

63
69.5m
mwp
9295

BEAUFORT COUNTY SC - ROD
BK 3635 Pgs 1275-1337
FILE NUM 2018000939
01/09/2018 11:24:39 AM
REC'D BY keston RCPT# 876353
RECORDING FEES \$69.00

STATE OF SOUTH CAROLINA

AMENDED AND RESTATED

COUNTY OF BEAUFORT

DECLARATION OF COVENANTS,
RESTRICTIONS AND LIMITATIONS
AND PROVISIONS FOR MEMBERSHIP
IN PALMETTO HALL PLANTATION
OWNERS' ASSOCIATION, INC.

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS, LIMITATIONS AND PROVISIONS OF MEMBERSHIP IN PALMETTO HALL PLANTATION OWNERS' ASSOCIATION, INC. ("DECLARATION"), is made this 7th day of December, 2017, by PALMETTO HALL PLANTATION OWNERS' ASSOCIATION, INC. (hereinafter referred to as "Association") of Hilton Head Island, South Carolina.

WITNESSETH:

WHEREAS, Greenwood Development Corporation, ("Greenwood") a corporation organized and existing under the laws of the State of South Carolina, and the original declarant under the Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in the Palmetto Hall Plantation Owners' Association, Inc. recorded in the Office of the Register of Deeds for Beaufort County on March 28, 1991, in Deed Book 572, Page 1722, ("Original Declaration"), developed certain lands described in Article II of this Declaration, located on Hilton Head Island, Beaufort County, South Carolina (hereinafter referred to as the "Property"), which Property is now known as Palmetto Hall Plantation ("Palmetto Hall"); and

WHEREAS, the Original Declaration has been amended and/or supplemented on seventeen (17) prior occasions and the By-laws attached hereto have been amended on five (5) prior occasions, all as more fully described in Appendix "A", attached hereto and incorporated herein (collectively, the "Prior Amendments"); and

WHEREAS, the Association, by virtue of Greenwood's divestiture of its ownership of all real property within or adjacent to Palmetto Hall Plantation, is the rightful successor and assignee of Greenwood with respect to any and all Declarant Rights (as that term is defined herein), not otherwise expressly transferred or assigned by Greenwood prior to December 30, 2016, the date of such divestiture; and

WHEREAS, the Association finds it necessary and advisable to consolidate the Prior Amendments and to amend the Original Declaration to reflect said assignment; to modify and/or clarify certain provisions; and to incorporate those certain additional covenants, restrictions and/or limitations approved by the requisite vote of the Membership at its Annual Meeting of December 7, 2017; as more fully recited in Appendix "B" attached hereto; and

WHEREAS, in consolidating the Prior Amendments herein, the Association has included citations to the Prior Amendments in various footnotes throughout this Declaration for ease of reference only and in the event of a conflict between an earlier amendment and this Declaration, this Declaration shall govern; and

WHEREAS, the Association desires to maintain the Property in a coordinated manner, with provisions for certain common areas, common access ways and common regulations and cost sharing, all as more particularly set forth herein; and

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

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

WHEREAS, the Association was formed by Greenwood for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth; and

NOW, THEREFORE, the Association hereby declares that the Property hereof was, is and shall continue to be held, transferred, sold, devised, assigned, conveyed, given, purchased, leased, occupied, possessed, mortgaged, encumbered and used subject to these Covenants. These Covenants, the benefits of these Covenants, and the affirmative and negative burdens of these Covenants, whether pertaining to items, benefits or obligations presently existing or to be created or

executed in the future, do and shall, in equity and at law, touch and concern, benefit and burden, and run with the land and any estates in the land herein referred to as the Property, and these Covenants are intended to be covenants and servitudes burdening and benefiting all persons now or hereafter deriving a real property estate in the Property whether by assignment, succession or inheritance or other method of conveyance. The "Whereas" provisions recited above are hereby incorporated herein as if fully restated and all terms defined therein, when used in this Declaration, shall have the meaning heretofore ascribed therein.

PART ONE GENERAL REFERENCES

ARTICLE I

Definitions

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

(a) "Architectural Review Board" ("ARB") means the architectural review board described in Section 3.3 of this Declaration.

(b) "Board" means the Board of Directors of the Association as defined in the By-Laws of the Association.

(c) "Common Property" shall mean and refer to those areas of land with any improvements thereon which are deeded to the Association and designated in said deed as Common Property. The term "Common Property" shall include any personal property acquired by the Association, if said property is designated as "Common Property." All Common Property is to be devoted to and intended for the common use and enjoyment of the Owners of the Properties. The term shall also refer to all areas provided for common use and enjoyment of Members, and designated as Common Property on the plats referred to in EXHIBIT "A" or any other approved plat or master plan evidencing a specific intent to designate Common Property, whether or not such property has been actually conveyed to the Association, and whether or not such Common Property was designated on the existing master plan or subsequently designated by Declarant.

(d) "Declarant" shall mean and refer to Greenwood Development Corporation and its successors and assigns other than purchasers of Lots within the Property.

(e) "Dwelling Unit" shall mean any improved property intended for use as a single family dwelling within the Property.

(f) "Lot" shall mean and refer to any parcel of land within the Property owned by Declarant at the creation of the Original Declaration and intended to be conveyed in the future to others other than the Association, as well as to any previously conveyed parcel of land within the Property which may be voluntarily submitted to this Declaration by the execution and recording of appropriate amendments to this Declaration.

(g) "Member" shall mean and refer to all those Owners who are Members of the Association as provided herein.

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

ARTICLE II

Property Description/General Plan of Development

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

Section 2.2: Additional Property. In addition to the Property described in Section 2.1 above, wherever used in these Covenants the term "the Property" shall also mean and refer to all property which may be contiguous to the Property or located nearby, if such property is voluntarily submitted hereunder by the Association. The intent of this Section is that the Association shall have the unrestricted right to submit additional property to these Covenants. Such submission of additional property herein shall become effective upon filing a document of record in the Office of the Register of Deeds for Beaufort County, South Carolina, executed in recordable form, by the property owner and the Association, describing such property and stating the intent to be bound hereby and submitted hereunder.

Section 2.3: Excluded Property. [Intentionally deleted].

Section 2.4: General Plan of Development. [As Palmetto Hall Plantation is considered to be fully developed, save for any Additional Property as may be subsequently added by the Association in accordance herewith, this Section 2.4 (a) through (d) inclusive, is intentionally deleted].

PART TWO: LAND USE RESTRICTIONS

ARTICLE III

General Land Use Restrictions and Obligations

Section 3.1: Use of Property. The Association does hereby declare that the Property shall be utilized for residential purposes and all commercial activities upon or within said Property are hereby prohibited; provided, however, that this prohibition shall not be interpreted as preventing the Association, or its agents from maintaining offices, including signage pertaining thereto, upon the Property. Nor does it prohibit golf and tennis for-profit operations (including pro-shops, restaurant facilities and the like) within the boundaries of the Property. Furthermore, this Section shall not prevent the Association from charging user fees or rentals in conjunction with the use of Common Property.

The Association further acknowledges that it may include additional restrictions or modifications in deeds to various properties to further define the scope of this general use condition. The allowance or approval of a proposed use under this Section shall not be interpreted as a representation that such use complies with any applicable governmental zoning and/or land use regulation. Such regulations may apply further use restrictions in addition to the above. Furthermore, if the Association elects to allow submittal of additional property hereunder, the Association, at its discretion, may define allowed uses on said property at that time, which may include uses not allowed on the original property. With regard to such additional property, the type and size of future development and lots shall be at the sole discretion of the Association. Absent such further definition of use, however, the provisions of this Declaration shall be applicable to such additional property.

Notwithstanding the above, Owners may conduct activities in their Dwelling Unit which might otherwise be characterized as commercial in nature so long as:¹

- (a) The activity is conducted entirely within the Dwelling Unit and there is no outside storage or display of any products, equipment, goods or materials;
- (b) The use is clearly incidental and secondary to the principal use of the Dwelling Unit;
- (c) The activity is conducted only by a person or persons properly residing in the Dwelling Unit;
- (d) There is no customer, client or employee traffic to and from the Dwelling Unit;

¹ This Section was previously amended by the 10th and 16th Amendments.

(e) No sign, symbol, logo or name plate, identifying a business or business activity, is displayed anywhere on the Lot or Dwelling Unit;

(f) The use is not apparent or detectable from the exterior of the Dwelling Unit by sight, sound or smell;

(g) The use does not otherwise create a nuisance or disturbing or offensive noise, vibration, smoke, dust, odor, heat, glare, unhealthy or unsightly condition, traffic or parking problem; and

(h) The use does not violate any law, statute, ordinance or regulation of, or permit issued by, the United States of America, the State of South Carolina, County of Beaufort, Town of Hilton Head Island, or any political sub-division thereof.

Section 3.2: Architectural Review of Specifications for New Construction or Additions, Reconstructions, Alterations or Changes to Structures, Landscaping and Siting.

No building, fence, other structure or landscaping element shall be erected, placed or altered on said Property until the proposed building plans, specifications, exterior color and finish, landscape plan, site development and drainage plan (showing proposed location of such building or structure, setbacks, open space, drives, landscape elements, patios, decks and parking areas) and construction schedule shall have been approved in writing by the Association. Refusal of approval of plans, location or specifications may be based by the Association upon any reasonable grounds, including purely aesthetic considerations, which in the sole discretion of the Association shall seem sufficient.

(a) No alterations in the exterior appearance of any building, landscape element or structure shall be made without the approval of the Association. One (1) copy of all plans and related data shall be furnished to the Association for its records, and a reasonable fee may be required at the time of submission to cover costs of plan review by professionals.

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

(c) The placing of individual, private mailboxes upon Lots may be totally prohibited, or at the Association's discretion, mandatory guidelines regulating the size, color or siting and construction of all mailboxes may be adopted. The Association may also choose to supply, install and/or maintain standard mailboxes for the Owners and may require reimbursement for its costs of same.²

² This Section was previously amended by the 16th Amendment.

(d) To ensure that buildings and other structures will be located so that reasonable view, privacy and breeze will be available to the largest practical number of structures built within the Property and that structures will be located with regard to the topography of each property taking into consideration the location of large trees as well as structures previously built or approved pursuant to this Article for adjacent parcels of land, and other aesthetic and environmental considerations, the Association shall have the right to approve (subject to the provisions of the pertinent law) the precise site and location of any structure within the Property. The location shall be determined only after reasonable opportunity is afforded the Owner to recommend a specific site.

In submitting site development plans for review hereunder, each Owner shall include calculations verified by an engineer regarding: total pervious and impervious surface coverage, open space, gross building square footage, and any other data which may be requested. Once approved, development consistent with such calculations shall be mandatory, it being understood that this data may be submitted to the Town of Hilton Head Island for the purpose of reporting the status and compliance of the overall master planned area with the standards imposed by law on the master planned area as a whole. The Association shall retain the absolute right to approve site development plans and to allocate any excess open space, density or pervious/impervious acreage following final approval of any presented plan to any other Lot, and such allocation shall be at the Association's sole discretion and shall be binding upon all Owners.

Section 3.3: Architectural Review Board. The Association has established and periodically appoints the members of an Architectural Review Board ("ARB") to function as its agent for the purpose of reviewing and approving all activities which are made subject to Association's approval by this Section. The ARB shall be composed of three to five members, at the Association's discretion, the members of which need not be Owners of Lots within the Property, and such members shall serve for staggered terms of three (3) years. Standards for review may be published by the ARB and made available to Owners or prospective Owners for the cost of publication. No approval of plans, location or specifications, and no publication of architectural standards bulletins by the Association or the ARB shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed building or that such standards comply with pertinent law. Any established standards or guidelines may be changed from time to time at the discretion of the Association, without prior notice. The Board of Directors of the Association shall retain the right to grant a variance to any established standards or guidelines for good cause shown. If additional property is submitted to these Covenants in the future, the Association may submit such property subject to the same guidelines and review process, or establish such other guidelines and review

process as the Association may deem appropriate for such additional property, at the Association's discretion.

Section 3.4: Exterior Antennas, Towers or other Similar Equipment. No television or radio antennas,³ or other similar equipment, may be placed upon any Lot; provided, however, that such devices may be allowed by the Association, at its discretion. In those cases when such devices are allowed, the Association shall have the right to regulate height, location and other aesthetic features, including the right to require appropriate natural or artificial screening.

Section 3.5: Tree Removal. No trees measuring six (6") inches or more in diameter at a distance of four (4') feet above ground level may be removed without the written approval of the Association, unless located within ten (10') feet of a building or within ten (10') feet of an approved site for such building.

Section 3.6: Screening. Owners must construct a screening fence or natural buffer to shield and hide from view any trash receptacles, fuel tanks, electric or gas meters, air-conditioning equipment, and other similar exterior equipment/products. Plans for such fence or screening delineating the size, design, texture, appearance and location must be approved by the Association or the ARB prior to construction.

Section 3.7: Fuel Storage and Garbage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view, and they may be installed only within the screened area required in Section 3.6 herein, or buried underground. Further, the Association reserves the right to approve the size and location of any garbage receptacles, together with mandatory, appropriate screening.

Section 3.8: Minimizing Construction Disturbances. During the continuance of construction, the Owner and the Owner's contractor(s) shall maintain the Lot in a clean and uncluttered condition. Construction, whether exterior or interior, may not commence before 7:00 a.m. or be continued after 7:00 p.m. Monday through Friday. Construction is not permitted on Saturday and Sunday. Notwithstanding the foregoing, the Association may, in its sole and absolute discretion and upon submission of a written request by an Owner, allow work beyond the hours and days specified herein for good cause shown.⁴

Section 3.9: Temporary Structures, Outbuilding and Construction Site Clean-Up. No structure of temporary character shall be placed upon said Property

³ See 12th Amendment striking satellite receivers or other rooftop devices

⁴ See 16th Amendment.

at any time, provided, however, that this prohibition shall not apply to shelters used by a contractor during the construction of any main building; it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on said Property after completion of construction. After completion of construction, it shall be the sole responsibility of the Owner to insure that all temporary structures are removed and the site cleaned up and placed in good order immediately. The design and color of structures temporarily placed on said Property by a contractor or subcontractor shall be subject to the reasonable aesthetic control of the Association..

Section 3.10: Lot Coverage. Lot coverage will be one of the considerations in the ARB review process. In calculating the Lot coverage, the square footage comprising the approved detached buildings and paved areas and any area covered by an awning or the like which serve the function of the building shall be included. Lot coverage may be further restricted, as necessary; to comply with any governmental standards applicable to a particular site or to the master planned area.

Section 3.11: Water and Sewage. No structure may be erected on the Property unless suitable provisions have been made for water and the disposal of sewage by each Owner and said provisions have been approved by the Association following consideration by the ARB. No private potable water or irrigation wells may be drilled or maintained on the Property by anyone other than the Association or its assigns. This prohibition shall not prevent the ARB from approving heating and air conditioning systems which include a closed loop groundwater well system.

Section 3.12: Water Conservation. In light of the desire to achieve the greatest public benefit for domestic water use, sanitation and fire protection, the Association shall have certain reserved rights with respect to water conservation. In the absence of local or state regulatory action, in conjunction with such regulatory action, or as a supplement to such regulatory action, the Association may adopt regulations and restrictions regarding water conservation measures. Such regulations and restrictions may be incorporated into the ARB's design criteria (e.g. requiring water saving and/or particular irrigation devices, etc.) and/or made part of the enforcement provisions of the Association under these Covenants (e.g. restrictions on water consumption in periods of drought).

Section 3.13: Setback Requirements. Setback requirements will be addressed at the time of ARB review and the proposed plans for construction must comply with all governmental regulatory setback requirements, at a minimum. The Association may establish more stringent setback requirements if, in its sole discretion, the situation calls for it.

Section 3.14: Minimum Required Square Footage. No plans will be approved unless the proposed house will have the minimum required square footage of two thousand (2,000) square feet of enclosed air conditioned and heated dwelling area. The term "enclosed dwelling area" as used in these minimum size requirements shall mean the total enclosed area within a dwelling; provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided further, that shed-type porches, even though attached to the house, are specifically excluded from the definition of the aforesaid term "enclosed dwelling area". Provided, however, that any additional property incorporated into Palmetto Hall Plantation by the Association, as provided in Article II, Section 2.2, may have a lesser or greater minimum required square footage and be subject to additional covenants and restrictions. Provided further that the Association may grant reasonable variances to this minimum square foot requirement where, in the discretion of the Association, such variance is justifiable in light of specific circumstances and where such variance is no more than ten percent (10%) of the minimum required square footage.

Section 3.15: Animals. No animals, livestock or poultry of any kind shall be raised, bred, kept or pastured on the Property other than a maximum of three (3) household pets kept in any one residence. In order to preserve the aesthetic qualities of the Property, to maintain sanitary conditions on the Property, to prevent the spread of worms and infectious diseases on the Property, to maintain a proper respect for other Property Owners and users of the Property, and to maximize the overall use and enjoyment of the Property; each person who keeps a pet within a Dwelling Unit shall abide by all applicable ordinances, as well as such rules and regulations as may be established by the Association from time to time. The breach of any such ordinances, rules and/or regulations shall be a noxious and offensive activity constituting a nuisance.

Section 3.16: Completion of Construction. The exterior of all structures must be completed within Twelve (12) months after the commencement of construction, except where such completion is impossible, impractical, or would result in great hardship to the Owner of a building due to strikes, fires, national emergency or natural calamities, in which case the Association may grant a reasonable extension of time for the completion. Substantially all of the landscaping shown in plans submitted to the ARB must be completed prior to Owner's request for final inspection by the ARB. For purposes of this Section 3.16, construction will be deemed to have commenced as of the date of the issuance of a building permit by the Town of Hilton Head Island and completion shall be the date on which the ARB certifies that the work is completed according to the approved plans, or the issuance of a Certificate of Occupancy (for a Dwelling Unit), by the appropriate authority, whichever shall first occur.

Section 3.17: Unsightly Conditions. It shall be the responsibility of the Owner, his successors and/or assigns, to prevent unclean, unsightly or unkempt conditions from occurring on Owner's Lot or Dwelling Unit.

Section 3.18: Offensive Activity. No noxious or offensive activity shall be carried on upon the Property, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, or device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the other property in the neighborhood by the Owners thereof.

Section 3.19: Other Buildings. No mobile home, trailer, tent, barn (or similar outbuilding), vehicle, or structure shall be placed on any Lot at any time, either temporarily or permanently, without prior approval from the Association or ARB; and such approval shall normally be limited to temporary use of such structures reasonably essential to economical, orderly, and efficient construction during a construction process only. Issuance of a pass by the Association shall constitute approval of a vehicle for purposes of this Section 3.19.

Section 3.20: Signs. No commercial signs, including "for rent" or "for sale" and other similar signs, shall be erected or maintained (inside or outside a structure) on said Property by anyone, including, but not limited to, the Owner, a real estate agent, a contractor or subcontractor, except with the written permission of the Association or the ARB, or except as may be required by legal proceedings. If such permission is granted, the Association reserves the right to restrict size, color and content of such signs.

Section 3.21: Restrictions of Use of Roadways. Subject to the rights of ingress and egress of Owners and guests, the Association and its successors shall have the power to place any reasonable restrictions upon the use of the private roadways within the Property and leading through lands owned or managed by Association to the Property, including but not limited to restrictions pertaining to the speeds of vehicles, traffic and parking regulations and noise levels of vehicles. The fact that such restrictions on the use of the roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Property shall not make such restrictions unreasonable.

Section 3.22: Restrictions on Types of Vehicles. No boats, boat trailers, camper trailers, recreational vehicles, motorcycles, motorbikes, trucks, or utility trailers may be maintained on the Property without prior written approval of the Association or ARB. The term "truck" as used herein is intended to refer to those vehicles of various

sizes and designs for transporting goods, moving heavy articles, or hauling quantities of cargo and which are used in a trade or business in which the truck is used because of its commercial capabilities and not merely as a means of transportation and/or display identification on the exterior of the vehicle to a commercial enterprise. This is not intended to include attractive vehicles driven and maintained primarily as a means of transportation, such as dual-purpose vehicles like station wagons, jeeps, Scouts or Wagoneer type vehicles, and sport trucks and other pick-up type trucks of three-quarter (3/4) ton or less, that do not have exposed signage, logos, or exposed equipment and/or supplies (other than discreet identification approved by the Association or ARB).

Section 3.23: Landscaping Maintenance. No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any Lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All Lots and all portions of the Property and any improvements placed thereon shall at all times be maintained in a neat and attractive condition. Landscaping shall be maintained in a neat, attractive and orderly manner, including maintenance of grass, plants, plant beds, trees, turf, proper irrigation and lake/lagoon edge maintenance.

Section 3.24: Right of Entry. Whenever the Association is permitted by these Covenants to correct, repair, clean, preserve, clear out, or do any action on said Property, entering the Property and taking such action shall not be deemed a trespass.

Section 3.25: Subdivision/Consolidation of Property.

(a) Once a Lot has been conveyed by the Declarant to an Owner, the Property shall not be further subdivided nor its boundary lines changed, except with the written consent of the Association; provided, however, that nothing contained herein shall be construed to prohibit the Association from re-platting any Lot or Lots which are owned by it into one (1), two (2) or more lots by subdivision, consolidation or reconfiguration, and the Association may take such other steps as are reasonably necessary to make such re-platted Lot(s) suitable and fit for use for its originally intended purpose. Such steps may include but are not limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of said re-platted Lots.

(b) In the event of an Owner or Owners owning two or more contiguous Lots, said Owner(s) may apply to the Association for a consolidation of the two or more Lots into one or more. At its discretion, the Association may then take such steps as are reasonably necessary to make this consolidation of record at the requesting Owner's cost and expense. Upon consolidation, the Lot will be considered

one lot for purposes of ARB guidelines; however, it will continue to be considered two lots for purposes of the assessments as referenced hereinbelow.

Section 3.26: Interval Ownership. Timesharing and Devices to Effect Interval Ownership Prohibited. No time sharing or other forms of interval ownership or use, including, but not limited to that defined under the Vacation Time Sharing Act, as codified in title 27, Chapter 32 of the South Carolina Code at the time this Declaration is recorded, shall be permitted on the Property.

Section 3.27: Rental Restrictions/Leases. The lease or rental (including letting of rooms on such services as Air B&B) of any Dwelling Unit within the Property to any person for a period of less than Six (6) consecutive months⁵ shall be prohibited, excluding rentals to members of an Owner's parents and/or adult children. Lease or rental of any dwelling for a period exceeding six (6) consecutive months shall not be considered to be a violation of this Declaration so long as the lease of such Dwelling Unit is undertaken in full compliance with and subject to such rules and regulations as may be promulgated and published from time to time by the Association. All leases of any Dwelling Unit shall: be in writing, obligate all tenants of Dwelling Units within the Property to comply with the terms and conditions of this Declaration, and include any mandatory language adopted by the Association for inclusion therein as set forth in said rules and regulations. Members are liable for any violations of these Covenants by their respective tenants. A copy of any such lease must be provided to the Association.

ARTICLE IV :

Environmental Controls

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

Section 4.2: Certain Controls. To implement effective and adequate erosion and drainage control, implement effective insect, reptile and woods fire control, and protect the overall beauty, setting and safety of the Property, the Association, its successors, assigns and agents shall have the right to enter upon any Lot (before or after a building or structure has been constructed thereon) for the purpose of performing any grading or landscaping work (including the mowing, removing, clearing, cutting, or pruning underbrush, weeds or other unsightly growth, removing trash, draining standing water or dispensing pesticides) or constructing and maintaining erosion or drainage related devices, features and/or structures.

⁵ Previously three (3) months.

Provided, however, that prior to exercising its right to enter upon the property for the above-stated purposes, the Association shall give the Owner notice of the requisite corrective action and a right to effectuate same. Should the Owner fail to complete the corrective work within the time allotted, the Association shall have the right, but not the obligation, to undertake same on behalf of the Owner and shall have the right to assess and collect all charges associated with such action to the Owner in the same manner and to the same extent as specified in Section 13.6.

The provisions of this Section 4.2 shall not be construed as an obligation on the part of the Association to provide such services on any privately-owned property. Entrance upon property pursuant to the provisions of this Section 4.2 shall not be deemed a trespass. The rights reserved unto the Association in this Section 4.2 shall not be unreasonably employed and shall be used only where necessary to effectuate the stated intents and purposes of this Declaration.

Section 4.3: Erosion in Common Properties. The Association, its successors and assigns, shall have the right, but shall not be obligated, to protect all Common Properties from erosion, by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as construction and maintenance of siltation basins, or other means deemed expedient or necessary by the Association. The right is likewise reserved to the Association to take steps necessary, within Common Properties, to provide and insure adequate drainage ways, to cut fire breaks, and to remove diseased, dead or dangerous trees and carry out other similar activities, the cost of which services is to be paid by assessments of the Owners.

Section 4.4: Lagoon and Wetland Easements. All lagoons, marshlands and wetland areas within the Property, lying within designated Common Property, are important aesthetic and functional resources of the overall Property development. To ensure that these important resources remain available for the enjoyment and benefit of all Owners, while not causing undue hardship to any Owner affected, the following rights and easements are hereby reserved:

(a) A non-exclusive easement for ingress, egress and access to the lagoons, marshlands and wetland areas within the Property by the Association, including the right of the Association to enter upon the designated areas to construct or maintain any improvements deemed necessary to facilitate the access to and enjoyment of the lagoons, marshlands and wetland areas. This easement shall be in addition to easements depicted on any recorded plat. For the purposes of this Paragraph, the designated easement areas shall extend landward for twenty (20') feet along or around the entire perimeter of any lagoon, marshland and wetland area, or

ten (10') feet if such lesser amount is required as a setback by Town ordinance, whether such lagoon or wetland is presently existing or constructed in the future.

(b) An exclusive right and easement unto the Association, assignable to a utility company or district at the Association's discretion, to cause treated effluent to be disposed of in marshland/wetland/lagoon areas, in any manner permitted by law. In conjunction with this right and easement, the Association and its assigns are also granted the exclusive right to control and dictate the water level to be maintained in all lagoon, marshland and wetland areas and the right of access to all such areas to install and maintain any system deemed appropriate by the Association for the distribution of treated effluent into storage lagoons, marshlands and wetlands.

(c) To the extent not previously assigned by Declarant prior to its divestiture, an exclusive right and easement (i) to pump water from lagoons, ponds, and other bodies of water located within Palmetto Hall for the purpose of irrigating any portions of Palmetto Hall, (ii) to drill, install, locate, maintain, and use wells, pumping stations, water towers, siltation basins and tanks, and related water and sewer treatment facilities and systems within the Common Areas, or (iii) to spray or locate any treated sewage effluent within the Common Areas. ⁶

(d) In addition to the rights and easements as described in Subparagraph (b) above, each Owner, its heirs, successors and assigns, further agrees that if the Association or the utility company or district shall provide a distribution system which delivers advanced wastewater treated effluent ("AWT") to an Owner's Lot boundary, said Owner shall be obligated to utilize said treated effluent for all landscape and lawn irrigation purposes to the extent and quantity available and to enter into the standard irrigation agreement with the utility company. A general easement over all lawn and landscaped areas of each Lot is hereby reserved for such purposes. Nothing contained in these reservations, however, shall obligate the Association to provide such a system of treated effluent disposal and distribution, and the exercise of these rights shall be at the sole discretion of the Association, its successors and assigns.

Section 4.5: Standard of Reasonableness. The rights reserved unto the Association in this ARTICLE IV shall not be unreasonably employed and shall be used only where necessary to effectuate the stated intents and purposes of this Declaration.

⁶ Changes to this section are not intended to alter or amend any easement rights conveyed to third parties by the Declarant prior to its divestiture of Declarant Rights on December 30, 2016. Reference is made to the Original Declaration and the 16th Amendment for matters concerning reservation of easement rights in favor of Declarant and its assigns.

ARTICLE V :

**Special Restrictions Affecting Golf
Fairway Residential Areas**

Section 5.1: Landscaping. The landscaping plan for the areas of any Lot within fifty (50') feet of the boundary of the Lot line adjacent to golf fairway property shall be in general conformity with the overall landscaping pattern for the golf course fairway area established by the golf course architect, and all individual Lot landscaping plans must be approved by the Association or the ARB before implementation.

Section 5.2: Golf Course Maintenance Easement. The Original Declaration reserved to the Declarant, its successors and/or assigns, a "Golf Course Maintenance Easement Area" on each Lot adjacent to the fairways or greens of any golf course developed on the Property. This reserved easement permits the Declarant, or its successor or assign, at its election, to go onto any fairway lot 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 the Golf Course Maintenance Easement Area. This Golf Course Maintenance Easement Area shall be limited to the portion of such lots within fifty (50') feet of the lot line bordering the fairway, or such lesser area as may be shown as a "Golf Course Maintenance Area" on the recorded plat of such lot; provided, however, that the above described maintenance and landscaping rights shall apply to the entire Lot until there has been filed with the Association a landscaping plan for such lot by the owner thereof, or alternatively, a residence constructed on the Lot.⁷

Section 5.3: Entry by Golfers. Until such time as a Dwelling Unit is constructed on a Lot, the Declarant, its agents, successors or assigns, reserves an easement to permit and authorize registered golf course players and their caddies to enter upon a lot to recover a ball or play a ball, subject to the official rules of the course, without such entering and playing being deemed a trespass. After a Dwelling Unit is constructed, such easement shall be limited to that portion of the Lot included in the Golf Course Maintenance Easement Area, and recovery of balls only, not play, shall

⁷ On information and belief, the Declarant's rights and easements referred to Section 5.2 and 5.3 were transferred or assigned by Greenwood, as Declarant, to CNL Income Partners, L.P., as the third party owner/operator of the Palmetto Hall Plantation Golf Club, and its successors and/or assigns, and reference is hereby made to the official records maintained in the Office of the Register of Deeds for Beaufort County, South Carolina for purpose of identifying the person or entity currently in possession thereof.

be permitted in such Easement Area. Registered players or their caddies shall not be entitled to enter on any such Lot with a golf cart or other vehicle, nor spend unreasonable time on such Lot, or in any way commit a nuisance while on such Lot. After construction of a Dwelling Unit on a Lot, "Out of Bounds" markers may be placed on said lot at the expense of the Golf Facility Owner. The Lot Owners owning lots adjacent to the golf course recognize and acknowledge that errantly struck golf balls may invade their Lot from time to time. These Lot Owners do here agree to hold harmless and indemnify the Golf Facility Owner and the Association, for any and all claims, expenses, costs, causes of actions, and attorney's fees related thereto with respect to damages caused to person or property by these errantly struck golf balls.

Section 5.4: Prohibited Activities. Owners of golf fairway Lots shall be obligated to refrain from any actions which would detract from the playing qualities of the golf courses 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, such activities as the maintenance of dogs or other pets on the Lot under conditions interfering with play due to their loud barking, running on the fairways, picking up balls or other like interference with play.⁸

Section 5.5: No Reserved Rights. Ownership of a Lot in itself shall not create any rights of access to any golf course constructed within the Property, and the Declarant, its successors and assigns, reserve the right to use said golf course as it may choose in its sole discretion including, but not limited to, the right to permit daily fee play or to create a private club.

Section 5.6: Liability. Declarant, or any of its appointees, directors or officers, or its assignees or nominees, including but not limited to the Association, shall not in any manner be held liable or responsible, either directly or indirectly, for any damage to a Lot, or to any improvements thereon or personal property, or for any injury to any person due to any golf ball, whether in motion or at rest, which has been driven from the golf course or its environs, and each lot owner, for themselves and their guests and invitees acknowledge that risks of injury to persons or property are inherent to persons or property located upon or in close proximity to a golf course, and agree that they assume all risks resulting therefrom, including but not limited to claims of negligent design of the golf course or the Lots, negligent construction of improvements or location of improvements.

⁸ See 16th Amendment.

ARTICLE VI:

Special Restrictions Affecting Open Space

Section 6.1: Association's Intention for Open Space. Where land planning results in the designation of areas of open space, it is the intent of the Association to maintain and enhance those areas, if any, previously designated as "Open Space" on plats previously recorded in the Office of the Register of Deeds for Beaufort County, South Carolina by the Declarant. Such Open Space may, but need not necessarily have been, designated as Common Properties at the time of their conveyance to the Association. It is the further intent and purpose of these restrictions and covenants to protect the lagoons, marshes and wetlands and to maintain and enhance the conservation of natural and scenic resources, to promote the conservation of soils, wetlands, wildlife, game and migratory birds, enhance the value of abutting and neighboring residential areas adjacent to such Open Space, and to afford and enhance recreational opportunities, preserve historical sites and implement generally the master plan for development.

Section 6.2: Erosion Prevention Activities Permitted. The Association shall have the right to protect from erosion the land described as Open Space area by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means deemed expedient or necessary by the Association. The right is likewise reserved to the Association to take necessary steps to provide and insure adequate drainage ways in Open Space, to cut fire breaks, remove diseased, dead, or dangerous trees and carry out other similar activities.

Section 6.3: Dumping Prohibited. No dumping of trash, garbage, sewage, sawdust or any unsightly or offensive material shall be placed upon such Open Space areas, except as is temporary and incidental to the bona fide improvement of the area in a manner consistent with its classification as Open Space.

Section 6.4: Consistent Rights to Use Reserved. The Association expressly reserves to itself, its successors and assigns, every reasonable use and enjoyment of said Open Space, in a manner not inconsistent with the provisions of this Declaration.

Section 6.5: Corrective Action No Trespass. Where the Association is permitted by these Covenants to correct, repair, clean, preserve, clear out or to do any action on the Open Space areas entering such property, taking such action shall not be deemed a trespass or breach of these Covenants.

Section 6.6: No General Easement Intended. The granting of this easement does in no way grant to the public or to the owners of any surrounding or adjacent

land, the right to enter such Open Space without the express permission of the Association, or the owner of such Open Space if other than the Association.

Section 6.7: No Affirmative Action Required of Association. It is expressly understood and agreed that the granting of this easement does in no way place a burden of affirmative action on the Association, that the Association is not bound to make any of the improvements noted herein, or extend to any Owner any service of any kind, except as such may be undertaken at the expense of the Association.

PART THREE
PROVISIONS FOR PALMETTO HALL
PLANTATION OWNERS' ASSOCIATION

ARTICLE VII :
Membership and Voting Rights in the
Association

Section 7.1: Membership. Every person and entity who is a record Owner of a fee simple or undivided fee simple interest in any Lot which is made subject to this Declaration by reference in the initial deed conveyance from Declarant, or which is subsequently submitted to this Declaration by recorded deed covenant, shall be a Member of the Association, provided that any such person or entity holding such title or interest merely as a security for performance of an obligation shall not be a Member of the Association. Regardless of the number of Owners/Members, there shall be only one (1) vote per Lot as more particularly described in Article III, Section 7 of the By-laws.⁹

Section 7.2: Type of Members. [The Original Declaration contained a Section 7.2 establishing two classes of membership; which expired by its terms and which was accordingly deleted in its entirety by the 14th Amendment].

Section 7.3: Quorum for any Action Authorized. The presence at the meeting of any Members, or of proxies, entitled to cast thirty percent (30%) of the total vote of the membership shall constitute a quorum. If the required quorum is not forthcoming at a meeting, the meeting shall be adjourned and another meeting shall be scheduled for a date not less than ten (10) days nor more than thirty (30) days subsequent to the initial meeting. If a meeting of the Members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place, if the new date, time,

⁹ See 14th Amendment.

and place is announced at the meeting before adjournment.. The quorum requirement for the adjourned meeting shall be the presence of Members, or of proxies, entitled to cast twenty-five percent (25%) of the total vote of the membership.

Section 7.4: By-Laws. The Amended and Restated By-Laws of the Association attached hereto as Exhibit "B", shall govern meetings, duties, etc. of the Association. Recordation of this Declaration and the By-laws with the Office of the Register of Deeds for Beaufort County, South Carolina, shall be deemed to be notice to the Association and all Members thereof.

Section 7.5: Powers and Duties of Declarant/Association. Unless otherwise expressly assigned by the Declarant prior to the adoption of this amended and restated Declaration, by a specific document which shall be recorded in the Office of the Register of Deeds for Beaufort County, any of its reserved rights set forth in the Original Declaration (as previously amended) are vested in the Association.

ARTICLE VIII :

Property Rights and Common Property

Section 8.1: Members' Easements of Enjoyment. Subject to the provisions of these Covenants and such rules and regulations as may be adopted by the Board of Directors of the Association from time to time, every Member shall have a right and easement of enjoyment in and to the Common Property, and such easement shall be appurtenant to and shall pass with title to every Lot or development parcel within the Property.

Section 8.2: Title to Common Property. The Association shall have the sole responsibility of maintenance, repair, and governing of the Common Property to the extent it has funds to do so.

Section 8.3: Extent of Members' Easements. The right and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its By-Laws, to borrow money for the purpose of improving the Common Property, and in aid thereof to mortgage its Properties;

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described Properties against foreclosure;

(c) The right of the Association, as provided in its By-Laws, to suspend the enjoyment of rights of any Member for any period for which any Assessment remains unpaid, and for any period not to exceed sixty (60) days for any

infraction of its published rules and regulations, it being understood that a suspension for either non- payment of any Assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Members' obligation to pay the assessments;

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

(e) The right of the Association to give or sell all or any part of the Common Property, including a leasehold interest, to any public agency, authority, or utility or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such shall be authorized by the vote of three-fourths (3/4) of the Membership at a duly called meeting and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken. A true copy of such Resolution together with a certificate of the vote taken thereon shall be made and acknowledged by the president or vice president and secretary or assistant secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Property, prior to the recording thereof. Such certificate shall be conclusive evidence of authorization by the Membership.

Section 8.4: Use of Common Property; Liability of Association. Neither the Association, its directors and officers, shall be liable to any Owner, their lessees and/or guests for any damage or injury which results from the use of the Property or any rule or regulation promulgated pursuant to these Covenants or the By-Laws. The Common Property is for the exclusive use of the Members of the Association and their guests. The Association, by its Board of Directors, may make such rules and regulations as may be deemed necessary in the future to regulate the use of the Common Property, which rules and regulations shall be binding upon all Members, their guests and invitees. Although the Association is responsible for the general upkeep and maintenance of the Common Property as provided herein, it shall not be liable for any accident or injury thereupon which may be caused by Acts of God, negligence of parties not employed by the Association, or careless or negligent activities of Members or their guests. All parties acquiring an interest in any portion of the Property hereby agree to hold the Association harmless from any such accident or injury. All Members and their guests agree and acknowledge that any use of the Common Property shall be at their own risk, without recourse to the Association. Any damage to Common Property caused by an Owner or his family or guests shall be the responsibility of the Owner, and the Association shall have the right to collect for such damages. Nothing shall be done or kept on the Common Property

which will increase the rate of insurance on the Common Property without the prior consent of the Association. No Owner shall permit anything to be done or kept on the Common Property which might result in the cancellation of insurance on any part of the Common Property, which would interfere with rights of other Owners, which would be noxious, harmful or unreasonably offensive to other Owners or which would be in violation of any governmental statute, ordinance, rule or regulation.

ARTICLE IX :

Covenant for Maintenance Assessments

Section 9.1: Creation of the Lien and Personal Obligation of Assessments. The Owner of each Lot within the Property as described in Article I, Section 1, hereby covenants and by acceptance of a deed thereof shall be deemed to covenant and agree to all of the terms and conditions of these Covenants and to pay the Association: (1) annual assessments or charges; (2) special assessments for the purposes set forth herein; and (3) any fines imposed by the Association for violations of these Covenants and/or such rules and regulations as the Association may adopt from time to time; such assessments and/or other charges and fines to be fixed, established and collected from time to time as hereinafter provided. All such annual and special assessments, charges and/or fines, together with such interest thereon and cost of collection therefore as may be hereinafter provided, shall be a charge and continuing lien on the land and all the improvements thereon against which each assessment, charges and/or fines are made. Such assessments, charges and/or fines shall, together with such interest thereon and cost of collection thereof as may be hereinafter provided, shall also be the personal obligation of the Owner at the time when said assessments, charges and/or fines fell due. In the case of co-ownership of a Lot, all such Owners of the Lot shall be jointly and severally liable for the entire amount thereof. The sale or transfer of any Lot shall not affect such lien nor shall it release a Lot from liability for any assessments, charges and/or fines thereafter becoming due.¹⁰

Section 9.2: Purpose of Assessments. The assessments levied by the Association shall be used for the improvement, maintenance, and operation of roads, rights-of-way, drainage ways, lighting, signage, security operations and facilities, insect control, vegetation control, drainage systems, open space maintenance, and other Common Property expenses, including but not limited to, the payment of taxes and insurance thereon, and repair, replacement and additions thereto, and for the cost of labor, equipment, materials, management and supervision thereof and third party

¹⁰ See 16th Amendment.

services such as legal and accounting. Special assessments shall be used for the purposes set forth in this ARTICLE IX.¹¹

Section 9.3: Basis and Maximum of Annual Assessments. The Board of Directors of the Association shall establish the budget and total annual assessment amounts, as further provided in these Covenants and in the Association By-Laws. In all cases, the total annual assessment amount shall be prorated among all Members in the same proportion as each Member's votes shall bear to the total outstanding votes within the Property. Beginning in the Association budget for calendar year 1996, the total annual assessment shall not be increased by more than fifteen (15%) percent above the previous year's annual assessment, unless such increase shall be approved by a two-thirds (2/3) vote of the Association's Membership.¹² Unimproved Lots shall be assessed at seventy-five (75%) percent of the regular annual assessment. Upon issuance of a Certificate of Occupancy by the Town of Hilton Head Island, the assessment shall be adjusted to the full rate for the next calendar year.

Section 9.4: Special Assessments for Improvements and Additions. In addition to the annual assessments authorized herein, the Association may levy special assessments for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, expected repair or replacement of a capital improvement of the Common Property, including the necessary fixtures and personal Property related thereto or additions to the Common Property, provided that any such assessments shall have the assent of three-fourths (3/4) of the vote at a duly called meeting of Members, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. Any such duly approved special assessment shall be prorated among Members on the same basis as annual assessments, as described in Section 9.3 above.

Section 9.5: Date of Commencement of Annual Assessments and Due Dates. The annual assessments provided for herein are due and payable the first day of January for said year. The due date of any special assessments shall be fixed in the resolution authorizing such assessments.

Section 9.6: Duties of the Board of Directors. In addition to the duties of the Board of Directors as set forth in the By-Laws, when the Association assumes the assessment powers as provided above, the Board shall fix the amount of the assessment for each Lot for each year and shall, at that time, prepare a roster of the Owners applicable thereto which shall be kept in the office of the Association and

¹¹ See 16th Amendment.

¹² See 14th Amendment for redactions regarding Declarant.

shall be open to inspection by any Owner in accordance with the By-laws. Written notice of the assessment shall be sent to every Owner subject thereto.

Section 9.7: Effect of Non-Payment of Assessment; Personal Obligation of Owner; Lien Remedies of the Association. If the assessments, charges and/or fines, or any financial obligations or reimbursements due from an Owner as set forth in these Covenants are not paid within sixty (60) days after¹³ the date when due, then such assessments, charges and/or fines, or other amounts due shall become delinquent. Said amounts, together with: interest thereon at a rate of eighteen percent (18%) per annum (or the maximum interest rate allowable by law) from the due date, reasonable attorneys' fees, and the cost of collection as hereinafter provided; shall be a charge and continuing lien on the Lot and Dwelling Unit thereon, against which each such assessment is made.

The foregoing obligation shall remain the personal obligation of the Owner of the Lot at the time the assessment becomes due and shall not pass as a personal obligation to his successors-in-title unless expressly assumed by them.¹⁴

If the assessment is not paid within sixty (60) days after the due date, the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Owner's Lot, or both; and there shall be added to the amount of said assessment the cost of preparing and filing a complaint in such action as well as any other costs and expenses incurred, including reasonable attorneys' fees. In the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, reasonable attorneys' fees, and all such costs as may be incurred in such collection action.

Section 9.8: Subordination of the Lien to Mortgages. The lien provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed on any Lot subject to assessment; provided, however, that such subordination shall apply only to the assessments, charges and/or fines, which have become due and payable prior to a sale or transfer of a Lot pursuant to a decree of foreclosure or deed in lieu. Such sale or transfer shall not relieve such Lot from liability for any assessments, charges and/or fines after becoming due, or from the lien securing same.

Section 9.9: Declarant Assessments. As stated above, there will be certain recreational and Club facilities owned by Declarant or its successors and assigns, within the Palmetto Hall Plantation. Declarant, or the owner of the recreational and

¹³ See 10th Amendment adopting sixty (60) day terms.

¹⁴ See 10th Amendment.

Club facilities if other than Declarant, hereby covenants and agrees to pay to the Association annual assessments equal to \$500.00 per each golf hole in existence for the calendar year. This \$500.00 figure shall be adjusted in the same proportion as the total annual assessment of an improved Lot is adjusted from calendar year 1991. Declarant and its successors and assigns to the recreational and Club facilities shall not be liable for any special assessments. This Section 9.9 may not be amended without the consent of Declarant, or Declarant's assigns.¹⁵

Section 9.10: Exempt Property. The following property, individuals, partnerships or corporations, subject to this Declaration, shall be exempted from assessments, charges and liens created herein except as otherwise stated in Section 9.9:

- (a) The grantee in conveyances made for the purpose of granting utility easements; and
- (b) All properties to the extent of any easement therein other than a utility easement dedicated and accepted by a local public authority and devoted to public use; and
- (c) All Association Common Property within the Property, whether or not title to such Common Property has been transferred to the Association.
- (d) All Lots or property owned by the Association.

Section 9.11: Additional Capital Improvements. Notwithstanding any provision contained in these Covenants to the contrary, neither the Board nor the Association shall be authorized to make a Capital Improvement to the Common Property that will require the expenditure of more than \$50,000.00 ("Expenditure Ceiling") without having first obtained approval of at least two-thirds (2/3rds) of the vote at a duly called meeting of Members, written notice of which shall be sent to all Members at least thirty (30) days in advance, which notice shall set forth the purpose of the meeting. Beginning on January 1, 2008, and on the first day of each year thereafter, the amount of the Expenditure Ceiling shall automatically increase by adding to it that amount produced by multiplying the then existing Expenditure Ceiling by one-half (1/2) of the percentage increase in the annual assessment for the same year. For purposes of these Covenants the term Capital Improvement shall mean new construction and land acquisition as defined as follows:

"New construction" meaning new buildings or new facilities including the cost of architectural and engineering services, site preparation, constructing, furnishing, and equipping such buildings and facilities for use, including heating, plumbing, ventilation, water, sewer, and electrical facilities with necessary connections to existing systems; and the construction of new structures, paths, trails, sidewalks,

¹⁵ See Footnote 8.

roads, parks, and water, irrigation and sewer systems, other utilities, street and curb and gutter improvements, and landscaping.

"Land Acquisition" meaning expenditures for the purchase of land and improvements affixed to the land.

In no event, shall the term Capital Improvement include or apply to the maintenance, repair or replacement of Common Property currently owned by the Association; nor to any expenditure the Board determines is necessary as the result of an emergency or catastrophe; nor with respect to any expenditure otherwise required by law. Further, in the event the Board shall determine that it shall be necessary to pay for a Capital Improvement, in whole or in part, by way of a special assessment, then the vote required to approve the Capital Improvement shall be the same as is necessary to approve a special assessment as provided in Section 9.4 above.¹⁶

ARTICLE X:

Functions of Association

Section 10.1: Association. The Association, its successors and assigns, shall be considered: (a) an assignee of Declarant; (b) the authorized and ratified agent of the Owners with respect to the functions specified herein; (c) a third party beneficiary under these Covenants; and (d) an Owner of Property subject to these Covenants. The Association, and its successors and assigns, shall have the standing and authority at law or in equity to carry out and enforce these Covenants.

Section 10.2: Limitation on Duties and Obligations. The Association shall strive to carry out and put into effect the functions and services specified or reasonably implied in this Declaration; however, the functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board with due consideration given to the amount of reserves and revenues available to the Association, and the relative demands upon the resources which the Association can utilize to maintain Common Property and to increase the use and enjoyment of the Property as a whole. The Association shall not be obligated to incur debt or deficits of expenditures over revenues in order to carry out its monetary function.

The Association and its Directors and Officers shall not be liable to any Owner, their lessees or guests, for any damage or injury which results from any

¹⁶ See 15th Amendment.

rule or regulation promulgated pursuant to these Covenants in good faith and reasonable care.

Section 10.3: Powers of the Association. The Association shall have and may exercise any right or privilege given to it expressly in these Covenants or, except to the extent limited by the terms and provisions of these Covenants, given to it by law, and shall have and may exercise every other right or privilege or power and authority necessary or desirable to fulfill its obligations under these Covenants, including but not limited to, the right to engage necessary labor and acquire use of, or purchase necessary property, equipment or facilities; employ personnel necessary to manage the affairs of the Association; obtain and pay for legal, accounting and other professional services as may be necessary or desirable; and to perform any function by, through, or under contractual arrangements, licenses or other arrangements with any governmental or private entity as may be necessary or desirable.

Section 10.4: Ownership and Maintenance of Common Property. The Association shall be authorized to own and maintain Common Property, equipment, furnishings, and improvements devoted to the following uses:

- (a) for roads or parkways, if any, provided they are not transferred to Beaufort County or the State of South Carolina, and landscaped or natural areas along said roads or parkways throughout the Property;
- (b) for sidewalks, walking paths or trails, playing fields or recreational areas, and bicycle paths, if any, throughout the Property;
- (c) for providing any of the services which the Association is authorized to offer hereunder;
- (d) for insect control within the Property; and
- (e) for drainage facilities serving the Property.

Section 10.5: Authorized Services. The Association shall be authorized but not required to provide the following services:

- (a) cleanup and maintenance of all Dwelling Unit exteriors, residential lots, roads, roadways, parkways, to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the State and local government, if applicable, and cleanup and maintenance of other Common Property within the Property, as well as all public properties which are located within or in a reasonable proximity to the Property such that their deterioration would affect the appearance of the Property as a whole;
- (b) landscaping of roads and parkways, sidewalks and walking paths and any other Common Property;
- (c) lighting of roads, sidewalks and walking paths throughout the Property;

(d) security functions, including but not limited to maintenance of electronic and other security alarm devices and control centers for the protection of persons and property within the Property;

(e) insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;

(f) those necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;

(g) to take any and all actions necessary to enforce all covenants and restrictions affecting the Property and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property;

(h) to administer the ARB;

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

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

Section 10.6: Mortgage and Pledge. The Board shall have the power and authority to borrow money for use by the Association and to mortgage the property of the Association and to pledge the revenues of the Association as security for such loans made to the Association, which loans shall be used by the Association in performing its authorized functions.

Section 10.7: Information. It shall be the responsibility of the Association to make available to Owners and mortgage lenders making loans to Owners, and to holders, insurers or guarantors of any first mortgage on a Dwelling Unit within the Property, current copies of the Declaration, By-Laws, and other rules and regulations relating to the Property. Books, records and financial statements of the Association shall be maintained and made available as provided for in the By-laws or as mandated by law.

Section 10.8: Insurance Requirements. The Association shall at all times maintain in full force and effect casualty (hazard, and flood, if ever applicable) and liability insurance and fidelity bond coverage as hereinafter specified:

(a) Hazard Insurance. The hazard coverage required hereunder shall protect at least against loss or damage by fire, wind or all other hazards that are normally covered by the standard extended coverage endorsement and all other perils customarily covered for similar structures, including those covered by the standard "all

risk" endorsement, and shall likewise include, but shall not necessarily be limited to, the following coverage:

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

(ii) Amount of Insurance. Insurance should cover the replacement cost of the insured facilities. Coverage does not need to include land, foundations, excavation or other items that are usually excluded from insurance coverage.

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

(b) Flood Insurance. If any part of the Common Property¹⁷ is in a flood hazard zone (as defined by the Federal Emergency Management Agency), the Association must maintain a "master" or "blanket" policy of flood insurance and provide for the premiums to be paid as a common expense. The policy should cover any buildings on Common Property and any other real or personal property of the Association. A reasonable deductible shall be determined by the Board each year. The amount of insurance should be at least equal to the replacement cost of all buildings and other insurable property located in the flood hazard area or, the maximum coverage available for the property under the National Flood Insurance Program.

(c) Liability Insurance. The Association shall maintain a comprehensive general liability insurance policy covering all common areas, public ways and any other areas of the Property which are under its supervision.¹⁸ The policy shall provide coverage of at least Five (5) Million Dollars (\$5,000,000.00)¹⁹ for bodily injury and property damage for a single occurrence. The liability insurance should provide coverage for the following:

- (i) bodily injury and property damage that results from the operation, maintenance or use of the Common Property, and any facilities thereon; and
- (ii) any legal liability that results from lawsuits related to employment contracts in which the Association is a party.

¹⁷ See 16th Amendment for correction of scrivener's error.

¹⁸ See 11th Amendment.

¹⁹ See 10th Amendment for increase from \$1M to \$5M.

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

(d) Fidelity Bonds. The Association shall have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not that person receives compensation for their services. Any management agent retained by the Association that handles funds for the Association shall also be covered by its own fidelity bond. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force. Additionally, the fidelity bond coverage must at least equal the sum of three (3) months' assessments of Lots and Dwelling Units in the Property, plus the Association's reserve funds. Except for fidelity bonds that a management agent obtains for its personnel, all other bonds shall name the Association as an obligee and shall have their premiums paid as a Common expense by the Association. The bonds must include a provision that calls for ten (10) days' written notice to the Association before the bond can be cancelled or substantially modified for any reason.

Section 10.9: Indemnification. The Association shall indemnify every officer, director, and any other Member of the Association acting at the direction of the Board of Directors in a voluntary capacity ("Volunteer"), against any and all expenses, including attorneys' fees, reasonably incurred by or imposed upon such officer, director or Volunteer in connection with any action, suit, or other proceeding (including settlement of any such action, suit, or proceeding, if approved by the then Board of Directors) to which such person may be made a party by reason of being or having been an officer, director or Volunteer, whether or not such person is an officer, director, or Volunteer at the time such expenses are incurred. Such officers, directors, or Volunteers shall not be liable for any mistake of judgment, negligent or otherwise, or for injury or damage caused by any such officer, director, or Volunteer in the performance of his or her duties, except for their own individual willful misfeasance or malfeasance. The officers, directors, and Volunteers, 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 Volunteers, may also be Members of the Association), and the Association shall indemnify and forever hold each such officer, director, or Volunteer, free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or Volunteer (or former officer, director or Volunteer), may be entitled. The Association shall, as a common expense,

maintain, if obtainable, officers' and directors' liability insurance to fund this obligation, and the insurance shall be written as provided in this section.²⁰

ARTICLE XI :

Rules and Regulations

Section 11.1: Establishment of Rules and Regulations. Subject to the provisions hereof, the Association may establish reasonable rules and regulations concerning the use of Lots, easement areas, Open Space and the Common Property and facilities located thereon. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rules or regulations are specifically overruled, cancelled or modified by the Board of Directors of the Association or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the total votes in the Association.

Section 11.2: Authority and Enforcement. Subject to the provisions of Section 11.3 hereof, upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder (including, without limitation, the failure to timely pay any assessments), by any Owner, resident, guest, tenant or invitee, the Board of Directors of the Association shall have the power to:

- (a) impose reasonable monetary fines on the Owner responsible for such violation, which, together with interest thereon and the costs of collection including attorneys' fees, shall also constitute an equitable charge and a continuing lien upon the properties of such Owner;
- (b) suspend an Owner's right to vote in the Association; and
- (c) suspend an Owner's right to use any Common Property, including the right to request guest passes, and the Board of Directors of the Association shall have the power to impose all or any combination of these sanctions, providing that no sanctions may restrict an Owner or other resident's right to ingress and egress.

Any such suspension of rights may be for the duration of the infraction, not to exceed sixty (60) days.

Section 11.3. Procedure. Except with respect to the failure to pay assessments, the Board of Directors of the Association shall not impose a fine, suspend voting rights, or infringe upon or suspend any other rights of an Owner for

²⁰ See 11th Amendment adding Volunteers.

violations of the Declaration, the By-Laws, or any rules and regulations of the Association, unless and until the following procedure is followed:

(a) Notice to cease and desist from, and/or abate an alleged violation shall be provided to the responsible Owner specifying:

- (i) the alleged violation;
- (ii) the corrective action required; and
- (iii) a time period of not less than five (5) days during which the violation may be abated without further sanction, if such violation is a continuing one; or, if the violation is not a continuing one, a statement that any further violation of the same provision of this Declaration, the By-Laws, or of the rules and regulations of the Association may result in the imposition of sanctions and/or fines.

(b) If the violation continues past the period allowed in the demand for abatement without penalty, or if the same violation reoccurs within twelve (12) months of such demand, the Board of Directors of the Association may impose the fine or sanction and send notice of same to the responsible Owner.

(c) Unless an Owner makes a written request for reconsideration of the imposition of such fine or sanction within ten (10) days of the foregoing notice, the violation shall be deemed admitted. Any such request shall be emailed, or sent via certified mail, return receipt requested, to the attention of the Property Manager at the address maintained on the Palmetto Hall website and must:

- (i) set forth the reasons for contesting same;
 - (ii) identify any relevant evidence the Owner seeks to have considered;
- and
- (iii) state the relief requested.

(d) Upon receipt of a timely request for reconsideration by an Owner, the matter will be evaluated by the Board of Directors of the Association, or such Review Committee as it may establish for said purpose, and notice of its recommendation will be sent to the Owner no later than ten (10) days from the date of receipt of Owner's request.

(e) If the Owner disagrees with the foregoing recommendation, the Owner may make a written request, within ten (10) days of receipt of such recommendation, for a final hearing to be held before the Board of Directors for the Association. The Board shall provide the Owner with notice of the hearing, which notice shall contain:

- (i) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice; and
- (ii) an invitation to attend the hearing and produce any statement, evidence and witnesses on his behalf; and

(f) The hearing shall be held in executive session of the Board of Directors pursuant to the notice and shall afford the responsible Owner a reasonable opportunity to be heard. Prior to the effectiveness of any sanction or fine contested by the Owner in accordance with the provisions of this Section, proof of

notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer, director or other individual who delivered such notice. The notice requirement shall be deemed satisfied if an alleged violator appears at the meeting. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanction imposed, if any.

(g) This Section 11.3 applies to the imposition of fines and/or sanctions only and shall not be construed as limiting the right of the Association to take immediate action to ameliorate a dangerous condition; respond to an emergency; or exercise any "self-help" provisions, including the right to seek reimbursement for the costs associated therewith, as expressly provided for elsewhere in these Covenants.

PART FOUR

PALMETTO HALL CLUB

ARTICLE XII:

CLUB MEMBERSHIP AND FACILITIES

Section 12.1: Club Organization and Structure. The Declarant caused there to be organized and established the Palmetto Hall Club ("Club"). for purposes of operating the Club Facilities, which have been transferred to a third-party operator as indicated in Footnote 8 herein above. The Club will initially be a non-equity club with membership restricted as more fully described in the Plan for the offering of Club Memberships in Palmetto Hall Club, together with its various exhibits and supporting documents (the "Membership Plan"). Ownership of a Lot in Palmetto Hall Plantation requires that an Owner acquire and maintain a membership in the Club and pay the required membership fees, dues and charges as established from time to time. An Owner must apply to and (prior to and, as a condition of closing) be accepted for membership by the Club in order to become member thereof. As provided in the Membership Plan, membership requires the payment of such dues and assessments as the Club may establish from time to time. Membership in the Club shall entitle the member to access to and use of the facilities of the Club based on the Club membership category acquired by the Owner in accordance with the rules and regulations established from time to time. Ownership of a Lot or membership in the Club does not grant any equity or ownership interest in the Club Facilities. The Club Facilities will be owned by Declarant or by the Club, or by Declarant's successors

and assigns, as Declarant has reserved all rights to sell or dispose of the Club Facilities.²¹

Section 12.2: Club Facilities. Pursuant to the Membership Plan Documents certain recreational and Club facilities in Palmetto Hall Plantation will be constructed to ultimately become the amenities of the Club which shall be referred to as the "Club Facilities". Those are projected to include an 18-hole golf course, a clubhouse, tennis courts and swimming pool. The use of the Club Facilities may be available to members, and their guests and invitees and to the general public upon payment of the required fees and subject to the rules and regulations of the Club in effect from time to time.

Section 12.3: Right of Access. The Club and its Members (regardless of whether such Members are Owners as defined herein), employees, agents, contractors, and guests and invitees shall at all times have a right and non-exclusive easement of access and use over all roadways located within Palmetto Hall Plantation reasonably necessary to travel to or from the Club Facilities and Declarant shall likewise have reserved rights over those portions of the Common Properties as defined herein reasonably necessary for the operation, maintenance, repair and replacement of the Club and its facilities.

Section 12.4: Assessments. Reference is made to Section 9.9 relating to Declarant assessments. It is specifically noted that neither the Club nor any of its Club Facilities, shall be subject to assessment hereunder other than as set forth in Section 9.9.

PART FIVE

GENERAL PROVISIONS

ARTICLE XIII :

General Rights Reserved by Declarant²²

Section 13.1: Repurchases by the Association. In consideration of the affirmative obligations of, and benefits to, all Owners provided by the Association under these Covenants, when any Lot within the Property is offered for sale, the Association shall have the exclusive option to purchase such property at the price and

²¹ On information and belief, the Declarant transferred the Club Facilities to CNL Income Partners, L.P. and reference is hereby made to the official records maintained by the Office of the Register of Deeds for Beaufort County, South Carolina for information regarding the current ownership thereof.

²² See 16th Amendment for correction to numbering.

on the terms of any bona fide offer for such property made in writing to the Owner at such time and submitted to Association for verification.

Each Owner shall notify the Association of its intent to sell its property with such notice setting forth in full the certified terms and conditions of the sale, and including the full name and primary address of the prospective true buyer (as distinguished from agents and intermediaries). The Association shall have thirty (30) days after presentation of such notice to exercise this purchase option. If the Association has not executed a contract for purchase during this period, the record Owner may freely convey the property to the subject offeror. Should, however, such sale to a third party not be consummated within four (4) months of the date the offer is transmitted to the Association at the price and on the terms offered or a price more favorable to the Seller, the terms and limitations of this Section shall again be imposed upon any sale by the Owner.

If the Association elects to purchase such property, the transaction shall be consummated on the terms offered; provided, however, that the Association shall have a minimum of thirty (30) days from the delivery of notice to consummate the transaction.

Section 13.2: Rights, Easements Retained by Association. The Association reserves unto itself, its successors and assigns, a perpetual, alienable, releasable easement and right on, over and under the ground to erect, maintain and use electric, telephone, and cable television poles, wires, cables, conduits, pipes, sewers, water mains, effluent mains, irrigation mains and other suitable equipment, gas, sewer, water or other public conveniences or utilities, on, in or over portions of the Lots within the Property as may reasonably be required for utility line purposes, and such other areas as are shown on the applicable plat. By way of example, the Association specifically reserves an easement for said utility purposes on the front (roadway) side of each Lot for a depth of ten (10') feet.

The Association further reserves, unto itself, its successors and/or assigns, the right to cut drainways for surface water wherever and whenever such action may appear to Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. Specifically, the Association reserves unto itself, its successors and assigns a perpetual, alienable releasable easement and right, for drainage purposes, in varying dimensions and locations, as may be reasonable and necessary. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance.

Such rights may be exercised by any licensee of the Association, but this reservation shall impose no responsibility upon the Association, its successors and/or assigns, to construct or maintain any such utility or service. The Association expressly reserves the right to transfer said utilities and utility easements, in whole

or in part, to another entity, whether public or private, which undertakes to provide such utility service.

Section 13.3: Ingress and Egress; Roadways. An Owner, in accepting title to property conveyed subject to these Covenants, waives all rights of uncontrolled and unlimited egress and ingress to such property (and waives such rights for any person claiming entry rights by virtue of any relationship or permission of such Owner and successors in title) and agrees that such ingress and egress to its property may be limited to roads as built within Palmetto Hall.

Further, it is recognized that as of the date of this Declaration certain roadways have been constructed and, in general, a plan of ingress and egress for Palmetto Hall has been adopted and conveyed to the Association, which expressly reserves the right to modify the ingress and egress plan within Palmetto Hall, including the specific right to close roadways and streets, to re-route vehicular ingress and egress traffic, and, in general, to exercise all rights of control of the general traffic flow pattern within Palmetto Hall.²³

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 for use of such roads by members of the general public, except that
 - (i) no such toll shall be applicable to any Owners or lessees or registered guests of Owners,
 - (ii) nor shall the toll be applicable to any person who gives reasonable evidence satisfactory to the Association that their entry into the premises of the Owner is with the specific permission of the Owner, or the Owner's duly authorized agent (this exception shall not apply to commercial or construction vehicles of any kind);
 - (iii) nor shall such toll charge be applicable to guests of the Association or of the Club, including members of the public intending to play golf on one of the golf courses within Palmetto Hall Plantation;
- (c) determine in its sole discretion the types of vehicles that will be permitted access to the Property and use of such roads; and
- (d) limit access to the Property to the Association, Owners, Lessees, and their guests and invitees..

²³ The roadways were conveyed to the Association by the Declarant by virtue of that certain Limited Warranty Deed of Common Properties, filed in the Office of the Register of Deeds for Beaufort County on August 6, 1998 in Deed Book 1073, page 322.

Section 13.4: Additional Restrictions. [As Palmetto Hall is fully developed and the Declarant no longer owns any of the Property, this Section 13.4 is deleted in its entirety].

Section 13.5: Duration of Covenants. All covenants, restrictions and affirmative obligations set forth herein, as may be amended from time to time, shall run with the land and shall be binding on all parties and persons claiming under them to specifically include, but not be limited to, the successors and assigns, if any, of Declarant for a period of forty (40) years from the execution of the Original Declaration, subject to the right reserved unto Declarant, its successors and assigns, to add additional restrictive covenants in respect to the Property subject to this Declaration and the further right to limit or amend the application of the Covenants herein contained. After the initial forty (40) year period of duration, all said Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners of Lots substantially affected by such change of Covenants, has been recorded, agreeing to change said Covenants in whole or part.

Section 13.6: Remedies in the Event of Violation or Breach. In the event of a violation or breach of any of the Covenants contained herein by an Owner, the Association shall have the right, but shall not be obligated, to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event, and the Association shall have the right to recover all costs and expenses of suit in such action, including reasonable attorneys' fees. In addition to the foregoing, the Association shall have the right, but not the obligation, whenever there shall exist a condition which is in violation of these restrictions, to enter upon said Property where such violation exists and summarily abate or remove the same at the expense of the Owner if after written notice of such violation in accordance with Section 11.3, it shall not have been corrected by the Owner, and to assess the cost of such abatement or removal against the Owner. Such assessment of costs shall bear interest at a rate of eighteen percent (18%) per annum until paid and shall, together with all reasonable attorneys' fees and costs of collection thereof, be a charge and continuing lien on the Lot of such Owner in the same manner and to the same extent as the lien for Assessments. Any such entry or abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservations, restrictions or conditions contained in this Declaration, however long continued, shall not be deemed a waiver of the right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bar or affect its enforcement.

Section 13.7: Declarant Approval. This Section 13.7 is deleted in its entirety.

Section 13.8: Severability and Rule Against Perpetuities. The invalidation by any court of any restrictions of these Covenants shall in no way affect any of the

other restrictions, but they shall remain in full force and effect. If any provisions of this Declaration would violate the rule against perpetuities or any other limitation on the duration of the provisions contained herein and imposed by law, then such provision shall be deemed to remain in effect only for the maximum period permitted by law or until twenty-one (21) years after the death of the last survivor of the descendants of the 41st President of the United States, President George H. W. Bush, living at the time of the adoption of the Original Declaration.

Section 13.9: Notification and Additions. As the Declarant no longer owns any of the Property, this Section 13.9 is deleted in its entirety.

Section 13.10: Assignment. Under the Original Declaration, the Declarant reserved the right to assign, in whole or in part, to its successor-in-title to any portion of the Property, or to its agent, or to the Club or any successor to the Club, or to the Association, any of the rights reserved in these Covenants. As the Declarant no longer owns any of the Property, its right to any such assignments terminated as of December 30, 2016, the date of divestiture.

Section 13.11: Use of Trademark. Each Owner, by acceptance of a deed to any lands, tenements or hereditaments within the Property hereby acknowledges that "Palmetto Hall Plantation", "Palmetto Hall" and designs are service marks and trademarks of the Association. Each Owner agrees to refrain from misappropriating or infringing these service marks or trademarks.

ARTICLE XIV :

Amendments

Section 14.1: Amendments. The procedure for amendment of this Declaration shall be as follows: all proposed amendments shall be submitted to the vote of the Members at a duly called meeting of the Association for which notice of the proposed amendment has been given to the Members in the notice for the meeting, subject to the quorum requirements set forth above, and any such proposed amendment shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting at which such proposed amendment is to be considered are in favor of the amendment. Notwithstanding the above, if a proposed amendment shall remove, revoke, modify, or affect in any way powers or rights of the owner(s) of the Club Facilities as defined in Article XII, then such amendment shall require the consent of such owner(s) prior to becoming effective. Said amendments requiring the consent of the owners of the Club Facilities shall include, but not be limited to, amendments which would increase the amounts of assessments paid by such properties or owners, amendments which would impose toll charges for users of roadways accessing such

properties, or any other amending which would otherwise affect the operation and maintenance of the facilities. If any proposed amendment to this Declaration is approved by the Members 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 meeting of the Association at which such amendment was adopted, the date that notice of such meeting was given, the total number of votes necessary to adopt the amendment, and the total number of votes cast against the amendment.

ARTICLE XV :

Notice

Section 15.1: How Notice Given. Any notice required to be sent to any Owner under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given to the person or entity who appears as Owner in the public records of Beaufort County, South Carolina as maintained by the Beaufort County Tax Assessor's Office as of the first day of the calendar month in which said notice is mailed, when: (a) mailed, with the proper postage affixed, to the address show therein, or such other address as the Owner may provide to the Association for such purpose; or (b) sent to such email account as such Owner may provide to the Association for such purpose. Such notice, regardless of the method of service, shall be deemed received by such Owner on the Fifth (5th) business day following the date on which the notice was sent.

Section 15.2: Notice to Co-Owners. Notice to one (1) of two (2) or more co-Owners of a Lot or Dwelling Unit, shall constitute notice to all co-Owners.

Section 15.3: Notice of Address or Ownership Change. It shall be the obligation of every Member to immediately notify the Secretary of the Association in writing of any change of address. Any person who becomes an Owner and Member following the first day in the calendar month in which said notice is mailed shall be deemed to have been given notice if notice was given to his predecessor-in-title.

ARTICLE XVI:
Enforcement, Severability and
Interpretation

Section 16.1: Who May Enforce Generally. In the event of a violation or breach of any of the affirmative obligations or restrictions contained in this Declaration by any Owner or agent of such Owner, or any other Owners, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event, provided however that the right of the Owners hereunder shall not be construed to impose an obligation on them for enforcement.

Section 16.2: Enforcement by the Association. In addition to the foregoing, the Association shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breach in any event. The Association may engage a person or persons to respond to complaints received as to violations of the Covenants and shall inform the violators of such complaint. If the violation is not expeditiously terminated, the Association may engage legal counsel to bring an appropriate injunctive action, including any appeals, to enforce these Covenants. Violators shall be obligated to reimburse the Association in full for all its direct and indirect costs, including but not limited to legal fees incurred by the Association in maintaining compliance with these Covenants in the event the Association prevails in such proceedings.

Section 16.3: DELETED IN ITS ENTIRETY.

Section 16.4: Against Whom May the Covenants be Enforced. The obligations and benefits prescribed by the Covenants shall run with the Property and shall be enforceable against the Declarant, its successors or assigns, the Association and against any Owner or other person whose activities bear a relation to the Property when the aforesaid parties engage in activities (including omissions and failures to act) which constitute violations or attempts to violate or circumvent the covenants and restrictions set forth in this Declaration.

Section 16.5: Litigation. Notwithstanding the provisions of Section 16.9, no judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five percent (75%) of the votes eligible to be cast by the Members. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided herein, (c) proceedings involving challenges to ad valorem

taxation, or (d) counterclaims, cross-claims, or third party claims brought by the Association in proceedings instituted against it.²⁴

Section 16.6: Means of Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

Section 16.7: Severability. Should any Covenant or restriction herein contained, or any Part, Article, Section, paragraph, sentence, clause, phrase, or term in this Declaration be declared to be void, invalid, illegal or unenforceable for any reason by the adjudication of the highest court or other tribunal which considers such matters and has jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable.

Section 16.8: Interpretation. In all cases, the provisions of this Declaration shall be given that reasonable interpretation or construction which will best effect consummation of the general plan of land use restrictions and affirmative obligations of the Property, which will carry out the intentions expressed in the recitals of these Covenants, and which will preserve the Property as a situs for a high amenity, attractive, well maintained, privately-governed residential community. Contrary to the restrictive common law rule of construction, these Covenants shall by this Covenant be interpreted broadly to touch and concern the Property with recognition of modern economic, land use planning and real estate finance and development principles, theories and practices. It is the Declarant's intent, and all Owners who take subject to the Covenants, to covenant and agree, and are thereby estopped to deny, that any reserved right or function of the Association, and any other covenant condition, restriction or obligation within these Covenants is intended to promote the use and enjoyment of the Property, is intended to foster the creation, preservation or enhancement of economic or intangible values associated with the Property, and does touch and concern, benefit and burden and run with the Property.²⁵ The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning ordinance which allows a less restricted use of the Property.

Section 16.9: Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provided otherwise.

²⁴ See 11th Amendment.

²⁵ See 16th Amendment for previous changes to this Section 16.8.

Section 16.10: Gender, Tense and Number. When necessary for proper construction, the masculine form of any word used in this Declaration shall include the feminine or neuter gender, and the singular, the plural and vice versa, and words used in the present tense shall include the future tense.

Section 16.11: No Waiver. Failure to enforce any provisions of this Declaration shall not operate as a waiver of any such provision or of any other provisions of this Declaration.

Section 16.12: Captions. The captions and headings in this instrument are for convenience only and shall not be considered in construing any provisions of this Declaration.

Section 16.13: No Implied Liabilities or Duties. ANY RULES OR REGULATIONS ESTABLISHED BY THE ASSOCIATION PURSUANT TO THESE COVENANTS SHALL NOT EXPRESSLY OR IMPLIEDLY CREATE ANY DUTY OF CARE TO ANY OWNER.

IN WITNESS WHEREOF, Palmetto Hall Plantation Owners' Association, Inc. has caused this instrument to be executed the day and year first above written by its appropriate officers.

PALMETTO HALL PLANTATION
OWNERS' ASSOCIATION, INC.

Joseph R. Acantio
Witness

By: Roger Gallagher
Roger Gallagher, President

Courtney Starna
Witness/Notary

Attest: Thomas Rougeux
Thomas Rougeux, Secretary

ACKNOWLEDGEMENT

I, Courtney Starna do hereby certify that ROGER GALLAGHER and THOMAS ROUGEUX, President and Secretary, respectively, of Palmetto Hall Plantation Owners' Association, Inc., appeared before me this 30th day of December, 2017, and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 30th day of December, 2017.

Courtney Starna
Notary Public of South Carolina
My Commission Expires: Feb 15, 2023

EXHIBIT "A"
DESCRIPTION OF PROPERTY
SUBJECT TO THIS DECLARATION

All those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and lots numbered 1 through 69, inclusive, on a plat entitled "Phase I Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated June 30, 1989, last revised December 27, 1989, Sheets 1 through 5, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the RM Office for Beaufort County, on March 6, 1991, in Plat Book 40 at Page 153.

and

(Added by the First Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase II-A))

All those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 70 through 77, inclusive, Lots 79 through 105, inclusive, and Lots 146 through 158, inclusive, on a plat entitled "Phase II A Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated August 1, 1991, Sheets 1 through 2, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the RM Office for Beaufort County, on October 21, 1991, in Plat Book 42 at Page 44.

and

(Added by the Second Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase III))

All those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 160 through 213, inclusive, on a plat entitled "Phase III - Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated

April 18, 1991, Sheets 1 through 2, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the RMC Office for Beaufort County, on June 3, 1992, in Plat Book 43 at Page 138.

and

(Added by the Third Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase IV)

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 214 through 240 and Lots 250 through 268, inclusive, on a plat entitled "Phase IV-A - Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated November 23, 1992, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on June 7, 1993, in Plat Book 46 at Page 107.

AND ALSO all those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 241 through 249 and Lots 269 through 285, inclusive, on a plat entitled "Phase IV-B - Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated November 23, 1992, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on June 15, 1993, in Plat Book 46 at Page 122.

and

(Added by the Fourth Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase II-B and Phase II-C)

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 106 through 111 and Lots 142 through 145 and Lots 501 through 527, inclusive, on a plat

entitled "Phase II-B - Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated September, 1992, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on December 20, 1993, in Plat Book 48 at Page 136.

AND ALSO all those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 528 through 552, inclusive, on a plat entitled "Phase II-C - Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated September, 1992, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on December 20, 1993, in Plat Book 48 at Page 37.

and

(Added by the Fifth Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase V)

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 286 through 364, inclusive, on a plat entitled "Phase V - Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation Sheets 1 through 3", said plat being dated May 20, 1994, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on June 6, 1994 at Page 192.

and

(Added by the Sixth Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase VI-A and Phase VI-B)

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 365 through 367 and Lots 403 through 427, inclusive, on a plat entitled "Phase VI-A, Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated September 2, 1994, and last revised May 18, 1995, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on July 26, 1995, in Plat Book 53 at Page 105.

AND ALSO all those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 368 through 402, inclusive, on a plat entitled "Phase VI-B, Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated September 2, 1994, and last revised May 18, 1995, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on July 26, 1995, in Plat Book 53 at Page 104.

and

(Added by the Seventh Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase VIII)

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 428 through 468, inclusive, on a plat entitled "Phase VIII, Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated September 2, 1994, and last revised November 3, 1995, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on November 20, 1995, in Plat Book 54 at Page 130.

and

(Added by the Eighth Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase VII)

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 469 through 491, inclusive, on a plat entitled "Phase VII, Palmetto Hall Being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated September 22, 1996, and last revised November 3, 1995, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, and said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on January 21, 1997, in Plat Book 59 at Page 59.

and

(Added by the Ninth Amendment to Palmetto Hall Plantation Declaration of Covenants, Restrictions and Limitations and Provisions for Membership in Palmetto Hall Plantation Owners' Association, Inc. (Phase IX)

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being shown as certain common area, rights-of-way, and Lots numbered 553 through 564, inclusive, on a plat entitled "Subdivision of Existing Parcel Map 4 Parcel 299, Phase IX Palmetto Hal, being a Subdivision of the Honey Horn Plantation, Hilton Head Island, Beaufort County, South Carolina for Greenwood Development Corporation", said plat being dated May 21, 1997, said plat prepared by Hussey, Gay, Bell & DeYoung, Inc., Consulting Engineers, Savannah, Georgia, James M. Sims, S.C. Reg. L.S. #13169, said plat having been recorded in the Office of Mesne Conveyances for Beaufort County, on July 31, 1997, in Plat Book 61 at Page 125.