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**THIS DECLARATION CONTAINS AN ARBITRATION AGREEMENT  
SUBJECT TO THE SOUTH CAROLINA ARBITRATION ACT,  
SECTION 15-48-10, et. seq., CODE OF LAWS OF SOUTH CAROLINA, 1976**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
PEPPER PLANTATION**

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

PEPPER PLANTATION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for Pepper Plantation ("Declaration") is made as of the date set forth on the signature page hereof by Windallo, Inc., a South Carolina corporation (the "Declarant").

RECITALS:

WHEREAS, Declarant is the owner of the real property described on Exhibit "A," which is attached and incorporated by reference. This Declaration imposes upon the Properties mutually beneficial restrictions under a general plan of improvement for the benefit of the owners of each portion of the Properties and establishes a flexible and reasonable procedure for the overall development, administration, maintenance and preservation of the Properties. In furtherance of such plan, this Declaration provides for the creation of Pepper Plantation Homeowners Association, Inc. to own, operate and maintain Common Areas and to administer and enforce the provisions of this Declaration, by By-Laws, and the Design Guidelines (capitalized terms are defined in Article 1 below).

NOW, THEREFORE, Declarant hereby declares that all of the property described on Exhibit "A" and any Additional Property subjected to this Declaration by Supplemental Declaration shall be held, sold, used and conveyed subject to the following easements, restrictions, covenants, and conditions which shall run with the title to the real property subjected to this Declaration. This Declaration shall be binding upon all parties having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner of any portion of the Properties.

This document does not and is not intended to create a condominium within the meaning of the South Carolina Horizontal Property Act, South Carolina Code Annotated, §27-31-10, et seq.

ARTICLE 1: DEFINITIONS

The terms in this Declaration and the exhibits to this Declaration shall generally be given their natural, commonly accepted definitions except as otherwise specified. Capitalized terms shall be defined as set forth below.

1.1. "Additional Property": All of that certain real property which is more particularly described on Exhibit "B", which is attached and incorporated herein by this reference, and any other land which contiguous to the property described on either Exhibit "A" or Exhibit "B", which real property is subject to annexation to the terms of this Declaration in accordance with Article 7.

1.2. "ARB": The Architectural Review Board, as described hereunder.

1.3. "Area of Common Responsibility": The Common Area, together with those areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, or other applicable covenant, contract, or agreement.

1.4. "Articles of Incorporation" or "Articles": The Articles of Incorporation of Pepper Plantation Homeowners Association, Inc., as filed with the Secretary of State of the State of South Carolina.

1.5. "Association": Pepper Plantation Homeowners Association, Inc., a South Carolina nonprofit, mutual benefit corporation, its successors or assigns.

1.6. "Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and serving as the board of directors under South Carolina corporate law.

1.7. "Builder": Any Person who purchases one (1) or more Lots for the purpose of constructing improvements for later sale to consumers in the ordinary course of such Person's business. Any Person occupying or leasing a Lot for residential purposes shall cease to be considered a builder with respect to such Lot immediately upon occupancy of the Lot for residential purposes, notwithstanding that such Person originally purchased the Lot for the purpose of constructing improvements for later sale to consumers.

1.8. "By-Laws": The By-Laws of Pepper Plantation Homeowners Association, Inc., attached as Exhibit "C," as they may be amended.

1.9. "Class "B" Control Period": The period of time during which the Class "B" Member is entitled to appoint a Majority of the members of the Board of Directors as provided herein.

1.10. "Common Area": All real and personal property, including easements and licenses, which the Association owns, leases or holds possessory or use rights in for the common use and enjoyment of the Owners including, without limitation, the Roads, the Corral, the Clubhouse, the Trails, ponds, lakes, water features, drains, lines, conduits, and pathways.

1.11. "Common Expenses": The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Owners, including any reasonable reserves, as the Board may find necessary and appropriate pursuant to the Governing Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial subdivision development, original construction of ponds, lake and Club House, installation of roads and infrastructure, and original capital improvements on Common Properties unless approved by Voting Delegates representing a Majority of the total Class "A" votes of the Association.

1.12. "Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing throughout the Properties. Such standard shall initially be established by the Declarant and may be more specifically determined by the Board of Directors and the ARB.

1.13. "Cost Sharing Agreement": Any agreement, contract or covenant between the Association and an owner or operator of property adjacent to, in the vicinity of, or within Pepper

Plantation for the allocation of expenses for amenities and/or services that benefit both the Association and the owner or operator of such property.

1.14. "Days": Calendar days; provided however, if the time period by which any action required hereunder must be performed expires on a Saturday, Sunday or legal holiday, then such time period shall be automatically extended to the close of business on the next regular business day.

1.15. "Declarant": Windallo, Inc., a South Carolina corporation, or any successor, successor-in-title, or assign who takes title to any portion of the property described on Exhibits "A" or "B" for the purpose of development and/or sale and who is designated as the Declarant in a recorded instrument executed by the immediately preceding Declarant; provided however, there shall be only one (1) "Declarant" hereunder at any time.

1.16. "Design Guidelines": The design, architectural and construction guidelines and application and review procedures applicable to all or any portion of the Properties promulgated and administered pursuant to Article 9.

1.17. "Development Period": The period of time during which the Declarant owns any property which is subject to this Declaration, or any Additional Property, or has the unilateral right to subject Additional Property to this Declaration pursuant to Section 7.1. The Declarant may, but shall not be obligated to, unilaterally relinquish its rights under this Declaration and terminate the Development Period by recording a written instrument in the Public Records.

1.18. "General Assessment": Assessments levied on all Lots subject to assessment under Article 8 to fund Common Expenses for the general benefit of all Lots, as more particularly described in Sections 8.1 and 8.2.

1.19. "Governing Documents": The Declaration, By-Laws, Articles of Incorporation, all Supplemental Declarations, all Design Guidelines, the rules of the Association, all Cost Sharing Agreements, and all additional covenants governing any portion of the Properties or any of the above, as each may be amended from time to time.

1.20. "Guest House": Any habitable structure located on a Lot which is smaller than the Main House and accommodates habitation for people on a temporary basis. The term "Guest House" shall also include any structure located on a Lot which is not a Main House and serves as a studio or home office.

1.21. "HOA Easements": Any area so designated on a recorded plat of the Properties.

1.22. "Lot": A portion of the Properties, whether improved or unimproved, which may be independently owned and conveyed and which is intended for development, use, and occupancy as an attached or detached residence for a single family, and which is not part of the Common Area. The term shall refer to the land, if any, which is part of the Lot as well as any improvements thereon.

1.23. "Main House": The habitable structure located on a Lot which constitutes and serves as the primary single family residence.

1.24. "Majority": Those votes, Owners, Members, or other group, as the context may indicate, totaling more than fifty percent (50%) of the total eligible number.

- 1.25. "Member": A Person subject to membership in the Association pursuant to Section 3.2.
- 1.26. "Mortgage": A mortgage, a deed of trust, a deed to secure debt, or any other form of security instrument affecting title to any Lot.
- 1.27. "Mortgagee": A beneficiary or holder of a Mortgage.
- 1.28. "Owner": One (1) or more Persons who hold the record title to any Lot, including the Declarant and any Builders, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Lot is owned by more than one (1) Person, all such Persons shall be jointly and severally obligated to perform the responsibilities of such Owner.
- 1.29. "Pepper Plantation": That certain residential community located in Charleston County, South Carolina and commonly known and referred to as Pepper Plantation.
- 1.30. "Person": A natural person, a corporation, a partnership, a limited liability company, a fiduciary acting on behalf of another person or any other legal entity.
- 1.31. "Properties": The real property described on Exhibit "A" as such exhibit may be amended or supplemented from time to time to reflect any additions or removal of property in accordance with Article 7.
- 1.32. "Public Records": The Register of Mesne Conveyance Office for Charleston County, South Carolina or such other place which is designated as the official location for recording of deeds and similar documents affecting title to real estate.
- 1.33. "Residential Lot": A Lot designated by the Declarant as a "Residential Lot" and limited to use for single family residential purposes as provided in Section 13.4.
- 1.34. "Roads": Any permanent Roads constructed within the Properties and including the right of way shown on a recorded plat of the Properties.
- 1.35. "Special Assessment": Assessments levied in accordance with Section 8.5.
- 1.36. "Specific Assessment": Assessments levied in accordance with Section 8.6.
- 1.37. "Supplemental Declaration": An instrument filed in the Public Records which subjects Additional Property to this Declaration and/or imposes, expressly or by reference, additional restrictions and obligations on the land described in such instrument. The term shall also refer to any declaration of covenants, conditions and restrictions.
- 1.38. "Voting Delegates" shall mean those individuals entitled to cast Class "A" votes on behalf of Lots at meetings as determined under Article 3 of this Declaration.
- 1.39. "Zoning Ordinance": Charleston County Zoning Ordinance, as the same may be amended from time to time.

## ARTICLE 2: PROPERTY RIGHTS

2.1. Common Areas and Roads. Every Owner shall have a right and nonexclusive easement of use, access, and enjoyment in and to the Common Area and Roads, which is appurtenant to and shall pass with the title to each Lot, subject to:

- (a) This Declaration and all other Governing Documents;
- (b) Any restrictions or limitations contained in any deed conveying such property to the Association;
- (c) The right of the Board to adopt, amend and repeal rules regulating the use and enjoyment of the Common Area and Roads, including rules limiting the speed limits on Roads and regulating the use by Owners and guests of the Common Area (including, without limitation, horseback riding trails, lake, dock, and clubhouse, both under normal circumstances and during special events);
- (d) The right of the board to suspend the right of an Owner to use any recreational and social facilities within the Common Area pursuant to Section 4.3;
- (e) The right of the Association, acting through the Board, to mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (f) The right of the Declarant to conduct activities and establish facilities within the Properties as provided in Article 13.

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Lot shall be deemed to have assigned all such rights to the lessee of such Lot.

2.2. No Partition. Except as permitted in this Declaration, there shall be no judicial partition of the Common Area. No Person shall seek any judicial partition unless the portion of the Common Area which is the subject of such partition action has been removed from the provisions of this Declaration. This Section shall not prohibit the Board from acquiring and disposing of other real property which may or may not be subject to this Declaration.

2.3. Condemnation. The Association shall be the sole representative with respect to condemnation proceedings concerning Common Area and shall act as attorney-in-fact for all Owners in such matters. If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain or conveyed in lieu of and under threat of condemnation by the board acting on the written direction of at least sixty-seven percent (67%) of the total Class "A" votes in the Association and, during the Development Period, the written consent of the Declarant, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award or proceeds of such conveyance. The award made for such taking or proceeds of such conveyance shall be payable to the Association.

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining

land included in the Common Area to the extent available, unless within sixth (60) Days after such taking at least sixty-seven percent (67%) of the total Class "A" vote of the Association and, during the Development Period, the Declarant shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board and the ARB. The provisions of Section 6.1(c) regarding funds for the repair of damage or destruction shall apply.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds may be used by the Association for such purposes as the board shall determine.

### ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

3.1. Membership. Every Owner shall be a Member of the Association. There shall be only one (1) membership per Lot. If a Lot is owned by more than one (1) Person, all co-Owners shall share the privileges of such membership, subject to reasonable board regulation and the restrictions on voting set forth in Section 3.2(d) and in the By-Laws. The membership rights of an Owner which is not a natural person may be exercised by any officer, director, member, manager, partner or trustee of such Owner, or by an individual designated from time to time by the Owner in a written instrument provided to the secretary of the Association.

3.2. Voting. The Association shall have two (2) classes of membership, Class "A" and Class "B."

(a) Class "A". Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one (1) equal vote for each Lot in which they hold the interest required for membership under Section 3.1; provided however, there shall be only one (1) vote per Lot and no vote shall be exercised for any property which is exempt from assessment under Section 8.10. All Class "A" votes shall be cast as provided in Section 3.2(d) below.

(b) Class "B". The sole Class "B" Member shall be the Declarant. The rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, by By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Class "B" Member may appoint a Majority of the members of the Board of Directors during the Class "B" Control Period which shall continue until the first to occur of the following:

(i) When ninety percent (90%) of the total number of Lots for the property described on Exhibits "A" and "B" have certificates of occupancy issued thereon and have been conveyed to Persons other than Builders;

(ii) December 31, 2028; or

(iii) when, in its discretion, the Class "B" Member so determines and voluntarily relinquishes such right.

After termination of the Class "B" Control Period, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws. The Class "B" membership shall terminate upon the earlier of:

- (i) two (2) years after expiration of the Class "B" Control Period; or
- (ii) when, in its discretion, the Declarant so determines and declares in a recorded instrument.

Upon termination of the class "B" membership, the Declarant shall be a Class "A" Member entitled to Class "A" votes for each Lot which it owns.

(c) Additional Classes of Membership. The Declarant may, by Supplemental Declaration, create additional classes of membership for the owners of Lots within any Additional Property made subject to this Declaration pursuant to Article 7, with such rights, privileges and obligations as may be specified in such Supplemental Declaration, in recognition of the different character and intended use of the property subject to such Supplemental Declaration.

(d) Exercise of Voting Rights by Class "A" Members. If there is more than one (1) Owner of a Lot, the vote for such Lot shall be exercised by one of the Owners (designated as the Voting Delegate) chosen in the manner as the co-Owners determine among themselves and advise the secretary of the Association in writing prior to the vote being taken. Absent such advice, the Lot's vote shall be suspended if more than (1) Person seeks to exercise it. No vote shall be exercised on behalf of any Lot if any assessment for such Lot is delinquent.

#### ARTICLE 4: RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

4.1. Function of Association. The Association shall be the entity responsible for management, maintenance, operation and control of the Area of Common Responsibility and all improvements thereon. The Association shall be the primary entity responsible for enforcement of this Declaration and such reasonable rules regulating use of the Properties as the Board may adopt pursuant to Article 10. The association shall perform its functions in accordance with the Governing Documents and the laws of the State of South Carolina.

4.2. Personal Property and Real Property for Common Use. The Association may acquire, hold, and dispose of tangible and intangible personal property and real property. The Declarant and its designees, with the Declarant's prior written consent, may convey to the Association improved or unimproved real estate, or interests in real estate, located within the property described in Exhibits "A" or "B," personal property and leasehold and other property interests. Such property shall be accepted by the Association and thereafter shall be maintained by the Association at its expense for the benefit of its Members, subject to any restrictions set forth in the deed or other instrument transferring such property to the Association. Declarant shall not be required to make any improvements or repairs whatsoever to property to be conveyed and accepted pursuant to this Section including, without limitation, dredging or otherwise removing silt from any pond or other body of water that may be conveyed. Upon written request of Declarant, the Association shall reconvey to Declarant any unimproved portions of the Properties originally conveyed by Declarant to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make adjustments in property lines.

4.3. Enforcement. The Board or any committee established by the board, with the board's approval, may impose sanctions for violation of the Governing Documents after compliance with the notice and hearing procedures set forth in Section 3.24 of the By-Laws. Such sanctions may include, without limitation:



(a) imposing monetary fines which shall constitute a lien upon the Lot of the violator (In the event that any occupant, guest or invitee of a Lot violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the occupants; provided however, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon notice from the Board.);

(b) filing notices of violations in the Public Records providing record notice of any violation of the Governing Documents;

(c) suspending an Owner's right to vote;

(e) suspending any services provided by the Association to an Owner or the Owner's Lot if the Owner is more than thirty (30) Days delinquent in paying any assessment or other charge owed to the Association.

In the event that any occupant, guest or invitee of a Lot violates the Governing Documents, the Board or any committee established by the Board, with the Board's approval, may sanction such occupant, guest or invitee and/or the Owner of the Lot that the violator is occupying or visiting.

In addition, the board, or the covenants committee if established, may elect to enforce any provision of the Governing Documents by exercising self-help (specifically including, but not limited to, the filing of liens in the Public Records for non-payment of assessments and other charges, the towing of vehicles that are in violation of parking rules, the removal of pets that are in violation of pet rules, or the correction of any maintenance, construction or other violation of the Governing Documents) without the necessity of compliance with the procedures set forth in the By-Laws. The Association may levy a Specific Assessment to cover all costs incurred in bringing a Lot into compliance with the terms of the Governing Documents.

The Association may also elect to enforce any provisions of the governing Documents by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedures set forth in the By-Laws.

All remedies set forth in this Declaration and the by-Laws shall be cumulative of any remedies available at law or in equity. In any action or remedy taken by the Association to enforce the provisions of the Governing documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, reasonable attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take action to enforce any covenant, restriction, or rule which the board in the exercise of its business judgment determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the board reasonably determines that the Association's position is not strong enough to justify taking enforcement action. Any such determination shall not be construed a waiver of the right of the Association to enforce such provision under any circumstances or prevent the Association from enforcing any other covenant, restriction or rule.

The Association, by contract or other agreement, may enforce county, city, state and federal ordinances, if applicable, and permit local and other governments to enforce ordinances on the Properties for the benefit of the Association and its Members.

4.4 Implied Rights: Board Authority. The Association may exercise any right or privilege given to it expressly by this Declaration or the By-Laws, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically provided in this Declaration, the By-Laws, the Articles, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

4.5. Indemnification. The Association shall indemnify every officer, director, ARB member and committee member against all damages, liabilities, and expenses, including reasonable attorneys fees, incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director, ARB member or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under this Section, the Articles of Incorporation and South Carolina law.

The officers, directors, ARB members and committee members shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers, directors, ARB members, and committee members shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on behalf of the Association (except to the extent that such officers, directors, ARB members or committee members may also be Members of the Association). The Association shall indemnify and forever hold each such officer, director, ARB member and committee member harmless from any and all liability to others on account of any such contract, commitment or action. This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, ARB member or committee member may be entitled. The Association may, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

4.6. Dedication of or Grant of Easements on Common Area. The Association may dedicate or grant easements across portions of the Common Area to Charleston County, South Carolina, or to any other local, state, or federal governmental or quasi-governmental entity, or to any private utility company.

4.7. Security. Each Owner and occupant of a Lot, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in the Properties. The Association may, but shall not be obligated to, maintain or support certain activities within the Properties designed to make the Properties safer than they otherwise might be. None of the Association, the original Declarant, nor any successor Declarant shall in any way be considered insurers or guarantors of security within the Properties, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. No representation or warranty is made that any security system or measure cannot be compromised or circumvented, nor that any such system or security measure undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using the Properties assumes all risks of personal injury and loss or damage to property, including Lots and the contents of Lots, resulting from acts of third parties.

4.8. Provision of Services. The Association may provide services and facilities for the Members of the Association and their guests, lessees and invitees. The Association shall be authorized to enter into contracts or other similar agreements with other entities, including Declarant, to provide such services and facilities. The costs of services and facilities provided by the Association may be funded by the Association as a Common Expense. In addition, the Board shall be authorized to charge use and consumption fees for services and facilities through Specific Assessments or by requiring payment at the time the service or facility is provided. As an alternative, the Association may arrange for the costs of the services and facilities to be billed directly to Owners by the provider(s) of such services and facilities. By way of example, some services and facilities which may be provided include landscape maintenance, garbage collection, pest control service, cable, digital, satellite or similar television service, internet, intranet, and other computer related services, security, caretaker, fire protection, utilities, and similar services and facilities. The board, without the consent of the Class "A" Members of the Association, shall be permitted to modify or cancel existing services or facilities provided, if any, or to provide additional services and facilities. Nothing contained herein can be relied upon as a representation as to the services and facilities, if any, which will be provided by the Association.

4.9. Rezoning. No Owner or any other Person may apply or join in an application to amend, vary or modify the zoning Ordinance applicable to, or rezone or apply for any zoning variance or waiver as to, all or any portion of the Properties without the prior written consent of Declarant. Declarant may apply for such rezoning as to any portion of the Properties owned by it at any time.

4.10. Use of the Bodies of Water. None of the Association, the Declarant, nor any successor Declarant shall be held liable for any loss or damage by reason of any permitted or prohibited use of any body of water, including any river, lake, pond, creek or stream, by Owners, their invitees, licensees, and tenants. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using any body of water shall do so only as permitted under applicable governmental laws, ordinances, rules and regulations. The Association shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of any body of water, including any river, lake, pond, creek or streams within the Properties. Each Person assumes all risks of personal injury, and loss or damage to property, including Lots, resulting from or associated with authorized or unauthorized use of any body of water, including any river, lake, pond, creek or streams within the Properties.

4.11. Presence and Management of Wildlife. Each Owner and occupant, and each tenant, guest and invitee of any Owner or occupant acknowledges that the Properties are located adjacent to and in the vicinity of wetlands, bodies of water and other natural areas. Such areas may contain wildlife, including without limitation, deer, raccoons, opossums, alligators, reptiles, and snakes. None of the Association, the Board, the original Declarant, nor any successor Declarant shall be liable or responsible for any personal injury illness or any other loss or damage caused by the presence of such wildlife on the Properties. Each Owner and occupant of a Lot and each tenant, guest, and invitee of any Owner or occupant shall assume all risk of personal injury, illness, or other loss or damage arising from the presence of such wildlife and further acknowledges that the Association, the Board, the original Declarant or any successor Declarant have made no representations or warranties, nor has any Owner or occupant, or any tenant, guest, or invitee of any Owner or occupant relied upon any representations or warranties, expressed or implied, relative to the presence of such wildlife.

The Declarant, acting in its sole and absolute discretion, retains the right, but not the obligation, to engage in wildlife and fishing management plans and practices on the Properties to the extent that

such practices are permitted by applicable state and federal law. For the purpose of illustration and not limitation, this includes the right to manage and control any populations of white-tailed deer, feral hogs, raccoons, alligators and other wildlife through a variety of techniques, including organized hunting, shooting, trapping, relocating, sterilization, and habitat manipulation. Declarant may, in its sole discretion, commission environmental studies and reports relating to the Properties and the wildlife habitats located thereon, and may elect to follow or disregard any recommendations resulting from such studies. The Declarant may assign these management rights to the Association in which event the expenses of such activities shall be funded by General Assessments.

4.12. Presence of Horses and Use of the Riding Trails and Facilities. Neither the Association, the Declarant, nor any successor Declarant shall be held liable for any loss or damage by reason of any permitted or prohibited use of any horseback riding trails or other equestrian facilities, by Owners, their invitees, licensees, and tenants, or otherwise from the use or presence of horses within the Properties. Each Owner acknowledges, understands and covenants to inform its tenants and all occupants of its Lot that the Association, its Board of Directors and committees, Declarant, and any successor Declarant are not insurers and that each Person using any horseback riding trails or other equestrian facilities shall do so only as permitted under applicable governmental laws, ordinances, rules and regulations, and any rule and regulations promulgated by the Association or its designees. The Association shall not be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of any horseback riding trails or other equestrian facilities, or otherwise from the use or the presence of horses within the Properties. Each Person assumes all risks of personal injury, and loss or damage to property, including Lots, resulting from or associated with authorized or unauthorized use of any horseback riding trails or other equestrian facilities, or otherwise from the use or the presence of horses within the Properties. The protections afforded under this paragraph are in addition to, and not in replacement of, the immunities and other protections provided under Title 47, Chapter 9, Article 7 of the South Carolina Code of Laws (1976), as amended, beginning at Section 47-9-710 et seq., entitled "Equine Liability Immunity" (the "Act"), a copy of which is appended to this Declaration as Exhibit D. The Association shall post the signage required under the Act.

## ARTICLE 5: MAINTENANCE

### 5.1. Association's Responsibility.

(a) The Association shall maintain and keep in good condition, order and repair the Area of Common Responsibility, which may include, but need not be limited to:

- (i) all Common Areas;
- (ii) all landscaping and other flora, parks, ponds, structures, and improvements, including any entry features, parking areas, sidewalks, horseback riding trails, and bike and pedestrian pathways/trails situated upon the Common Area;
- (iii) all furnishings, equipment and other personal property of the Association;
- (iv) any landscaping and other flora, parks, horseback riding trails, bike and pedestrian pathways/trails, sidewalks, buffers, entry features, structures and improvements within public rights-of-way within or abutting the Properties or upon such other public land adjacent to the Properties as deemed necessary in the discretion of the Board;

(v) such additional portions of any property included within the Area of Common Responsibility as may be dictated by this Declaration, any Supplemental Declaration, any Cost Sharing Agreement, or any contract or agreement for maintenance thereof entered into by the Association;

(vi) all lakes, ponds, streams and/or wetlands located within the Properties which serve as part of the drainage and storm water retention system for the Properties, including any retaining walls, bulkheads or dams (earthen or otherwise) retaining water therein, and any fountains, lighting, pumps, conduits, and similar equipment installed therein or used in connection therewith.

(vii) any property and facilities owned by the Declarant and made available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members, such property and facilities to be identified by written notice from the Declarant to the Association and to remain a part of the Area of Common Responsibility and be maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may, as a Common Expense, maintain other property and improvements which it does not own, including, without limitation, property dedicated to the public, or provide maintenance or services related to such property over and above the level being provided by the property owner, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

(b) The Association shall maintain the facilities and equipment within the Area of Common Responsibility in continuous operation, except for any periods necessary, as determined in the sole discretion of the board, to perform required maintenance or repairs, unless Members holding sixty-seven percent (67%) of the Class "A" votes in the Association and during the Development Period the Declarant agree in writing to discontinue such operation.

(c) The Association may be relieved of all or any portion of its maintenance responsibilities herein to the extent that (i) such maintenance responsibility is otherwise assumed by or assigned to an Owner or (ii) such property is dedicated to any local, state, or federal government or quasi-governmental entity, provided however, that in connection with such assumption, assignment or dedication, the Association may reserve or assume the right or obligation to continue to perform all or any portion of its maintenance responsibilities, if the board determines that such maintenance is necessary or desirable to maintain the Community-Standard.

Except as provided above, the Area of Common Responsibility shall not be reduced by amendment of this Declaration or any other means during the Development Period except with the written consent of the Declarant.

(d) Except as otherwise specifically provided herein, all costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense to be allocated among all Lots as part of the General Assessment, without prejudice to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to the Governing Documents, any recorded covenants, or any agreements with the owner(s) thereof.

(e) In the event that the Association fails to properly perform its maintenance responsibilities hereunder and to comply with the Community-Wide Standard, the Declarant may,

upon not less than ten (10) Days' notice and opportunity to cure such failure, cause such maintenance to be performed and in such event, shall be entitled to reimbursement from the Association for all costs incurred.

5.2. Owner's Responsibility. Each Owner shall maintain his or her Lot, and all structures, parking area, sprinkler and irrigation systems, landscaping and other flora, and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard, all Governing Documents and the zoning Ordinance, unless such maintenance responsibility is otherwise assumed by or assigned to the Association. Each Owner shall also maintain the driveway and mailbox serving his or her Lot and all landscaping located in any right-of-way immediately adjacent to the Owner's Lot. In addition to any other enforcement rights, if an Owner fails properly to perform his or her maintenance responsibility, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner in accordance with Section 8.5. The Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry, except when entry is required due to an emergency situation. Entry by the Association or its designee under this Section shall not constitute a trespass.

5.3. Standard of Performance. Unless otherwise specifically provided herein or in other instruments creating and assigning such maintenance responsibility, responsibility for maintenance shall include responsibility for repair and replacement, as necessary. All maintenance shall be performed in a manner consistent with the Community-Wide Standard and all Governing Documents. The Association shall not be liable for any damage or injury occurring on, or arising out of the condition of, property which such Person does not own except to the extent that the Association has been negligent in the performance of its maintenance responsibilities.

5.4. Office of Ocean and Coastal Resource Management. Each Owner acknowledges that any portion of any Lot which may contain submerged land, coastal waters or other critical areas, is subject to the jurisdiction of the Office of Ocean and Coastal Resource Management. Each Owner shall be liable, to the extent of such Owners' ownership, for any damages to, any inappropriate or unpermitted uses of, and any duties or responsibilities concerning any such submerged land, coastal waters or other critical areas. Each Owner acknowledges receipt of Wetlands Master Plan and recorded plats indicating wetland buffer areas as regulated by Office of Ocean and Coastal Resource Management and any other governmental agencies.

5.5. Following Dedication of Common Area. Following the dedication and conveyance of Common Area to the Association, The Association shall thereafter be responsible for the operation and maintenance of said dedicated and conveyed Common Area. Common Area shall be conveyed to and accepted by the Association on or before the completion of all construction with respect thereto or at such other times and from time to time as the Declarant may determine to be appropriate.

5.6. Maintenance, Operation and Repairs of Roads. Following substantial completion and conveyance to the Association by Declarant of the Roads, the Association (a) shall be solely and exclusively responsible for the maintenance, repair, replacement management, operation and condition of the Roads, (b) shall at all times maintain, repair and replace the Roads in good repair and order, (c) shall manage, operate and oversee the Roads in a manner complying with the provisions of this Declaration and any requirements which may be imposed at any time, from time to time, by any governmental authority, and (d) is and shall be authorized to promulgate and adopt rules concerning the use, enjoyment, operation, management, maintenance, repair, replacement and improvement of the Roads, subject to the terms and conditions of this Declaration. The Association may establish a Roads maintenance reserve fund as deemed necessary by the Board.

