisions of these Bylaws, shall be included on any ballot or proxy mailing to the Property Owners.

### **ARTICLE 5. OFFICERS**

#### **Section 5.1 ELECTIVE OFFICERS**

The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of which shall be elected as hereinafter provided. One person may hold more than one

of the aforementioned offices. The President, Vice President, Secretary and Treasurer must be members of the Board of Directors. The President shall also be Chairman of the Board of Directors. The removal of an officer or director from either position shall automatically remove such individual from the other position.

**Section 5.2 ELECTION**

The officers of the Association shall be elected each year by a majority of the Board of Directors immediately following the Annual Meeting.

**Section 5.3 APPOINTIVE OFFICERS**

The Board of Directors may appoint Assistant Secretaries and Assistant Treasurers and such other officers as the Board of Directors deems necessary.

**Section 5.4 TERM**

The officers of the Association shall hold office until their successors are chosen and assume office in their place and stead. Any officer elected or appointed by the Board of Directors may be removed at any time, with or without cause, by the Board of Directors; provided, however, that no such officer shall be removed except by the affirmative vote for removal by a majority of the Board of Directors. If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

**Section 5.5 THE PRESIDENT**

The President of the Association shall be the chief executive officer of the Association and shall concurrently serve as Chairman of the Board of Directors. He or she shall preside at all meetings of the Property Owners and of the Board of Directors. He or she shall have executive powers and general supervision over the affairs of the Association and the other officers. The President of the Association shall sign all written contracts, and perform all of the duties incident to his or her office that may be delegated to him or her from time to time by the Board of Directors.

**Section 5.6 THE VICE PRESIDENT**

The Vice President of the Association shall perform all of the duties of the President in his or her absence, and such other duties as may be required of him or her from time to time by the Board of Directors.

**Section 5.7 THE SECRETARY**

The Secretary of the Association shall issue notices of all regular and special meetings of the Board of Directors and the Property Owners and shall attend to and keep the minutes of same in the minute books of the Association. The Secretary of the Association shall have charge of all of the Association's books, records and papers, except those kept by the Treasurer of the Association. Any Assistant Secretary of the Association shall perform the duties of the Secretary of the Association when the Secretary is absent. In addition, upon the receipt of a request therefor from any Property Owner by the Secretary of the Association, which request shall include a sufficiently-stamped, self-addressed envelope and the payment of such reasonable fee as the Board of Directors may from time to time establish to cover the cost of compliance with such requests, the Secretary of the Association shall provide such Property Owner with a copy of such minutes of any annual meeting or special meeting of the Association as may be requested, as soon as the same are available. The Secretary may also provide such copies via email and shall post such minutes to the Property

Owners' website maintained by the Association.

## **Section 5.8 THE TREASURER**

- a) The Treasurer of the Association shall have custody of the Association's funds and securities (except the funds paid to any management firm as provided in the Declaration and in Article 6 of these Bylaws), shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all moneys and other valuable effects in the name of and to the credit of the Association, in such depositories as may be designated from time to time by the Board of Directors.
- b) The Treasurer of the Association shall disburse the funds of the Association as may be directed by the Board of Directors from time to time in accordance with these Bylaws, requiring proper vouchers for such disbursements, and shall render to the President of the Association and the Board of Directors at the regular meetings of the Board of Directors, or whenever the Board of Directors may require, an account of all of his or her transactions as the Treasurer and of the financial condition of the Association.
- c) The Treasurer of the Association shall collect all Assessments and other income of the Association from all sources, and shall promptly report the status of collections and of all delinquencies to the Board of Directors.
- d) The Treasurer of the Association may give status reports to potential transferees of any portion of the Property, but neither the Treasurer of the Association, nor the Association nor its officers, directors or committee members shall be liable to such transferee for any inaccuracy therein.
- e) Any Assistant Treasurer of the Association shall perform the duties of the Treasurer of the Association when the Treasurer is absent.
- f) The duties of the Treasurer of the Association may be fulfilled by a management firm employed by the Association, in which event such management firm shall have custody of such books of the Association as the Board of Directors determines is reasonably necessary for the performance of such duties, and the foregoing may include any books required to be kept by the Secretary of the Association.
- g) The Treasurer of the Association shall prepare and present, at the annual meeting of the Association, a financial report for the previous fiscal year of the Association, in sufficient detail to allow the Property Owners to assess the financial condition of the Association as at the end of such fiscal year.

## **ARTICLE 6. ASSESSMENTS**

### **Section 6.1 PAYMENT OF ASSESSMENTS TO THE ASSOCIATION**

Payments of Assessments are described in the Declaration, see Section 3.3.

### **Section 6.2 DEPOSITORIES**

The funds collected as Assessments shall be deposited in such banks and depositories as may be determined by the Board from time to time, upon resolutions approved by the Board of Directors. Such funds shall be withdrawn only upon checks and demands for money signed by such officer or officers of the Association as may be designated. Obligations of the Association shall be handled as follows: for non-budgeted dollar amounts from the operating accounts, two (2) signatures shall be required, and for budgeted amounts one (1) signature will be required, two (2) signatures shall be required for checks drawn on any capital account, and/or any trust account, provided, however, that the provisions of any agreement between the Association and any management firm relative to the subject matter in this Section 6.2 shall supersede the provisions hereof.

### **Section 6.3 FIDELITY BONDS**

The Treasurer of the Association, all officers, agents and employees of the Association and all independent contractors handling or responsible for Association funds, including, without limitation, any management firm, shall be bonded in such amount as may be determined by the Board of Directors. The premiums on such bonds shall be paid by the Association. Each such bond shall be in an amount sufficient to equal the moneys an individual handles or has control of via a signatory or a bank account or other depository account.

### **Section 6.4 FISCAL YEAR**

The fiscal year for the Association shall be the calendar year; provided, however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the United States Internal Revenue Code of 1986, as amended from time to time, at such time as the Board of Directors deems it advisable to do so.

### **Section 6.5 APPLICATION OF PAYMENTS AND COMMINGLING OF FUNDS**

All sums collected by the Association from Assessments may be commingled in a single fund or divided into more than one fund, as determined by the Board of Directors, but must be transferred as soon as reasonably possible, and no less than monthly, to the separate funds specific to the Assessment in accordance with Section 3.3 of the Declaration. All payments made by each Property Owner shall be applied to interest, delinquencies, costs and attorneys' fees, other charges, expenses and advances, in that order, as provided herein and in the Declaration, in such manner and amounts as the Board of Directors determines in its sole discretion.

### **Section 6.6 ACCELERATION OF ASSESSMENT INSTALLMENTS UPON DEFAULT**

If a Property Owner shall be in default in the payment of any installment upon any Assessment, the Board of Directors may accelerate the remaining monthly installments to be paid by such Property Owner for the fiscal year in question, upon notice thereof to such Property Owner, and, thereupon, the unpaid balance of such Assessment shall become due upon the date stated in the notice, but not less than fifteen (15) days after the delivery of or the mailing of such notice to such Property Owner.

### **Section 6.7 AUDITS**

An audit of the accounts of the Association will be made upon written request of Property Owners representing a majority of the votes eligible to be cast or at such times as the Board of Directors deems necessary or advisable, but not less than once each calendar year. The provision of the annual audit in accordance with Section 3.3.19 of the Declaration shall serve as the audit contemplated by this Section 6.7.

**Section 6.8 APPLICATION OF SURPLUS**

Any payments to or receipts by the Association, other than those received in respect of reserve and/or capital purposes, whether from Property Owners or otherwise, during any fiscal year which are in excess of the budgeted expenses of the Association shall be kept by the Association.

**Section 6.9 TRANSFER OF OWNERSHIP**

The transfer of ownership of any portion of the Property subject to Assessment shall carry with it the proportionate equity of any affected Property Owner's ownership in any reserve account set aside by the Association to provide a contingency fund for the maintenance and repair of the Common Properties. For clarity, transfer of ownership shall not result in refund of any Assessments previously paid to the Association except as may be prorated among the applicable parties in connection with such transfer.

**Section 6.10 CREATION OF THE LIEN AND PERSONAL OBLIGATIONS OF ASSESSMENTS**

See the Declaration, Section 3.3.14.

**Section 6.11 PURPOSE OF ASSESSMENTS AND PAYMENT OF ASSESSMENTS**

See the Declaration, Sections 3.3.1 through 3.3.18.

**Section 6.12 INTENTIONALLY OMITTED**

**Section 6.13 INTENTIONALLY OMITTED**

**Section 6.14 EFFECT OF NON-PAYMENT OF ASSESSMENTS**

See the Declaration, Section 3.3.15.

**Section 6.15 SUBORDINATION OF LIEN TO MORTGAGE**

See the Declaration, Section 3.3.16.

**ARTICLE 7. COMPLIANCE AND DEFAULT**

**Section 7.1 VIOLATIONS AND FINES**

In accordance with Section 2.1.44 of the Declaration, in the event of a violation (other than the non-payment of any Assessment) by a Property Owner or Participant of any of the provisions of the Declaration, these Bylaws or the rules and regulations of the Association, the Association, by direction of the Board of Directors, may notify the Property Owner or Participant by written notice specifying the violations charged. Any such notice shall be transmitted to the applicable party(ies) by personal delivery, U.S. registered or certified mail. The Association, by the Board of Directors, may, at its option, elect to commence any of the disciplinary actions outlined below, with each day the violation continues constituting a separate offense; provided however, if such violation is related to architectural review (rather than conduct), the Property Owner or Participant shall have a period of seven (7) days from the date of notice to cure the violation without disciplinary action (unless the cure thereof is not susceptible to completion within said seven (7) day period and the Property Owner or Participant is diligently pursuing such cure to completion, then such longer period):

- a) An action at law to recover its damages, on behalf of the Association or on behalf of the other Property Owners;
- b) An action in equity to enforce specific performance on the part of such Property Owner or Participant;
- c) An action in equity for such equitable relief as may be necessary or desirable under the circumstances, including, without limitation, injunctive relief;
- d) Suspension of the right to vote of such Property Owner;
- e) Suspension of the right to use the Amenities by such Participant and/or Immediate Family (as defined in the Amenities Plan);
- f) Imposition of a monetary fine against the Property Owner or Participant for each violation; and/or
- g) Any other action permitted to be taken in accordance with the Declaration.

Upon written request of the Property Owner or Participant charged with committing a violation, such Property Owner or Participant shall be granted a hearing before the Board of Directors, with reasonable prior written notice of the date and time, and may be represented at such hearing by counsel. Notwithstanding anything to the contrary in this Declaration, to the extent permitted by applicable law, if: (i) any violation occurs which is deemed by the Board of Directors to be a hazard to public health or safety, such violation may be corrected immediately as an emergency matter by the Association, and the cost thereof shall be charged to the Property Owner causing such hazard, which shall be an Individual Assessment and perfected lien against all property on Callawassie Island owned by such Property Owner, with the same force and effect as any other Assessment; and (ii) if any violation occurs which is deemed by the Association manager, after consultation with the President of the Board of Directors, to be egregious and threatens the safety, health and welfare of the Property Owners, Participants and/or Association personnel, the person(s) committing such violation may be subject to immediate disciplinary action (including suspension of the right to use the Amenities) if such immediate disciplinary action is reasonably necessary considering the totality of the circumstances. In the event any immediate disciplinary action is taken, the applicable Property Owner or Participant may request a hearing before the Board of Directors, which may occur at a regular meeting of the Board or at a special meeting of the Board called for such purpose. At such hearing, the Property Owner or Participant, as the case may be, shall be entitled to make a presentation to the Board, which shall then confirm, extend or rescind such immediate disciplinary action.

Any monetary fines levied against a Property Owner shall be deemed to be an Individual Assessment against such Property Owner, shall constitute a charge and perfected lien upon the Residential Lot of such Property Owner and may be foreclosed by the Association in the same manner as any other charge or perfected lien, in accordance with Section 3.3.14 of the Declaration.

Notwithstanding anything to the contrary in this Section 7.1, the Board may establish additional policies and procedures for hearings and appeals, consistent with applicable law, including without limitation, those related to architectural review and traffic related violations.

**Section 7.2 COSTS AND ATTORNEYS' FEES**

In any action or proceeding arising because of an alleged default by a Property Owner under the Declaration or these Bylaws, the prevailing party shall be entitled to recover the costs of such action

or proceeding and such reasonable attorneys' fees as may be determined by the court.

**Section 7.3 NO WAIVER OF RIGHTS**

The failure of the Association, the Board of Directors or any committee thereof (including, without limitation, the ARC) or of any Property Owner to enforce any right, provision, term, covenant or condition of the Declaration, the Articles of Incorporation or these Bylaws shall not constitute a waiver of the right of the Association, the Board of Directors or any committee thereof (including, without limitation, the ARC) or any Property Owner to enforce such right, provision, term, covenant or condition in the future.

**Section 7.4 ELECTION OF REMEDIES**

All rights, remedies and privileges granted to the Association, the Board of Directors or any committee thereof (including, without limitation, the ARC) or any Property Owner pursuant to any terms, provisions, covenants or conditions of the Declaration, the Articles of Incorporation or these Bylaws shall be deemed to be cumulative, and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such other party by the Declaration, the Articles of Incorporation or these Bylaws, or at law or in equity.

**Section 7.5 STATEMENT OF ASSESSMENTS**

The Board of Directors shall, for a reasonable fee as established by the Board of Directors, promptly provide any purchaser of any portion of the Property, any Property Owner, Designated Representative or applicable mortgagee so requesting the same in writing with a written statement of all unpaid Assessments due from any Property Owner, and any purchaser's or mortgagee's liability therefor shall be limited to the amount set forth in the statement. Any mortgagee may pay any unpaid Assessments payable with respect to the Residential Lot in which it owns an interest and upon such payment, such mortgagee shall be entitled to have a lien on such property for the amounts so paid of the same rank as such mortgagee's lien.

**Section 7.6 TRANSFER OF PROPERTY**

All Property Owners shall notify the Association of any transfer, by sale or otherwise, of his, her or its property on Callawassie Island within ten (10) days of the date of same. Said notice shall include such information and be in such form as the Board of Directors shall prescribe from time to time. The Association may send all necessary notices to the person shown as the Property Owner in its records, and said notice shall be binding as to such Property Owner where the Association has not been notified as provided herein.

**ARTICLE 8. FUNCTIONS OF ASSOCIATION**

**Section 8.1 OWNERSHIP AND MAINTENANCE OF COMMON PROPERTIES**

See Declaration, Section 3.5.2

**Section 8.2 TITLE TO COMMON PROPERTIES**

See Declaration, Sections 1.2, 2.3 and 3.5.2.

**Section 8.3 SERVICES**

See Declaration, Section 3.5.3.

**Section 8.4 OBLIGATION OF ASSOCIATION**

See Declaration, Section 3.5.4.

**Section 8.5 MORTGAGE AND PLEDGE**

See Declaration, Section 3.5.5.

**ARTICLE 9. AMENDMENTS TO BYLAWS**

These Bylaws may be altered, amended or supplemented by Referendum provided that:

- a) Notice of such Referendum, if applicable, shall contain a statement of the proposed amendment or supplement.
- b) Any amendment shall require the affirmative vote of a majority of the Board of Directors and the affirmative vote of Property Owners representing a majority of the votes eligible to be cast.
- c) Notwithstanding the foregoing, these Bylaws may only be altered, amended or supplemented with the written approval, when required, of the parties specified in, or as otherwise required by, the Declaration.
- d) Likewise, notwithstanding the foregoing, the Board of Directors shall have the authority to alter, amend, or supplement provisions of these Bylaws, which are technical and not Substantive, provided such changes do not reduce or prejudice any right or privilege of the Property Owners. Such alterations, amendments, or supplements shall not require a Referendum or any other approval by the Property Owners.

**ARTICLE 10. INDEMNIFICATIONS**

The Association and the Property Owners shall indemnify and hold harmless every officer, director and committee member (including, without limitation, the ARC) as provided in the Declaration, including, without limitation, as per Sections 5.2.1 and 5.2.2.

**ARTICLE 11. LIABILITY SURVIVES TERMINATION OF MEMBERSHIP**

The termination of membership in the Association shall not relieve or release any such former Property Owner from any liability or obligations incurred under or pursuant to the Declaration or these Bylaws, or in any way connected with the Association, during the period of such ownership, or impair any rights or remedies which the Association may have against such former Property Owner arising out of or in any way connected with such ownership and the covenants, duties and obligations incident thereto.

**ARTICLE 12. PARLIAMENTARY RULES**

Robert's Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Declaration or these Bylaws.

## **ARTICLE 13. LIENS**

### **Section 13.1 PROTECTION OF PROPERTY**

All charges and liens against any portion of the Property, other than charges or liens for mortgages, taxes or special assessments, shall be satisfied or otherwise removed within sixty (60) days of the date such charge or lien attaches, unless being contested in good faith. All taxes and special assessments upon any portion of the Property shall be paid before becoming delinquent, as provided in the Declaration, the Articles of Incorporation and these Bylaws, or as provided by law, whichever is sooner.

### **Section 13.2 NOTICE OF LIEN**

Upon receipt of a written request therefor from the Secretary of the Association, each Property Owner shall give notice to the Association of every charge or lien upon his, her or its property on Callawassie Island, other than charges or liens for mortgages, taxes and special assessments, within five (5) days after receipt of such request.

### **Section 13.3 NOTICE OF SUIT**

Upon receipt of a written request therefor from the Secretary of the Association, each Property Owner shall give notice to the Association of every suit or other proceeding which will or may affect title to his, her or its property on Callawassie Island, such notice to be given within five (5) days after such Property Owners' receipt of such request.

### **Section 13.4 FAILURE TO COMPLY**

Failure to comply with this Article 13 concerning charges and liens will not affect the validity of any judicial sale.

## **ARTICLE 14. AMENITIES AND PARTICIPANTS**

### **Section 14.1 Use of Amenities**

Participants are permitted to use the Amenities in accordance with the Declaration, these Bylaws and the Amenities Plan. There are currently two categories of Participants: (i) Island Participants; and (ii) Social Participants. However, upon the Conveyance of a Residential Lot by a Social Participant, the successor Property Owner will be required to become an Island Participant. The Board shall amend, and administer as appropriate, an Amenities Plan which shall include, among other things, a description of privileges for each category of Participant. The current Amenities Plan is attached as Exhibit E to the Declaration. Persons other than Participants may be permitted to use the Amenities as determined by the Board from time to time; provided however no such use shall be more favorable than the use available to Island Participants.

### **Section 14.2 Repayment of Participant Initial Capital Contribution Assessment**

- (a) Prior to February 2, 2012: For any Participants who had joined the Former Club on or before February 2, 2012, Participants in good standing will be entitled to receive upon Conveyance of their Residential Lot, a repayment in an amount equal to:
  - i. thirty-three and three tenths percent (33.3%) of the first \$20,000 of the Participant Initial Capital Contribution Assessment paid by the successor owner of the Participant's Residential Lot; plus

- 11 fifty percent (50%) of the Participant Initial Capital Contribution Assessment paid in excess of \$20,000 by the successor owner of the Participant's Residential Lot, in the event that the Participant Initial Capital Contribution Assessment is more than \$20,000.00.
  111. Provided however, in all instances, the Association shall be entitled to deduct from the amount to be paid to a former Participant any amount (including Assessments, Amenities Charges, interest and late fees) that such Participant owes to the Association.
- (b) After February 2, 2012: For any Participants who had joined the Former Club after February 2, 2012 and any Participants who became a Participant after the Merger Date, no repayment of any Participant Initial Capital Contribution Assessment shall be made.

## **ARTICLE 15. MISCELLANEOUS**

### **Section 15.1 CONFLICT AND INTERPRETATION**

In the event of any conflict between the rules and regulations adopted, or from time to time amended, pursuant to the terms of the Declaration or these Bylaws, the Declaration shall prevail. If any unreconciled conflict should exist or hereafter arise with respect to the interpretation of these Bylaws and the Declaration, the provisions of the Declaration shall prevail. References to any gender shall be deemed to refer to all genders.

### **Section 15.2 BOARD OF DIRECTORS MAY ADOPT OR AMEND RULES AND REGULATIONS**

See Declaration, Section 3.5.6

### **Section 15.3 INTENTIONALLY OMITTED**

### **Section 15.4 ANNEXATION OF BYLAWS**

These Bylaws shall be annexed to the Declaration and they shall act to supplement the provisions found therein. These Bylaws shall in no way operate to impair or prejudice the obligation of the Association to act within their designated power or under applicable state and Federal laws.

## EXHIBIT C

### Callawassie Island Property Description and Master Plan

#### 1. PROPERTY DESCRIPTION

ALL that certain piece, parcel or tract of land, situated, lying and being in the County of Beaufort, State of South Carolina, known as Island, said Island lying between the Chechessee and Colleton Rivers, including all of the highland above high-water mark of said Island, measuring and containing eight hundred eighty (880) acres, more or less, also shown as one thousand (1,000) acres on the deed from W. W. Fick of Colleton County to Energy Subsidiary, Inc. **(The Island)**

ALSO, all of the Association's right, title and interest in and to the marshlands which are a part of Callawassie Island lying between the Chechessee and Colleton Rivers in Beaufort County, South Carolina, together with all and singular the improvements, ways, woods, water courses, rights and privileges. **(Surrounding Marshland)**

ALSO, all of the Association's right, title and interest in and to the causeway and the right-of-way for such causeway across the marshes of Chechessee Creek from the mainland in a southerly direction to Callawassie Island. **(The Causeway)**

ALSO, The interests of the Association in and to any portions of the above-described property lying below the mean high-water mark are specifically conveyed subject to claims or rights of the State of South Carolina and any other governmental entities, the citizens represented thereby and to any unrecorded riparian rights of others in and to and over the waters of Chechessee Creek and the Colleton River, and any-tributaries thereof. **(Lands washed by Tides)**

ALSO, ALL that certain piece, parcel or tract of land situate, lying and being in Beaufort County, South Carolina, consisting of 1.602 acres and being more particularly shown and described as Parcel D, 1.602 acres on a plat entitled "A Boundary Survey of Land N/F of the Heirs of Harriet Lee and Gilbert Mitchell" prepared by Richard Kesselring, S.C.R.L. S. #8105 dated August 6, 1984, and recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Plat Book 32 at Page 123. (Property ID Number R600 010 000 009C 0000) **(Gate Parcel)**

ALSO, two parcels on the mainland across the road, east of the Gate Parcel, that is identified by Beaufort County with Property ID Numbers: **(Welcome Center)**

1. R600 010 00A 0084 0000 which includes an Office Structure, and adjacent to this,
2. R600 010 00A 0083 0000 which is a vacant lot providing access to the above parcel.

ALSO, ALL those certain pieces, parcels or tracts of land situate, lying and being on Callawassie Island, Beaufort County, South Carolina, and being shown as the road rights-of-way recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in the Plat Books and Page numbers. Later modifications may have been filed after the dates of those listed. **(Common property defined as such in Plats filed in Beaufort County)**

# EXHIBIT "D"

## Spring Island Easement and Agreements

### EXHIBIT "D"

#### Spring Island Easement and Agreements

##### 1. EASEMENT FOR SPRING ISLAND OWNERS

The Spring Island Easement, reproduced at the rear of this exhibit, has been granted to provide permanent assurances of access to Spring Island Association, L.P. and the other owners of property on Spring Island, and their heirs, successors, assigns, families, tenants, guests and business invitees (the "Spring Island Owners"). Spring Island Association, L.P. has covenanted that the residential density of Spring Island shall not be more than five hundred (500) Home Sites as that term is defined in the Declaration of Covenants and Restrictions for Spring Island and Provisions for the Spring Island Property Owners Association which are recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 547 at Page 143 and re-recorded in Book 564 at Page 593, together with associated facilities, Common Property and other properties of the Spring Island Club, Spring Island Trust, Spring Island Association, L.P. and the Spring Island POA. The specific provision regarding density limitations is set forth in Section 1-2.01 as recorded in Book 564 at Page 612.

##### 2. AGREEMENTS

###### 2.1 CERTAIN EXPENSES TO BE SHARED BETWEEN THE ASSOCIATION AND SIPOA

The Association and the Spring Island POA have agreed to share certain expenses associated with the shared entrance guard house described in Section 2.1.25 of the Declaration, including the expense of maintaining the guard house and the expense of maintaining the causeway, the expense of maintaining portions of Callawassie Island Drive to its intersection with Spring Island Drive, and Spring Island Drive to the west end of the Spring Island Bridge, the expense of providing security at the guard house, some expenses associated with roadside maintenance over South Carolina Highway S-7-27 and portions of a depreciation reserve for areas of common responsibility between the Association and the Spring Island POA. The Association will have the responsibility for maintaining the areas involving these shared expenses and such maintenance shall be carried out for the benefit of both the Property and the Spring Island Owners. The Spring Island POA, by separate covenant, has agreed to compensate the Association by paying an assessment to the Association, the amount of which shall be established as determined in the letter of agreement dated December 15, 1996 and signed by authorized representatives of SIPOA, Spring Island Co., CIPOA and CIC as amended from time to time.

- a) The Spring Island POA shall be obligated to pay an assessment according to the following percentages:

- i) All costs, including capital expenditures, associated with the operation and staffing of the security gate and the security force will be split 50/50 between Spring Island and CIPOA.
  - ii) All costs associated with the maintenance of Spring Island Drive, the road from the causeway to Spring Island Drive, the causeway and the balance of the road through the security gate to Route 170 will be split 50/50 by CIPOA and SIPOA.
  - iii) Costs will be projected for the upcoming year during October and provided to SIPOA to be paid monthly beginning January 1, with proper settlement of actual costs at year-end.
  - iv) The decal and daily pass revenues will be credited to the Association or SIPOA according to the Island for which it pertains.
  - v) SIPOA will establish a separate reserve account for major and emergency repairs to the shared area.
- b) The Association shall certify to the Spring Island POA in writing on or before of March 1st of each year the amounts of actual expenses for the preceding calendar year in each of the above categories for which the Spring Island POA is responsible for a percentage of such costs and such certification shall be accompanied by appropriate supporting detail. Should the monthly assessments paid by SIPOA for the preceding calendar year be less than, or exceed the certified expenses an adjustment will be made with the first monthly assessment of the current calendar year. If the Spring Island POA considers the information inadequate to support the certified assessment amount, it may request reasonable additional or clarifying information within the 30-day period after receipt of the certification from the Association. If such requested information is not provided or if information that is provided does not reconcile the issues to the reasonable satisfaction of the Spring Island POA, it may request that the matter be referred to binding arbitration in accordance with the dispute resolution provision set forth in Section 2.2 hereof. Based upon the findings of the arbitrators, the economic consequences of the arbitration shall be as follows:
- i) If the certification is found to be correct within five percent (5%), and if no additional information was requested by the Spring Island POA, or, if requested, such information was timely provided by the Association, the Spring Island POA shall be required to pay the assessment found to be due within ten (10) days of receipt of the arbitrator's written findings, together with the reasonable costs of the arbitration, plus interest thereon from the date due at the Wall Street prime rate.
  - ii) If the certification is found to be correct within five percent (5%), and if the Spring Island POA requested reasonable additional data and such data was not provided by the Association:
    - (a) Spring Island POA shall be required to pay the assessment found to be due within ten (10) days of receipt of the arbitrator's written findings.

- (b) If the arbitrators find that the additional information requested by the Spring Island POA was either unreasonable or of a nature that the requesting party should not reasonably consider it relevant in evaluating the certification, the costs of arbitration shall be paid by the Spring Island POA.
  - (c) If the arbitrators find that the failure of the Association to provide information to the Spring Island POA reasonably led to such withholding of payment, all cost of arbitration shall be paid by the Association.
- iii) If the certification is found to be incorrect and excessive by more than five percent (5 %), the Spring Island POA shall be required to pay the amount found to be the correct assessment amount and the Association shall be required to pay all costs of the arbitration.
- c) The Association shall have a cause of action in law to enforce collection of any unpaid assessments found to be due by arbitration or any assessments levied by the Association and unpaid and unchallenged by the Spring Island POA. Interest at the rate provided by statute for judgments in South Carolina shall be recoverable by the Association if it is awarded a judgment for the unpaid assessments by a court of competent jurisdiction, such interest to accrue from the date the assessment should have been paid. Moreover, the non-prevailing party in any such litigation shall be required to pay the prevailing party's actual, reasonable costs together with actual, reasonable attorney's fees. A party shall be considered to prevail upon being granted any judgment, regardless of nature or amount. Usual and customary methods of enforcing collection of any judgment awarded pursuant to this provision shall be available to the judgment creditor.
- d) Any charges for or against the Association resulting from these arbitration procedures will be addressed with the first monthly assessment following the judgment of the arbitrators.
- e) The remedies provided herein regarding collection of assessments from the Spring Island POA shall be the sole and exclusive remedies available to the Association. Under no circumstances shall the Association attempt to limit, delay or circumscribe the rights of the Spring Island Owners to the use and enjoyment of the Spring Island Easement as currently constituted and as hereafter modified. The Association recognizes the paramount property rights existing with regard to the real property burdened by the Spring Island Easement and likewise recognizes that these paramount rights are likewise analogous to the limitation on the Association against denying Property Owners the rights to the use of roads on Callawassie Island, as provided in Section 3.2.1 of the Declaration.
- f) In the event the Spring Island POA considers the level of maintenance and repair to those areas encompassing the Spring Island Easement, as currently constituted

or as hereafter modified, to be inadequate, the Spring Island POA shall request the Association to undertake appropriate curative measures on a timely basis and in a good and businesslike manner. Such request shall be accompanied by a narrative description of the work requested to be done, together with supporting data and reliable cost estimates and the Spring Island POA shall be obligated to fund to the Association in advance fifty percent (50%) of the estimated cost of accomplishing such curative matters. The actual funding of the Spring Island POA's portion of such estimated cost shall be paid to the Association within ten (10) days of the Association's acknowledgment of its willingness to undertake such curative matters in a manner and on a time frame herein contemplated. The Association shall hold such funds paid to it in trust and shall utilize them solely for purposes of defraying the Spring Island POA's fifty percent (50%) portion of the cost of such improvements. If the actual cost to accomplish such curative matters is actually less than anticipated, the Association shall refund to the Spring Island POA a pro rata amount of the savings. Conversely, if the actual amount of such curative activities exceeds that originally budgeted, the Spring Island POA shall be responsible for reimbursing the Association its pro rata portion of the cost overrun. If the Association fails or refuses within a reasonable period of time not to exceed thirty (30) days to acknowledge its willingness to undertake the accomplishment of the work requested by the Spring Island POA or, if the Association fails or refuses to commence the work within ninety (90) days after the Spring Island POA's request, the Spring Island POA shall be entitled to invoke the arbitration provisions of PART THREE, Article IV, and the Board of Arbitration shall be charged with the responsibility of determining the need for such requested work and the general accuracy of the estimated cost thereof. If the Board of Arbitration determines that the work is needed and that Spring Island POA's cost estimates therefor are reasonable, then the Board of Arbitration shall be empowered to direct the Association to undertake such work upon receipt of Spring Island POA's deposit of its fifty percent (50%) of estimated costs.

- g) The Association shall be required to carry out the mandate of the Board of Arbitration by commencing improvements no later than ninety (90) days from the date of such determination by the Board of Arbitration. If the Association fails or refuses to comply with the requirement to commence such work within the time frame specified, the Spring Island POA shall be authorized to contract to have such work accomplished and the contractors so retained shall be authorized to come upon the portions of the Spring Island Easement affected by such Board of Arbitration determination to undertake the work required. The Spring Island POA shall request from the Association payment of fifty percent (50%) of the cost of such work after the contract to accomplish such work has been entered into and the work thereunder actually commenced. If the Association does not tender to the Spring Island POA its fifty percent (50%) of such cost within thirty (30) days from receipt of such request, the Spring Island POA shall be authorized to offset the amount due to it in reimbursement, together with interest thereon at the rate of interest specified for judgments in

South Carolina from the date of such request to the date of the offset, against any assessment funds thereafter due from the Spring Island POA to the Association.

## **2.2 BINDING ARBITRATION**

### **2.2.1 When Arbitration is Applicable**

Under certain circumstances the terms of this Declaration provide the mechanism of binding arbitration to resolve otherwise irreconcilable differences between the Association and the Spring Island Property Owners Association (SIPOA). In those instances where binding arbitration is expressly provided for, and only in those instances, the provisions of this Section 2.2 shall be applicable. Those instances are set forth in the Provisions of this Exhibit Section 2.1 paragraphs (b) and (f).

### **2.2.2 Appointment of Arbitrators**

If an amicable resolution cannot be reached in matters subject to arbitration as specified above, the matter in dispute shall be referred to a Board of Arbitration to be composed of three (3) arbitrators. SIPOA shall appoint one (1) arbitrator and the Association shall appoint one (1) arbitrator. Each of said arbitrators should possess significant education and/or experience in the southeastern United States in one or more of the following fields:

- (a) planned community development;
- (b) community association management/administration; or
- (c) significant legal, banking or accounting experience in the area of community development, planned community management, or property owner association management.

The two arbitrators thus appointed shall appoint a third arbitrator who shall possess qualifications within one or more of the categories described above for the first two arbitrators. If either SIPOA or the Association fails to appoint their arbitrator within a period of fifteen (15) days after the other party has appointed its arbitrator, or if the two arbitrators appointed by SIPOA and the Association cannot agree on a third arbitrator within a period of twenty (20) days after appointment of the second arbitrator, then the arbitrator of the non-appointing party or the third arbitrator, as the case may be, shall be appointed by the Chairman of the Board of Directors of the Community Association Institute located at 1630 Duke Street, Alexandria, Virginia 22314, at the request of the non-failing party.

### **2.2.3 Conduct of Arbitration.**

The Board of Arbitration shall sit in Beaufort County, South Carolina, at a location to be mutually agreed upon between the arbitrators. Failing an agreement, the Board of Arbitration shall sit in the facilities of The Club Corporation on Callawassie Island, Beaufort County, South Carolina. Any decision shall be made by a majority of the arbitrators on points of substance, law and otherwise. The arbitrators shall apply the provisions of this Declaration except where no provision proves to be applicable, in

which case the Board of Arbitration shall decide the dispute according to the principles of equity and fairness. The arbitration proceeding shall be governed by the provisions of the Uniform Arbitration Act, Section 14-48-10, et. seq., Code of Laws of South Carolina, 1976, as amended, except as herein expressly specified.

#### **2.2.4 Binding Effect**

All decisions of the Board of Arbitration shall be final and binding on SIPOA and the Association. All decisions of the Board must be rendered in writing no later than sixty (60) days following the commencement of the arbitration proceedings, which shall mean that date on which the party wishing to have recourse to arbitration serves a written notice on the other party including all of the following:

- (a) A request for arbitration;
- (b) The name of the arbitrator appointed by the party seeking arbitration;
- (c) A statement of the party's position with regard to the matter for which arbitration is sought; and
- (d) Such documentation or information as will serve clearly to establish the circumstances of the party's position with regard to such disputed matter.

If the Board of Arbitration determines that the matter is of such significant scope or complexity that it cannot be adequately and thoroughly reviewed and determined within such time constraints, it may extend the time for rendering a decision for a further time not to exceed thirty (30) additional days.

#### **2.3 SPECIAL ONE-TIME CONTRIBUTION OF SPRING ISLAND ASSOCIATION**

Spring Island Association, L.P. has agreed to make contributions to the Association at the time of the closing of the initial sale of each lot developed by it or its grantee on Spring Island, Spring Island Association, L.P. will pay to the Association the sum of FIVE HUNDRED AND 00/100 DOLLARS (\$500.00). As there is only one such lot remaining, there is no restriction on how the payment may be used by the Association.

### **3. SPRING ISLAND EASEMENT**

The most recent Spring Island easement has been reproduced on the subsequent pages, less all the approvals and signatures. The original Easement may be found in the Beaufort County Records in Book 01515, Page 0850 as Exhibit D, Recorded 12/3/2001.

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THIS EASEMENT AGREEMENT is executed as of the 15<sup>th</sup> day of February, 1990, from CALLAWASSIE DEVELOPMENT CORPORATION, a South Carolina corporation, with its office located at Route 1, Box 260, Ridgeland, SC 29936 ("Grantor"), to SPRING ISLAND DEVELOPMENT COMPANY L.P., a South Carolina limited partnership, with its office located at 5131 Owl Creek Road, Snowmass Village, CO 81615 ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property located in Beaufort County, South Carolina and generally known as Callawassie Island; and

WHEREAS, Grantee is the owner of real property located adjacent to Callawassie Island and generally known as Spring Island; and

WHEREAS, Grantor has designated a specified site of real property for the purpose of said site serving as a road across Callawassie Island for vehicular transportation to and from Spring Island and for the installation, operation and maintenance of all underground utility lines serving Spring Island;

NOW THEREFORE, the parties agree as follows:

1. Grant of Easement. Grantor, in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS to it in hand paid by the consideration set forth in that Section 5(d)(i) of that certain First Addendum to the Declaration of the Callawassie Island Property Owners' Association, Inc. dated May 17, 1986, and recorded in the office of the Register of Mesne Conveyances for Beaufort, County, South Carolina in Deed Book 451 at Page 1600, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and released unto Grantee, its successors and assigns forever, a perpetual, non-exclusive easement for the construction, operation and maintenance of a road across Callawassie Island and for all utility lines and facilities serving Spring Island (the "Easement"), together with all the rights and privileges incident to the use and enjoyment thereof, the right of ingress and egress to and along said Easement for Grantee and all owners of property on Spring Island and their guests and business invitees, together with the right to maintain the property in a manner suitable for the intended use on, under, over and across the real property described on EXHIBIT "A" attached hereto and incorporated herein (the "Easement Area").
2. Construction, Operation and Maintenance. Grantee, its successors and assigns, shall have the perpetual right to do whatever acts are necessary within the Easement Area to construct, operate and maintain said road and utility lines and facilities, subject to Architectural and Design Review requirements set forth in Section 5(d)(iii) of that certain First Addendum to the Declaration of the Callawassie Island Property Owners' Association, Inc. dated May 17, '86, and recorded in the Office of the Register of Mesne Conveyances for Beaufort, County, South Carolina in Deed Book 451 at Page 1600.
3. Duration. While the term of this Easement is described as perpetual, it is understood by and between Grantor and Grantee that this Easement may be terminated or modified by Grantor and Grantee at any time by mutual consent by an instrument in writing which refers to this Easement and which is duly recorded in the Office of the Register of Mesne Conveyances for Beaufort, County, South Carolina.

4. Use of Easement Area. Grantee's permitted use of the Easement Area shall include the right of reasonable access to the Easement Area for purpose of maintenance, repair and replacement of the road and utility lines and facilities. Grantor expressly reserves the right to use the Easement Area for any purpose which will not interfere with the use by Grantee of the Easement in the manner herein contemplated.

5. Assignment. This Easement may be assigned or transferred by Grantee and shall inure to the benefit and burden of the successors or assigns of Grantee and Grantor.

TOGETHER with all and singular, the rights, members, hereditaments and appurtenances to the Easement Area belonging to or in anyway incident or appertaining to the above described Easement Area,

TO HAVE AND TO HOLD, all and singular, the rights, privileges and easements aforesaid unto Grantee, its successors and assigns forever, and the said Grantor does hereby warrant and defend all and singular the said rights, privileges and easements unto the said Grantee, its successors and assigns, against itself, its successors and assigns, lawfully claiming or to claim the same, or any part thereof.

IN WITNESS WHEREOF, the parties have caused this Easement Agreement to be executed the day and year first hereinabove written.

Grantor: CALLAWASSIE DEVELOPMENT CORPORATION

Grantee: SPRING ISLAND DEVELOPMENT COMPANY L.P.

#### EXHIBIT "A" TO THE EASEMENT AGREEMENT

ALL those certain pieces, parcels or strips of land comprising the paved wearing surfaces of the roads within: (a) that certain parcel or tract of land situate, lying and being in Beaufort County, South Carolina, consisting of 1.602 acres and being more particularly shown and described as Parcel D, 1.602 acres on a plat entitled "A Boundary Survey of Land N/P of the Heirs of Harriet Lee and Gilbert Mitchel, prepared by Richard Kesselring, S.C.R.L.S. #8105, dated August 6, 1984, and recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Plat Book 32 at page 123 [the Guard House and Gate]; and (b) the cause way and bridge extending across and over the marshes of Chechessee Creek between the 1.602 acre parcel described above and Callawassie Island; and (c) that portion of Callawassie Drive between the cause way described in paragraph (b) above and the southernmost intersection thereof with the Spring Island Access Road shown on the plat recorded in Plat Book 37 at Page 117.

ALSO

ALL that certain piece, parcel or strip of land situate, lying and being on Callawassie Island, Beaufort County, South Carolina, and lying between the eastern right-of-way line of Callawassie Drive and the marshes of the Chechessee River, and containing 14.657 acres, more or less, which parcel is more fully shown on a plat prepared by Thomas & Hutton Engineering Co., Boyce L. Young, S.C.R.L.S. #11079, dated November 27, 1989, entitled a Plat of Spring Island Access Road Location, Callawassie, Beaufort County, South Carolina, which plat is recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Plat Book 37 at page 117. Said parcel has such size shape, dimensions, locations, metes and bounds as shown on said plat.

# EXHIBIT “E”



CALLAWASSIE  
ISLAND

## AMENITIES PLAN Effective as of March 1, 2021

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**1. GENERAL DESCRIPTION OF THE PLAN.**

- 1.1 Purpose of Amenities Plan. The Callawassie Island Property Owners Association, Inc., a South Carolina non-stock and non-profit corporation (the “Association”), owns the Amenities for the use, recreation and enjoyment of the Participants in accordance with The Amended And Restated General Declaration For Callawassie Island And Provisions For The Callawassie Island Property Owners Association, Inc. of March 1, 2021 as it may be amended from time to time (the “Declaration”). The Board of Directors has adopted this Amenities Plan in accordance with Section 5.7 of the Declaration. Participants and other persons as determined appropriate by the Board may use the Amenities in accordance with the Declaration, the Bylaws, Rules and Regulations adopted by the Board and this Amenities Plan.
- 1.2 Definitions. The capitalized terms used but not defined herein shall have the meaning given to such terms in the Declaration or the Bylaws of the Association as amended from time to time (the “Bylaws”). In addition, the following capitalized words and terms shall have the meaning given below:
- (a) *Amenity Package.* An outline summarizing the permitted usage of the Amenities, including the applicable Assessments, Amenities Charges and fees, for each category of Persons permitted to use the Amenities. The Amenity Packages are subject to change by the Board from time to time in accordance with the Declaration, the Bylaws and this Amenities Plan, and the Association shall prepare updates to the Amenity Packages as and when appropriate.
  - (b) *Associate Licenses.* The type of licenses which may be given by the Association to a Person, other than a Property Owner or Member, who is permitted to use the Amenities as an Associate Licensee.
  - (c) *Associate Licensee.* A Person who holds an Associate License.
  - (d) *Corporate Licenses.* The type of licenses which may be given by the Association to an Entity, other than a Property Owner or Member, who is permitted to use the Amenities as a Corporate Licensee.
  - (e) *Corporate Licensee.* A Person who holds a Corporate License
  - (f) *Entity.* A company, partnership, corporation, limited liability company, trustee, or other form of legal entity.
  - (g) *Immediate Family.* The Participant and the Participant’s (a) spouse or one other adult who is a resident of an individual Participant’s Residential Lot, and the Participant’s (i) children, step-children and their spouses, (ii) grandchildren, step-grandchildren and their spouses, and (iii) parents and the parents of an individual Participant’s spouse.



- (h) *Island Participant.* A Property Owner who is permitted to use the Amenities on terms and conditions consistent with the Declaration, this Amenities Plan and as further determined by the Board from time to time, subject to payment of the applicable Assessments and Amenities Charges.
- (i) *Non-Resident Social Participant.* A Person who is a Property Owner of an unimproved Residential Lot, but is not a resident on Callawassie Island, who is permitted to use the Amenities on terms and conditions consistent with this Amenities Plan and as further determined by the Board from time to time, subject to payment of the applicable fees and charges. Notwithstanding the foregoing, Non-Resident Social Participants shall only include those Persons who have Non-Resident Social Participant status as of the Merger Date and the Association shall not allow additional Non-Resident Social Participants after the Merger Date. In accordance with Article 14.1 of the Bylaws, upon the Conveyance of the Residential Lot by a Non-Resident Social Participant to a successor Property Owner, the new Property Owner shall be required to become an Island Participant and pay all applicable Assessments unless an exemption is applicable pursuant to Article 5.7.1. of the Declaration.
- (j) *Person.* A natural person or an Entity.
- (k) *Rules and Regulations.* The Rules and Regulations of the Association as amended from time to time by the Board of Directors.
- (l) *Social Participant.* A Property Owner who is permitted to use the Amenities on terms and conditions consistent with the Declaration and this Amenities Plan and as further determined by the Board from time to time, subject to payment of the applicable Assessments and Amenities Charges. Notwithstanding the foregoing, Social Participants shall only include those persons who have Social Participant status as of the Merger Date and the Association shall not allow additional Social Participants after the Merger Date. In accordance with Article 14.1 of the Bylaws, upon the Conveyance of the Residential Lot by a Social Participant to a successor Property Owner, the new Property Owner shall be required to become an Island Participant and pay all Assessments unless an exemption is applicable pursuant to Article 5.7.1 of the Declaration.

1.3 Description of Amenities. The Amenities currently include the following:

- a 27-hole championship golf course designed by Tom Fazio, locker rooms, a fitness center and a golf pro shop;
- a driving range and practice green;
- tennis courts and a tennis pro shop;
- a clubhouse facility, which includes a dining room, a bar, club rooms, and administrative offices;
- a swimming pool and deck area located adjacent to the clubhouse;



- a river club, which is located on the Colleton River and includes a swimming pool, a dining room (including adjacent screened porch dining area), a bar, kitchen, gazebo area and boat docks;
- auxiliary buildings used for maintenance, equipment storage, and administration and parking facilities.

The Association may increase, decrease or otherwise modify the Amenities in accordance with the Declaration.

## 2. USE OF THE AMENITIES.

### 2.1 Participants and Other Permitted Users.

- (a) Each Property Owner shall be a Participant except for Exempt Property Owners and the Association.
- (b) In addition to the Participants, the Association may permit persons who do not own Residential Lots to use the Amenities on the basis determined appropriate by the Board from time to time, including without limitation, the Associate Licensees and the Corporate Licensees.

### 2.2 Use Privileges.

- (a) **Privileges.** Use of the Amenities shall be in accordance with this Amenities Plan and the Rules and Regulations, subject to payment of the applicable Assessments, Amenities Charges and otherwise in compliance with the Declaration and Bylaws. Any services available to Participants and the hours of operation of the Amenities or any portion thereof, may be altered, amended or repealed at the discretion of the Board of Directors. Each Participant will be permitted to use the Amenities in accordance with the Participant's category, as long as such Participant remains current on all Assessments and Amenities Charges. Any suspension of a Participant shall result in the loss of all Amenities use privileges and may include suspension of the right to vote.
- (b) **Island Participant Privileges.** Island Participants are entitled to use Amenities in accordance with the Rules and Regulations upon payment of the applicable Assessments and Amenities Charges. Prior to the beginning of each fiscal year, Island Participants will have the option to select an Amenity Package(s) for the following fiscal year.
- (c) **Social Participant Privileges.** Social Participants are permitted to use all of the Amenities in accordance with the Rules and Regulations upon payment of the applicable Assessments and Amenities Charges. Social Participants will be entitled to play golf one time per month during the golfing season and two times per month during the non-golf season as defined in the Rules and Regulations. Social Participants will not be required to pay court fees for use of the tennis facilities, but will be required to pay greens fees and golf cart fees for use of the golf course. Social Participants using the golf facilities shall abide by the Golf Rules and Guidelines.
- (d) **Non-Resident Social Participants.** Non-Residential Social Participants are permitted to use the Amenities on the same basis as Social Participants.



- (e) **Upgrades.** A Social Participant may upgrade and become an Island Participant subject to such rules as may be established by the Board of Directors.
- (f) **Family Privileges.** A Participant's Immediate Family may use the Amenities in accordance with the Rules and Regulations and the applicable Amenity Package.
- (g) **Privileges of Associate Licensees and Corporate Licensees.**

(i) In order to promote the sale of Residential Lots and to introduce the Callawassie Island to prospective Property Owners and Members, the Association may offer varying classes of Associate Licenses and Corporate Licenses on an annual basis, or for such other time period as approved by the Board of Directors. Associate Licenses and Corporate Licenses are only available to Persons who do not own a Residential Lot. The rights and privileges of Associate Licensees and Corporate Licensees will be determined by the Board of Directors from time to time and may vary depending on the particular class of Associate License and Corporate License acquired. Associate Licensees and Corporate Licensees shall not have any ownership interest in the Association or any Common Property, shall not have any voting privileges in respect of Association matters, and shall not be subject to any Assessments.

(ii) Associate Licensees and Corporate Licensees must pay a one-time non-refundable license fee and an annual non-refundable renewal fee, each as determined by the Board from time to time. Associate Licenses and Corporate Licenses are subject to renewal each fiscal year in the sole discretion of the Board, and therefore, the Board will determine whether Associate Licenses and Corporate Licenses (and how many) will be available prior to the beginning of each fiscal year.

(iii) If the Board determines that Associate Licenses and Corporate Licenses will not be renewed, then the Association shall recall and terminate (without refund of any amounts) each such Associate License and Corporate License at the end of the fiscal year, as necessary, on a first-issued, last-recalled basis.

(iv) Associate Licensees and Corporate Licensees are permitted to use the Amenities in accordance with, and subject to, the Rules and Regulations upon payment of the applicable non-refundable license fee and Amenities Charges and may invite guests to use the Amenities on a limited basis each fiscal year in accordance with the Rules and Regulations and payment of applicable guest fees.

(v) Associate Licenses and Corporate Licenses are not transferable and shall terminate upon resignation of the Associate Licensee or Corporate Licensee, as applicable. Associate Licensees and Corporate Licensees are not entitled to a refund of any amounts whatsoever (i.e., initial license fee, Amenities Charges and/or other fees and charges) previously paid in respect to the applicable license upon the resignation or other termination of such license.



- (h) **Guest Privileges.** Participants, Associate Licensees and Corporate Licensees may have guests use the Amenities in accordance with the sponsor's use privileges and the Rules and Regulations, subject to payment of applicable guest fees. The Association may limit the number of times any particular individual guest may use the Amenities or any particular facility provided by the Association during a specific period of time and limit the number of guests a Participant may sponsor at any particular time. The sponsor of any guest will be responsible for all fees and other Amenities Charges incurred by, as well as the department of, each of the sponsor's guests.

### 3. MISCELLANEOUS PROVISIONS

- 3.1 Board of Directors May Amend Amenities Plan. The Board of Directors may, in its sole discretion, amend or modify this Amenities Plan from time to time, so long as such amendments or modifications do not contradict any specific provisions of the Declaration or Bylaws or do not materially and adversely affect the rights of the Participants; provided however, any amendment or modification which materially and adversely affects the rights of the Participants may be made if approved by Participants representing a majority of the votes eligible to be cast in such matter.
- 3.2 Amenities Offered Only for Recreational Purposes. Use of the Amenities is provided exclusively for the purpose of permitting Participants to obtain recreational use of the Amenities. The opportunity to become a Participant, Associate Licensee or Corporate Licensee should not be viewed as an investment, and no person becoming a Participant, Associate Licensee or Corporate Licensee should expect to derive any economic profits by virtue of becoming a Participant, Associate Licensee or Corporate Licensee.