

# DECLARATION OF COVENANTS AND RESTRICTIONS

FOR WILLBROOK PLANTATION COMMUNITY ASSOCIATION, INC.

This Declaration of Covenants and Restrictions for WILLBROOK PLANTATION COMMUNITY ASSOCIATION, INC., a non-profit, non-stock corporation (hereinafter, the "Association") and Litchfield-By-The-Sea, a Joint Venture, organized under the Uniform Partnership Act of South Carolina (the "Joint Venture"), reflects the complete Declaration of Covenants and Restrictions as of \_\_\_\_\_, 2024 (hereinafter, the "Declaration").

WITNESSETH:

WHEREAS, the Joint Venture is the owner of the real property (hereinafter referred to as the "Property") described in Article II of this Declaration and desires to create thereon a planned development community with a balanced representation of residential, commercial, and recreational uses to be known as "Willbrook Plantation"; and

WHEREAS, the Joint Venture desires to provide for the preservation of values and amenities and for the maintenance of common facilities, services and properties for a vehicle for the administration and enforcement of covenants and restrictions; and

WHEREAS, the Joint Venture has caused to be incorporated under the laws of the State of South Carolina a non-profit corporation, Willbrook Plantation Community Association, Inc., for the purpose of exercising the functions aforesaid and which are hereinafter more fully set forth.

NOW, THEREFORE, the Joint Venture declares that the real property described in Article II and such additions thereto as may hereinafter be made pursuant to Article II hereof is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments, affirmative obligations, and liens (hereinafter sometimes referred to as "the Covenants") hereinafter set forth.

## ARTICLE I – DEFINITIONS

The following words and terms when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to Willbrook Plantation Community Association, Inc., a South Carolina non-profit corporation, its successors and assigns.

(b) "Development" shall mean and refer to the lands near Litchfield Beach in Georgetown County, South Carolina which are shown as a part of Willbrook Plantation on its Master Land Use Plan as revised from time to time.

(c) "Bylaws" shall mean and refer to the Bylaws of the Willbrook Plantation Community Association, Inc., the initial text of which is set forth in Exhibit B attached hereto and made a part hereof.

(d) "Affiliate" shall mean and refer to any corporation of which more than fifty (50%) percent of the voting stock is owned or controlled by the Joint Venture and any partnership or joint venture in which the Joint Venture has more than a fifty (50%) per cent equity interest or an interest in fifty (50%) per cent or more of the cash flow from such partnership or joint venture.

(e) "Architectural Review Board" shall mean and refer to that board formed and operated in the manner prescribed in Article VII hereof.

(f) "Assessment" shall mean and refer to the charges levied pursuant to Article V. "Annual Assessment" shall mean and refer to annual charges levied by the Board of Directors of the Association for the purposes set forth in Section 2 of Article V. "Maximum Regular Annual Assessment" shall mean and refer to the annual assessment calculated as set forth in Section 3 of Article V. "Special Assessment" shall mean and refer to the charges levied for the purposes set forth in Section 4 of Article V. "Neighborhood Assessments" shall mean and refer to the charges levied pursuant to Section 5 of Article V.

(g) "Common Properties" shall mean and refer to those tracts of land with any improvements thereon which are actually deeded or leased to the Association and designated in such deed or lease as "Common Properties". The term "Common Properties" shall also include any personal property acquired by the Association if said property is designated a "Common Property". All Common Properties are to be devoted to and intended for the common use of and enjoyment of the owners, residents and their guests, and visiting members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association, provided, however, that any lands which are leased by the Association for use as Common Properties shall lose their character as Common Properties upon the expiration of such lease. Common Properties shall not include those tracts of land falling within the definition of "Restricted Common Properties" set forth below.

(h) "Restricted Common Properties" shall mean and refer to those tracts of land with any improvements thereon which are actually deeded or leased to the Association and designated in such deed or lease as "Restricted Common Properties". All "Restricted Common Properties" are to be devoted to and intended for the common use and enjoyment of owners of Residential Lots and Dwelling Units, their immediate families, guests accompanying such owners and tenants of such owners and the Joint Venture. All use of Restricted Common Properties shall be subject to the fee schedules and operating rules adopted by the Association. Any lands which are leased by the Association for use as Restricted Common Properties shall lose their character as Restricted Common Properties upon the expiration of such lease.

(i) "Development Unit Parcels" shall mean and refer to those parcels or tracts of land conveyed by the Joint Venture to third parties under covenants and restrictions permitting the division of such parcels or tracts into smaller land units such as Residential Lots, Multi-Family Tracts or Public or Commercial Sites.

(j) “Dwelling Unit” shall mean and refer to any improved property intended for use as a single family dwelling, including any single family detached dwelling, patio home, condominium unit, townhouse unit, duplex unit, or apartment unit located within the property.

(k) “Horizontal Property Regime” shall mean and refer to the legal entity established under the laws of South Carolina in which owners of a single family dwelling, lodging, or commercial unit in a multi-unit building, buildings or structure, or a slip (unit) in a condominium marina, own such unit directly and hold a co-ownership with other unit holders of the areas and facilities held in common by the regime for all owners of the multi-unit complex.

(l) “Intended Use” shall mean the use intended for various parcels within the Property as shown on the Master Plan of the Development prepared by the Joint Venture as the same may be revised from time to time by the Joint Venture, or the use to which any particular parcel of land is restricted by covenants expressly set forth or incorporated by reference in deeds by which the Joint Venture has conveyed the Property.”

(m) “Master Plan” shall mean and refer to the drawing which represents the conceptual land use plan for the future development of Willbrook Plantation. Since the concept of the future development of Willbrook Plantation is subject to continuing revision and change by the Joint Venture, present and future references to the “Master Plan” shall be references to the latest revision thereof. In addition, no implied reciprocal covenants shall arise with respect to lands which have been retained by the Joint Venture for future development.

THIS DECLARATION DOES NOT DESIGNATE ANY PORTION OF THE PROPERTY FOR ANY PARTICULAR USE, SUCH DESIGNATION TO BE MADE BY SEPARATE SUBSEQUENT DECLARATION OR BY RECORDED PLAT WITH SUCH DESIGNATION CLEARLY AND UNEQUIVOCALLY SHOWN THEREON. THE JOINT VENTURE SHALL NOT BE BOUND BY ANY DEVELOPMENT PLAN, USE OR RESTRICTION OF USE SHOWN ON ANY MASTER PLAN, AND MAY AT ANY TIME CHANGE OR REVISE SAID MASTER PLAN.

(n) “Member” shall mean and refer to the Joint Venture and all those Owners who are Members of the Association as defined in Section 1, Article III.

(o) “Multi-Family Tract” shall mean any unimproved parcel of land located within the Properties intended for development of multi-family residential units including, without limitation, condominium regimes or apartments. For purposes of this Declaration, a parcel of land shall not be deemed a “Multi-Family Tract” until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such property for multi-family use is placed Of Record and further, shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved properties.

(p) “Neighborhood Area” shall mean and refer to a parcel or tract of land which is intended for, and has been subdivided for, use as a site for Dwelling Units or Public or Commercial Units and designated for such use on a recorded subdivision plat of Residential Lots, Multi-Family Tracts, and Public or Commercial Sites in the Office of the Clerk of Court for Georgetown County, South Carolina. The Neighborhood Area shall be comprised of the total number of Residential Lots, Multi-Family Dwelling Unit Sites, or Public or Commercial Units within such subdivision or group of such subdivisions and may be subjected to Neighborhood Assessments applicable only

to the Owners within that immediate Neighborhood Area of Willbrook Plantation, to undertake special neighborhood projects, improvements, construction or maintenance for the benefit of those Owners. A separate non-profit association may be created hereunder for each Neighborhood Area.

(q) "Of Record" shall mean recorded in the Office of the Clerk of Court of Georgetown County, South Carolina.

(r) "Owner" shall mean and refer to the Owner as shown by the real estate records, whether it be one or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot, Dwelling Unit, Multi-Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel or Unsubdivided Land situated upon the properties but, notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a security deed, its successors or assigns, unless and until such mortgagee or holder of a security deed has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner, nor shall the term Owner mean or refer to any person holding title merely as security for the payment of a debt.

(s) "Joint Venture" shall mean Litchfield-By-The-Sea, a Joint Venture organized under the Uniform Partnership Act of South Carolina, its Successors or Assigns.

(t) "Properties" shall mean and refer to the existing property described in Article II hereof and any additions thereto as are subjected to this Declaration or any supplemental declarations under the provisions of Article II hereof.

(u) "Public or Commercial Site" shall mean any unimproved parcel of land within the Properties intended for use as a site for improvements designed to accommodate commercial or business enterprises to serve residents of Willbrook Plantation and/or the public, including but not limited to, business and professional offices; facilities for the retail sale of goods and services; banks and other financial institutions; social clubs; restaurants; hotels, motels, inns; theaters, lounges; indoor recreational facilities; marinas; transportation terminals or stations; automobile parking facilities; and gasoline stations; provided, however, that a parcel of land shall not be deemed a "Public or Commercial Site" until such time as its exact metes and bounds have been surveyed and a plat thereof identifying or designating such property as a Public or Commercial Site is placed Of Record, and shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved properties.

(v) "Public or Commercial Unit" shall mean and include any improved parcel of land within the Property which is intended and designed to accommodate public, commercial or business enterprises to serve residents and guests of Willbrook Plantation and/or the public, including but not limited to all those enterprises enumerated in subparagraph (u) immediately above. A parcel of land shall not be deemed to be improved until the improvements being constructed on said parcel are sufficiently complete to be subject to assessment as improved properties.

(w) "Referendum" shall mean and refer to the power of all or some specific portion of the Members to vote by mailed ballots on certain actions by the Board of Directors of the

Association more particularly set forth herein, including without limitation the levy of any Special Assessment; the increase of the Maximum Annual Assessment in excess of that provided for herein; and the addition of functions or services which the Association is authorized to perform. In the event fifty-one (51%) percent of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to “pass” and the action voted upon will be deemed to have been authorized by the Members; provided, however, that if a higher percentage required to “pass” shall be specifically expressed herein, that higher percentage shall control in that instance.

(x) “Residential Lot” shall mean and refer to any unimproved parcel of land located within the Properties which is intended for use as a site for a single family detached dwelling, townhouse or patio dwelling (zero lot line) as shown upon any recorded final subdivision map of any part of the Property. A parcel of land shall be deemed to be unimproved until the improvements being constructed thereon are sufficiently complete to be subject to assessment as improved properties.

(y) “Unsubdivided Land” shall mean and refer to all land and the existing property described in Article II hereto and additions thereto as are subject to this Declaration, or any supplemental Declaration under the provisions of Article II hereto, which has not been subdivided into Residential Lots, Multi-Family Tracts, Public or Commercial Sites or Development Unit Parcels through metes and bounds, subdivision plats filed and placed Of Record. For the purpose of this Declaration, the following classifications shall be expressly excepted from the definition thereof:

(1) All lands committed to the Association through express, written notification by the Joint Venture to the Association of intent to convey to the Association.

(2) All lands designated on the Master Plan for intended use, or by actual use, if applicable, for outdoor recreation facilities; operating farms and/or animal pastures; woodland, marsh and swamp conservancies; places of worship; community, civic, and cultural clubs; libraries; nursery and other schools and instructional centers; medical centers, clinics, nursing care, rest and convalescent homes; and charitable institutions.

(3) All lands expressly designated in any way as Common Properties or Restricted Common Properties.

## ARTICLE II – PROPERTY AND ADDITIONS THERETO

Section 1. Property. The real property (Property) which is, and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these covenants is described as follows:

All that tract or parcel of land, situate, lying and being in Willbrook Plantation, Georgetown County, South Carolina, which is more

particularly described in Exhibit A attached hereto and by specific reference made a part hereof.

The Joint Venture intends to develop the Property in accordance with its Master Plan, as subsequently modified from time to time, as a residential community featuring recreational, commercial and public facilities, various amenities and any other lawful activities which the Joint Venture deems appropriate as uses for such Property. The Joint Venture reserves the right to review and modify the Master Plan at its sole option and the Master Plan shall not bind the Joint Venture, its successors and assigns, to adhere to the said Master Plan in the development of the land shown thereon. The Joint Venture may, at its option, convey to the Association as provided in Article IV those parcels of land and improvements designated on the Master Plan as properties which may be transferred to the Association, as, in the reasonable exercise of its discretion, the Joint Venture so chooses without regard to the location of such parcels of land on the Master Plan. At the time of conveyance to the Association, these properties may be designated as Common Properties, or Restricted Common Properties, at the option of the Joint Venture. Undesignated properties shall be Common Properties. The Joint Venture shall not be required to follow any predetermined sequence, schedule or order of improvements and development; and it may bring within the plan of these covenants additional lands and develop the same before completing the development of this Property. The Joint Venture shall have full power to amend or modify the Master Plan regardless of the fact that such actions may alter the relative maximum potential voting strength of the various types of membership of the Association or increase or decrease the amount of property conveyed to the Association.

## Section 2. Additions to Property; Mergers; Separate Associations.

(a) Additions to Property. During the period of development, which shall by definition extend from the date hereof to January 1, 2015, the Joint Venture or its successors and assigns shall have the right, without further consent of the Association, to bring within the plan and operation of this Declaration any property which is contiguous to the Properties if acquired by the Joint Venture during the period of development, and further any other properties now owned or hereinafter acquired by the Joint Venture, its successors and assigns, within an area bounded on the east by the Atlantic Ocean, on the south by properties owned by Bell W. Baruch Foundation known as Hobcaw Barony, on the west by the Waccamaw River and on the north by the Sandy Island Road separating Willbrook Plantation from portions of Brookgreen Gardens. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times. The additions as hereinabove authorized shall be made by filing a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of this Declaration to such additional property.

Any Supplementary Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration as may be necessary or convenient in the sole judgment of the Joint Venture to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration, but such modifications shall have no effect on the property described in Section 1 of this Article II.

(b) Mergers. Upon merger or consolidation of the Association with another association, as provided for in the Bylaws of the Association, the Association's property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative the property rights and obligations of another association may, by operation of law, be added to the Properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Property, together with the covenants and restrictions established upon any other Properties as one plan.

(c) Separate Associations. For any property subjected to this Declaration pursuant to the provisions of this section, there may be established by the Joint Venture an additional association limited to the owners and/or residents of such additional property in order to promote their social welfare, including their health, safety, education, culture, comfort and convenience, to elect representatives of the board of the association, to receive from the association a portion, as determined by the board of directors of the association, of the Annual Assessments levied pursuant hereto and use such funds for its general purposes, and to make and enforce rules and regulations of supplementary covenants and restrictions, if any, applicable to such additional lands.

### ARTICLE III – MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner shall be a Member of the Association. The Joint Venture shall be a Member of the Association.

Section 2. Voting Rights. The Association shall have four (4) types of regular voting membership and one (1) type of special voting membership which provides the Joint Venture with additional voting rights.

**TYPE A:** Type A Members shall be all Owners (including the Joint Venture). A Type A Member shall be entitled to one (1) vote for each Residential Lot or Dwelling Unit which he owns. If a Dwelling Unit is constructed on more than one Residential Lot, the Owner shall have one (1) vote for the Dwelling Unit and one lot and one (1) additional vote for each other Residential Lot comprising a part of the total consolidated home or building site.

**TYPE B:** Type B Members shall be all Owners (including the Joint Venture) of platted Public or Commercial Sites and Multi-Family Tracts. A Type B Member shall be entitled to one vote for each Two Hundred (\$200.00) Dollars in Annual Assessments paid to the Association. In computing the number of votes to which a Type B Member shall be entitled, the amount of the assessment paid shall be rounded to the nearest Two Hundred (\$200.00) Dollars.

**TYPE C:** Type C Members shall be all those Owners (including the Joint Venture) of Public or Commercial Units. A Type C Member shall be entitled to one (1) vote for each Two Hundred (\$200.00) Dollars in Annual Assessments paid to the Association. In

computing the number of votes to which a Type C Member shall be entitled, the amount of the assessment paid shall be rounded to the nearest Two Hundred (\$200.00) Dollars.

**TYPE D:** Type D Members shall include all those Owners (including the Joint Venture) of Unsubdivided Lands and Development Unit Parcels held and intended for future development by the Joint Venture or a Third Party. A Type D Member shall be entitled to one (1) vote for each Two Hundred (\$200.00) Dollars of Annual Assessments paid to the Association. In computing the number of votes to which a Type D Member shall be entitled, the amount of the assessment paid shall be rounded to the nearest Two Hundred (\$200.00) Dollars.

**TYPE E:** The Type E Member shall be the Joint Venture, its successors and assigns. The Type E Member shall be entitled to cast votes as hereinafter set forth.

The Joint Venture anticipates that there may ultimately be three thousand eight hundred (3,800) Residential Lots, Dwelling Units and Public or Commercial Units within Willbrook Plantation as authorized by the Planned Unit Development approved by the Georgetown County zoning authorities. Because it has incurred and will continue to incur substantial utility upgrade infrastructure development and start-up costs, the Joint Venture shall have special voting rights in the Association until the Joint Venture can be assured of the completion of its development plans; therefore, until the earlier of (i) the date it has conveyed at least ninety (90%) per cent of the maximum number of Residential Lots, Dwelling Units and Public or Commercial Units as authorized at Willbrook Plantation by the Georgetown County zoning authorities or (ii) the date it otherwise elects, the Joint Venture shall have voting rights by which it shall be entitled to the same number of votes as are cumulatively held by the regular Members plus one.

Each Member shall be entitled to vote at any meeting of Members, or on any matter requiring a vote of Members, occurring subsequent to the date upon which the Member became an Owner (provided, however, that the Member is not delinquent in the payment of assessments); and each Member shall be entitled to the number of votes as calculated above as if each Member had been a member for a full year and had paid the regular Annual Assessment for the year in which the vote takes place. The payment of any Special Assessment or Neighborhood Assessment shall not entitle Members to additional votes.

When any property entitling the Owner thereof to membership in the Association is owned Of Record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants-in-common, tenants-in-partnership or in any other manner of joint or common ownership, one person or entity shall be designated the voting member to bind all the others. Written evidence of such designation in a form satisfactory to the Board of Directors of the Association shall be delivered to the Board prior to the exercise of a vote by joint owners.

Section 3. Governance. The Association shall be governed by a Board of Directors consisting of not less than three (3) nor more than nine (9) members. Initially, the Board shall consist of three (3) members with the number in subsequent years to be determined by the members of the Board of Directors as provided for in the Bylaws of the Association.



#### Section 4. Election to the Board of Directors.

(a) Each Member of Types A, B, C, and D membership classes shall be entitled to as many votes as equals the numbers of votes he is entitled to, based on his ownership of one or more of the various classifications of property as computed by the formula set out in Section 2 hereof, multiplied by the number of Directors to be elected by Types A, B, C and D Members. Members may cast all of such votes for any one (1) Director or may distribute them among the number to be elected by Types A, B, C and D Members, or any two (2) or more of them, as he sees fit, provided, however, that all votes must be cast in whole numbers and not fractions thereof. This right, when exercised, is termed cumulative voting. Members, except the Type E membership, are divided into classes for the sole purpose of computing voting rights and shall not vote as a class.

(b) The Board of Directors shall be elected by the Joint Venture, however, until the earlier of (i) the date the Joint Venture conveys at least ninety (90%) percent of the maximum number of Residential Lots, Dwelling Units and Public or Commercial Units authorized at Willbrook Plantation by the Georgetown County zoning authorities or (ii) the date the Joint Venture elects to terminate its special voting rights or to reduce the number of Directors it appoints. The Joint Venture shall have the right to appoint all of the Directors at the annual meeting of Members and new Directors in the event of vacancies occurring between annual meetings of Members. Provisions of this subparagraph shall be controlling over other subparagraphs in this Declaration.

Section 5. Members to Have Power of Referendum in Certain Instances. Where specifically provided for herein, the Members or some specific portion thereof shall have the power to approve or reject certain actions proposed by the Board of Directors to be taken by the Association by Referendum. Said actions are an increase in the Maximum Regular Annual Assessment by the Association in excess of those increases authorized herein, the levy of any Special Assessment, and the addition or deletion of functions or services which the Association is authorized to perform. In the event fifty-one (51%) percent or more of the votes actually returned to the Association within thirty (30) days of mailing the ballots and Notice of Referendum to each Member, postpaid and addressed to such Member at his address as set forth in the records of the Association, shall be in favor of any such action, such action will be deemed to have been authorized by the appropriate Members; provided, however, that if a higher percentage vote is required for such authorization by any other provisions of this Declaration or the Bylaws, such provisions shall control in that instance. The Board of Directors may not undertake any action requiring a Referendum except in compliance with the results of a Referendum. The Notice of any Referendum shall include a statement from the Directors favoring the approval of the matter submitted for Referendum and a statement from the Directors, if any, opposing such matter. Neither statement shall exceed five (5) pages in length.

Section 6. Quorum Required for Any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members at a meeting of the Association (as distinguished from a Referendum) shall be as follows:

With respect to any particular proposed action, the presence at the meeting of the Association of Members or proxies entitled to cast fifty-one (51%) percent of the total vote of the membership shall constitute a quorum. If the required quorum is not present at any such meeting, a second meeting may be called subject to the giving of notice pursuant to Article VIII, Section 7 and there shall be no quorum requirement for such second meeting. Unless otherwise provided, any reference hereafter to "votes cast at a duly called meeting" shall be construed to be subject to the quorum requirements established by Article III, Section 6 and any other requirements for such meeting which may be established in the Bylaws of the Association.

Section 7. Proxies. All Members of the Association may vote and transact business at any meeting of the Association by proxy authorized in writing, provided, however, that proxies shall not be permitted for any action which is subject to a Referendum, in which case the votes of all the Members polled shall be specifically provided via ballots mailed or delivered to the Association. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date.

Section 8. Ballots by Mail. When authorized by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association a statement of certain motions to be introduced for the vote of Members and a ballot on which each Member may vote for or against the motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 6 of this Article III. However, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

#### ARTICLE IV – PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment in Common Properties. Subject to the provisions of these covenants, the rules and regulations of the Association, and any fees or charges established by the Association, every Member and every guest and lessee of such Member shall have an easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title of every Residential Lot, Dwelling Unit, Multi-Family Tract, Public or Commercial Site, Public or Commercial Unit, or Development Unit Parcel. Employees of the Joint Venture shall have access to and enjoyment of the Common Properties subject to rules and regulations established by the Board of Directors. A Member's or Lessee's spouse and children who reside with such Member or Lessee in Willbrook Plantation shall have the same easement of enjoyment hereunder as a Member.

Section 2. Members' Easements of Enjoyment in Restricted Common Properties. Subject to the provisions of these covenants, the rules and regulations of the Association, and any fees or charges established by the Association, every Type A Member and every Lessee resident of a Type A Member (but not the Lessee residents of Type B, C, or D Members), shall have a right and easement of enjoyment in and to the Restricted Common Properties and such easement

shall be appurtenant to and shall pass with the title of every Residential Lot and Dwelling Unit. By an affirmative vote of seventy-five (75%) percent of the votes cast at a meeting of the Association called for the purpose of voting on such proposal, "Restricted Common Property" may be changed into an unrestricted "Common Property."

Section 3. Title to Common Properties and Restricted Common Properties. The Joint Venture covenants for itself, its successors and assigns, that at its sole election it shall convey by limited warranty deed to the Association, at no cost to the Association, the Common Properties and Restricted Common Properties as designated on the current Master Plan, subject to all restrictions and limitations of record and all reservations and limitations as set forth in such deed of conveyance, and subject to the right of the Joint Venture to add Common Properties or Restricted Common Properties to the Master Plan or to subtract Common Properties or Restricted Common Properties from the Master Plan in its sole discretion at any time prior to conveyance to the Association. It is intended that the Joint Venture shall evidence its election to convey any designated property by the recording of an instrument describing the property to be conveyed. After the functional completion of such designated property, the Association shall immediately become responsible for all maintenance, operation and such additional construction of improvements as may be authorized by the Association's Board of Directors subject to this Declaration. It is intended that such conveyances will be made within two (2) years after the improvements are functionally complete. Common Properties and Restricted Common Properties shall also be conveyed to the Association subject to:

(1) All encumbrances, easements and restrictive covenants affecting such property at the time of conveyance, including all existing mortgages; and

(2) A reservation by the Joint Venture, its successors and assigns, of the right to substitute or add new mortgages thereon, provided, however, that in no event shall the Association be obligated to assume the payment of principal or interest on any such mortgages. The obligation to make payments of principal and interest in accordance with their due dates on all mortgages affecting property conveyed to the Association shall continue to be the sole obligation of the Joint Venture, its successors and assigns, as the case may be.

Section 4. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its Bylaws, to borrow money from the Joint Venture or any other lender for the purpose of improving and/or maintaining the Common Properties and Restricted Common Properties and providing services authorized herein and in aid thereof to mortgage said properties;

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

(c) The right of the Association, as provided in its Bylaws, to suspend the rights and easements of enjoyment of any Member, or any lessee or guest of any Member, for any period during which the payment of any assessment against the property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days, for any infraction of its published rules and regulations, it being understood that any 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 Member's obligation to pay such assessment, and provided that the Association shall not suspend the right to use any roads belonging to the Association although such use shall be subject to the rules and regulations established by the Association for such use;

(d) The right of the Association in accordance with its Bylaws, to charge reasonable admission and other fees for the use of the Common Properties and Restricted Common Properties, and any facilities included therein, it being understood that this right of the Association allows it to have fees and charges apply to any one or more classes of Members, guests, or lessees without applying uniformly to all classes of users of the Association's facilities; and

(e) The Board of Directors of the Association shall have full discretion to determine the amount of the fee or toll for use of any roadway it may own, provided, however, that such fee or toll shall be limited to an amount which generates sufficient sums to cover the cost of the operation of entry control security stations; to repair, rehabilitate, resurface and otherwise maintain said roadways; to provide for the maintenance and cleanup of rights-of-way; to provide drainage along said roadways; to provide for motorized security patrols; and to provide such other roadway maintenance or services as the Association shall deem desirable. The Board of Directors of the Association shall further have the power to place any reasonable restrictions upon the use of the Association's roadways, subject to an Owner's or lessee's right of ingress and egress, including but not limited to the types and sizes of vehicles permitted to use said roads, the maximum and minimum speeds of vehicles using said roads, all other necessary traffic and parking regulations, and the maximum noise levels of vehicles using said roads. The fact that such restrictions on the use of roads shall be more restrictive than the laws of any state or local government having jurisdiction over the Property shall not make such restriction unreasonable. This subparagraph (e) establishes a maximum charge restriction of fees which may be charged for road entry and use of roads. The Board of Directors of the Association may supplement with an allocation of a portion of the receipts from the Annual Assessment on the Property, the funds (if any) received from road use, fees or tolls, to carry out the functions and activities as described in this subparagraph (e).

(f) The right of the Joint Venture to reserve, in addition to all other easements reserved by the Joint Venture, in all Common Properties including Common and Restricted Common Properties, perpetual easements for installation and maintenance of general utilities and drainage and the right of the Joint Venture to subject said property to any other compatible use which in the sole opinion of the Joint Venture is necessary for the harmonious development of the Properties.

(g) The right of the Joint Venture to reserve and grant perpetual easements of ingress and egress on and over the roadways to members and employees of any club type facility located within the Properties and to guests and employees of any inn or hotel which may be located within the Properties.

(h) The right of the Joint Venture or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility or drainage easements on any part of the Common Properties and Restricted Common Properties.

(i) The right of the Association to adopt and publish rules and regulations governing the use of Common Properties and Restricted Common Properties and the conduct of Members, their lessees or guests, and to establish penalties for the infraction of such rules and regulations.

(j) The right of the Association, in accordance with its bylaws, to give or sell all or any part of the Common Properties and Restricted Common Properties, including leasehold interest, to any public agency, public authority, public service district, utility company or private concern for such purposes and subject to such conditions as may be agreed by the Members, provided that no such gift or sale or determination as to the purposes or as to the conditions hereof shall be effective unless such gift, sale or determination as to purposes and conditions shall be authorized by the affirmative vote of three-fourths (3/4) of the votes cast at a duly constituted meeting of the Association. A true copy of such resolution, together with a certificate of the results of the vote taken thereon, shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Properties and Restricted Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

Section 5. Joint Venture's Reserved Rights. Notwithstanding any provision herein to the contrary, the rights and easements of enjoyment created hereby shall be subject to the following:

(a) The Joint Venture, its successors, agents, guests, employees and assigns shall have full rights of ingress and egress to and through, over and about all Common Properties, including but not limited to all roads within the Properties now existing or hereafter constructed; and shall further have an easement thereon for the purpose of the storage of materials, vehicles, tools, equipment, etc. which are being utilized in any construction work on or within the Properties;

(b) Easements of record on the date hereinabove and any easements which may hereafter be granted by the Joint Venture to any public or private utilities or governmental bodies for the installation and maintenance of cable television, electrical and telephone conduit and lands, sewers or water pipes or any other utilities or services to any Residential Units, Dwelling Units, Multi-Family Tracts, Public or Commercial Sites, Public or Commercial Units, Development Unit Parcels or Unsubdivided Land, or any portion of the Common Properties or Restricted Common Properties or to service adjoining properties now owned or hereafter acquired by the Joint Venture.

## ARTICLE V – COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations for Assessments. The Joint Venture covenants and each Owner of any Residential Lot, Dwelling Unit, Multi-Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel, or Unsubdivided Land whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and pay to the Association: (1) Annual Assessments or charges; (2) Special Assessments or charges, and (3) Neighborhood Assessments for the purposes set forth in this Article such assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual Assessments, Special Assessments and Neighborhood Assessments, together with such interest thereon and cost of collection therefor as hereinafter provided, shall be a charge and continuing lien on the real property and improvements thereon against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof, as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such real property at the time when the assessment first became due and payable. In the case of co-ownership of a Residential Lot, Dwelling Unit, Multi-Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel or any Unsubdivided Land, all of such co-owners shall be jointly and severally liable for the entire amount of the assessment, interest, penalties, and cost of collection.

Section 2. Purpose of Assessment. The Annual Assessments levied by the Association shall be used exclusively for the improvement, maintenance, enhancement, enlargement, and operation of the Common Properties and Restricted Common Properties and to provide services which the Association is authorized to provide. Provided, however, the Association for a period of two (2) years prior to the actual conveyance of such facilities to the Association, may use Annual Assessments for the maintenance, repair and operation of facilities which have been designated on the Master Plan as Common Properties and which have been substantially completed. In carrying out these duties, the Association may make payment of taxes and insurance thereon, make improvements on Common Properties and Restricted Common Properties, pay the cost of labor, equipment, materials, management, supervision, accounting, and member information services, maintain offices and equipment, repay any loans made to the Association, and take such other action as is necessary to carry out its required or authorized functions.

Section 3. Application of "Maximum" Assessment. The Annual Assessment, as set forth in the schedule hereinbelow, and as is annually increased pursuant to the provisions of subparagraph (g) below, shall be levied by the Association. If, however, the Board of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by an assessment less than that set out below, it may levy such lesser assessment. Provided, however, so long as the Joint Venture is engaged in the development of properties which are subject to the terms of this Declaration, the Association may not reduce Annual Assessments below those set out in Paragraph 3 of this Section 3 without the prior written consent of the Joint Venture. The levy of Annual Assessments less than the

Maximum Regular Annual Assessments in one year shall not affect the Board's right to levy the Maximum Regular Annual Assessments in subsequent years. If the Board of Directors shall levy less than the Maximum Regular Annual Assessments for any assessment year and if thereafter, during such assessment year, the Board of Directors shall determine that the important and essential functions of the Association cannot be funded by such lesser assessments, the Board may, by majority vote, levy supplemental assessments. In no event shall the sum of the initial and supplemental assessments for that year exceed the applicable Maximum Regular Annual Assessments.

If the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association will not be properly funded in any year by the Maximum Regular Annual Assessments, it may call a Referendum requesting approval of a specified increase in such assessments. If fifty-one (51%) percent of the votes shall be cast in favor of such Referendum, the Maximum Regular Annual Assessments shall be permanently increased to the level of such proposed increased assessments.

The Maximum Regular Annual Assessment shall be the sums determined by the Board of Directors, but shall not exceed the sums set forth in the following schedule as adjusted annually pursuant to Section 3 (g) of this Article.

<u>Property Type</u>	<u>Maximum Regular Annual Assessment</u>
Residential Lot	\$540.00
Dwelling Units	\$720.00
Public or Commercial Units	\$ .60 per sq. ft.
Multi-Family Tracts, Public or Commercial Sites, and Development Unit Parcels	\$100.00 per acre
Unsubdivided Land	\$35.00 per acre

Property shall not be classified as a Residential Lot, Dwelling Unit, or Public or Commercial Unit for purposes of this Declaration and the Maximum Regular Annual Assessment until after all of the following have occurred:

- (1) Placing Of Record a plat or other plans showing such Residential Lot, Dwelling Unit or Public or Commercial Unit;
- (2) Approval, if required, by the United States Department of Housing and Urban Development, Office of Interstate Land Sales Registration, or any similar state or successor

federal agency, for the offering for sale of any Residential Lot or Dwelling Unit to be offered for sale;

(3) All approvals required for the occupancy of a Dwelling Unit or Public or Commercial Unit;

(4) Conveyance of such property by the Joint Venture to a purchaser.

(c) For the purpose of calculating the Annual Assessments on Public or Commercial Units, the area to be included in the determination of the total number of square feet shall be all interior areas within the roof line of a building including open porches, but excluding terraces and like areas.

(d) After the calendar year 1987, the regular Annual Assessments on unimproved land shall be billed annually on the first day of January of each year. Assessments on all other property shall be billed on a monthly or quarterly basis as determined by the Board of Directors. All assessment bills shall be due and payable thirty (30) days from the date of mailing the same.

(e) The Owner of any assessable property which changes from one assessment category to a higher assessment category during an assessment year shall be billed an additional amount for the remaining full months of such year after such change.

(f) All assessments charged by the Association shall be rounded to the nearest dollar.

(g) From and after January 1, 1987, the Maximum Regular Annual Assessment may be increased each year by the Board of Directors of the Association by an amount not in excess of five (5%) percent per year, or the percentage increase between the first month and the last month on an annual assessment period in the Consumer Price Index, U. S. City Average, All Items (1967-100) (hereafter "C.P.I.") issued by the U. S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas" whichever of these two percentage figures is larger. In the event the C.P.I. referred to above shall be discontinued, there shall be used the most similar index published by the U. S. Government that may be procured indicating changes in the cost of living.

In the event the Board does not increase the Maximum Regular Annual Assessment in a given year, or increases it in an amount less than which is authorized by this Section 3, Paragraph (g), the Board shall be deemed to have reserved the right and shall be authorized in subsequent years to implement that reserved portion of the authorized but unexercised increased authority but any application of the same may only be given prospective application. As an illustration, if the Board was authorized to increase the Maximum Regular Annual Assessment by five (5%) per cent in years 1987 and 1988, but chose not to impose such increases, it could increase the Maximum Regular Annual Assessment in 1989 by the amount applicable for 1989 plus up to ten (10%) per cent for levy in 1989.



(h) Any increase or decrease in the fixed amount of the Maximum Regular Annual Assessments shall be made in such a manner that the proportionate increase or decrease in such Maximum Regular Annual Assessment is the same for Owners of Residential Lots, Dwelling Units, Multi-Family Tracts, Public or Commercial Sites, Public or Commercial Units, Development Unit Parcels, and Unsubdivided Land. Furthermore, any time the actual assessment levied by the Board of Directors of the Association is less than the Maximum Regular Annual Assessment, such decrease shall be proportionate among the Owners of Residential Lots, Dwelling Units, Multi-Family Tracts, Public or Commercial Sites, Public or Commercial Units, Development Unit Parcels and Unsubdivided Land.

Section 4. Special Assessments for Improvements and Additions. In addition to the Maximum Regular Annual Assessments authorized by Section 3 hereof, the Association may levy Special Assessments for the following purposes:

- (a) For construction or reconstruction, repair or replacement of capital improvements upon the Common Properties or Restricted Common Properties including the necessary fixtures and personal property related thereto;
- (b) For additions to the Common Properties or Restricted Common Properties;
- (c) For repair of or dredging of canal systems within the Property or connecting the Property to the Waccamaw River, whether said canals be artificial or run natural and for the repair and replacement of navigational aids within said canal system;
- (d) To provide for the necessary facilities and equipment to perform the services authorized herein; and
- (e) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein.

Such assessment before being charged, must have received the assent of a majority of the votes of the Members responding to a mail Referendum within thirty (30) days of mailing. The mail Referendum shall include one statement from the Directors favoring the Special Assessment and one statement from those Directors opposing the Special Assessment containing the reasons for those Directors' support and opposition for the assessment. Neither statement shall exceed five (5) pages in length.

These provisions shall be interpreted to mean that the Association may make in any one year an Annual Assessment up to the maximum set forth in Section 3 of this Article, plus an additional Special Assessment. Such Special Assessment in any one year may not exceed a sum equal to the amount of the Maximum Regular Annual Assessment for such year except for emergency or other repairs required as a result of storm, fire, natural disaster or other casualty loss. The fact that the Association has made an Annual Assessment for an amount up to the permitted maximum shall not affect its right to make a Special Assessment during the year.

The proportion of each Special Assessment to be paid by the Owners of the various classifications of assessable property shall be equal to the proportion of the regular assessments made for the assessment year during which such Special Assessments are approved by the Members.

Section 5. Neighborhood Assessments. In addition to the Annual Assessment and the Special Assessment authorized in Sections 3 and 4 of this Article, when any area or portion of Willbrook Plantation has been designated a Neighborhood Area for the benefit of Owners of property within the area so designated, the Board of Directors of the Association is hereby empowered to levy assessments to be used for the benefit and/or operation of the particular Neighborhood Area of Willbrook Plantation, the payment of which assessment shall be borne by the Owners within such area only; such assessment being herein referred to as a "Neighborhood Assessment". A Neighborhood Assessment can be levied by the Board of Directors of the Association after a determination that the affected area of the Property has such need of a particular addition or improvement as would justify the expenditure therefor by the Owners who would be assessed and who would enjoy the benefits of such improvement or addition and/or the operation thereof or when seventy-five (75%) percent of the Owners within a particular Neighborhood Area with the approval of the Joint Venture or Association vote to levy a Neighborhood Assessment. In cases where such determination is made by the Board of Directors, the levy of the applicable Neighborhood Assessment by the Board of Directors of the Association shall be final and not subject to approval by the whole body of Members of the Association or by those Members who would be subject to the Neighborhood Assessment.

If a Neighborhood Assessment is made for an improvement or addition which requires a continuing assessment for maintenance and/or operational costs, then those Owners subject to the levy of the Neighborhood Assessment may discontinue and abolish such Neighborhood Assessment, if such Owners so vote in a Referendum held during the second or any subsequent year of such a continuing Neighborhood Assessment. In such Referendum, in the event sixty-six and two-thirds (66 2/3%) percent or more of the votes actually returned to the Association within the specified time shall be in favor of such action, the Referendum shall be deemed to "pass" and the action voted upon will be deemed to have been authorized by such Members. Should any costs result from the removal of any addition or improvement where a particular Neighborhood Assessment is discontinued, such cost shall be funded by the Neighborhood Assessment before its discontinuance.

Section 6. Reserve Funds. The Association may establish reserve funds from its Annual Assessments to be held in reserve in an interest drawing account or investments as a reserve for (a) major rehabilitation or major repairs; (b) emergency and other repairs required as a result of storm, fire, natural disaster or other casualty loss; (c) recurring periodic maintenance; (d) dredging of canal systems within the Property or connecting the Property to the Waccamaw River, including both natural and artificial canals; and (e) initial cost of any new service to be performed by the Association.

Section 7. Change in Maximum Amounts of Annual Assessments upon Merger or Consolidation. The limitations of Section 3 hereof shall apply to any merger or consolidation in which the Association is authorized to participate under Article 2, Section 2 hereof and under the Bylaws of the Association.

Section 8. Date of Commencement of Annual Assessments. Notwithstanding anything in the foregoing to the contrary, the Annual Assessments provided for herein shall commence no earlier than May 1, 1987.

Section 9. Duties of the Board of Directors. The Board of Directors of the Association shall fix the amount of the assessment against each Residential Lot, Dwelling Unit, Multi-Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel, or Unsubdivided Land, within the assessment schedule as provided hereinabove, and shall at that time direct the preparation of an index of the properties and assessments applicable thereto which shall be open to inspection by any Member. Written notice of assessment shall thereupon be sent to every Member subject thereto.

The Association shall upon written demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence against all but the Owner of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner, the Lien, Remedies of the Association. If the assessment is not paid on or before the past due date specified in Section 3(d) hereof, then such assessment shall become delinquent and shall (together with interest thereon at the rate of one and one-half (1½%) percent per month from the due date and all costs of collection thereof including a reasonable attorney's fee) become a charge and continuing lien on the land and all improvements thereon, against which each such assessment is made, at the hands of the then Owner, his heirs, devisees, personal representatives, tenants and assigns.

If the assessment is not paid within thirty (30) days after the past 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 property in like manner as a mortgage of real property or both. Upon the exercise of its right to foreclose, the Association may elect to declare the entire remaining amount of the Annual Assessment due and payable and collect the same through foreclosure. In either event all costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. In the event a judgment is obtained such judgment shall include interest on the assessment at the rate of eighteen (18%) percent per annum or the maximum lawful rate on such judgments.

In addition to the rights of actions set forth above, the Board of the Association may suspend the membership rights of any Member during the period when the assessment remains unpaid. Upon payment of such assessment, the Owner's rights and privileges shall be

automatically restored. This provision shall not empower the Board to suspend the rights to use the roads within the Property.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding or deed in lieu of foreclosure, and provided, further, that any delinquent assessments which are extinguished pursuant to the foregoing provision may be reallocated and assessed to all Members as an expense of the Association. Such sale or transfer shall not relieve such property from liability for assessment accruing after conveyance by the creditor to a subsequent Owner.

Section 11. Exempt Property. The following property, individuals, partnerships, or corporations subject to this Declaration shall be exempted from the assessment, charge and lien created herein:

- (a) The grantee in conveyances made for the purpose of granting utility and drainage easements;
- (b) All Common Properties and Restricted Common Properties as defined in Article I hereof;
- (c) The property which is used for any of the following purposes:
  - (1) In the maintenance and service of facilities within the Properties;
  - (2) Places of worship;
  - (3) Schools;
  - (4) Non-profit, governmental, and charitable institutions;
  - (5) Marsh, wetland and swamp conservancies;
  - (6) All lands below the mean highwater mark;
  - (7) Water and sewer facilities.

Section 12. Annual Statements. The President, Treasurer, or such other officer as may have custody of the funds of the Association shall annually within ninety (90) days after the close of the fiscal year of the Association, prepare and execute under oath a general itemized statement showing the actual assets and liabilities of the Association at the close of such fiscal year and a statement of revenues, costs, and expenses. It shall be necessary to set out in the statement the

name of any creditor of the Association, provided, however, that this requirement shall be construed to apply only to creditors of more than One Thousand (\$1,000.00) Dollars. Such officers shall furnish to each Member of the Association who may make request therefor in writing, a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be furnished to the Member either in person or by mail.

Section 13. Annual Budget. The Board of Directors shall cause to be prepared and make available at the office of the Association to all Members at least sixty (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for such fiscal year. Financial books of the Association shall be available for inspection at the offices of the Association by all Members at all reasonable times.

## ARTICLE VI – FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Common Properties and Restricted Common Properties. The Association shall be authorized to own and/or maintain (subject to the requirements of any federal, state or local governing body of South Carolina) Common Properties and Restricted Common Properties, equipment, furnishings and improvements devoted to the following uses:

- (a) For roads or roadways, ferries, bridges and parkways along said roads or roadways throughout the Property;
- (b) For sidewalks, walking paths or trails and bicycle paths throughout the Properties;
- (c) For security services, including security stations, maintenance buildings and/or guardhouses;
- (d) For emergency health care, including ambulances and emergency care medical facilities and the equipment necessary to operate such facilities;
- (e) For insect control within the Property;
- (f) For drainage facilities serving the Property;
- (g) For lakes, play fields, tennis and golf facilities, historic parks, wildlife areas, fishing facilities, open spaces, wildlife conservancies, and other recreational facilities of any nature;
- (h) For water and sewage facilities and any other utilities, if not otherwise adequately provided in the judgment of the Board of Directors of the Association by a private utility, Georgetown County, or some other public body;

(i) For canals or water courses within the Properties or connecting the Properties to the Waccamaw River;

(j) For any of the services which the Association is authorized to offer under Section 2 of this Article VI;

(k) For all other properties, real or personal, which in the discretion of the Board of Directors of the Association should be operated and maintained in the best interest of the Association.

Section 2. Services. The Association shall be authorized (unless prohibited by the requirements of any federal, state or local governing body), but not required, to provide the following services:

(a) Cleanup and maintenance of all roads, roadways, parkways, canals, water courses, lakes and other Common Properties within the Properties, and also all public properties which are located within or in a reasonable proximity to the Properties such that their deterioration would affect the appearance of the Properties as a whole;

(b) Landscaping of roads and parkways, sidewalks and walking paths and any Common Properties or Restricted Common Properties;

(c) Transportation services other than privately owned automobiles, e.g. buses, electric vehicles;

(d) Lighting of roads, sidewalks and walking paths throughout the Properties;

(e) Security provisions including but not limited to the employment of security guards, maintenance of electronic and other security devices and control centers for the protection of persons and property within the Properties, and assistance in the apprehension and prosecution of persons who violate the laws of South Carolina within the Properties;

(f) 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 State and local governments;

(g) The services 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;

(h) Maintenance of all lakes and lagoons located within the Properties, including the stocking of such lakes and lagoons;

- (i) Maintenance and dredging of all canals, whether artificial or natural water courses, located within the Properties or connecting the Properties with the Waccamaw River;
- (j) To take any and all actions necessary to enforce all covenants and restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Properties;
- (j) To set up and operate an architectural review board in the event that the Association is designated by the Joint Venture as the agent of the Joint Venture for such purpose;
- (k) Improvement of fresh and salt water fishing available to Members within the Properties;
- (l) To conduct recreation, sports, craft and cultural programs of interest to Members, their children and guests;
- (m) To provide day care and child care services;
- (n) To provide legal and scientific resources for the improvement of air and water quality within the Properties;
- (o) To maintain water search and rescue boats for the protection and safety of those in the waters located on or adjacent to the Properties;
- (p) To provide fire protection and prevention.
- (q) To provide safety equipment for storm emergencies;
- (r) To provide garbage and trash collection and disposal;
- (s) To support the operation of transportation services between key points of the Properties and the airports, other public transportation terminals, and public centers serving the area;
- (t) To construct improvements on Common Properties or Restricted Common Properties for use for any of the purposes or as may be required to provide the services as authorized in this Article;
- (u) 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;
- (v) To provide liability and hazard insurance covering improvements and activities on the Common Properties and Restricted Common Properties;

(w) To provide, conduct or maintain water pollution and shoreline erosion abatement measures including, without limitation, maintenance and repair of shore revetments, bulkheads and groins and the employment of consultants who are specialists in that field as may be needed in the judgment of the Board of Directors;

(x) To provide any or all of the above listed services to another Association or owners of real property under a contract the terms of which must be approved by the Board of Directors;

(y) The taking of any and all actions necessary in the discretion of the Board of Directors to enforce this Declaration and all other covenants and restrictions affecting the Properties of the Association and to perform any of the functions or services delegated to the Association in this Declaration or other covenants or restrictions authorized by the Board of Directors.

Section 3. Reduction of Services. The Board of Directors of the Association shall periodically define and list the minimum level of services of the sort described in Section 2 to be furnished by the Association in any given year. Such minimum level of services shall expressly include an obligation of the Association to maintain roadways and drainage facilities in a functional and acceptable condition.

Section 4. Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified in Section 3 of this Article. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association.

Section 5. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the Property of the Association and to pledge the revenues of the Association which loans shall be used by the Association in performing its authorized functions. The Joint Venture may make loans to the Association, subject to approval by the Joint Venture of the use to which such loan proceeds will be put and the terms pursuant to which such loans will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the regular Annual Assessment at any time there are outstanding any amounts due the Joint Venture as repayment of any loans made by the Joint Venture to the Association.

Section 6. Capital Contributions. An additional function of the Association shall be to establish a Capital Contribution of one quarter of one percent (.0025%) of the sales price of each Residential Lot or Dwelling Unit sold in Willbrook Plantation.

At the time of the closing of a Residential Lot or Dwelling Unit, the Capital Contribution shall be collected from the purchaser of a Residential Lot or Dwelling Unit and transferred to a



Capital Reserve Fund Account maintained by the Association for future repairs and replacement of the Association's Common Properties, capital assets and infrastructure.

## ARTICLE VII – ARCHITECTURAL CONTROL

Section 1. In order to preserve the natural beauty of Willbrook Plantation and its setting, to maintain a pleasant and desirable environment, to establish and preserve a harmonious design for the Community, and to protect and promote the value of property, no building, fence, wall, sign, swimming pool, tennis court, roof, exterior or other structure shall be erected, placed, added to or altered until the proposed building plans, specifications (including height, color and composition of roof, siding, or other exterior materials and finish), plot plan showing the proposed location of such building or structure (driveways and parking areas), landscape plan and construction schedules shall have been submitted and approved in writing as hereinafter provided.

Section 2. Objectives. Architectural and design review shall be directed towards obtaining the following objectives for Willbrook Plantation:

(a) Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms;

(b) Ensuring that the location and configuration of structures are visually harmonious with the terrain and vegetation of the Residential Lots and Dwelling Units and with surrounding Residential Lots, Dwelling Units and structures and does not unnecessarily block scenic views from existing structures or tend to dominate any general development or natural landscape;

(c) Ensuring that the architectural design and structures and their materials and colors are visually harmonious with Willbrook Plantation's overall appearance, history and cultural heritage, with surrounding development, with natural land forms and native vegetations, and with development plans officially approved by the Joint Venture, or any governmental or public authority, if any, for the area in which the structures are proposed to be located;

(d) Ensuring the plans for landscaping provide visually pleasing settings for structures on the same lot and on adjoining or nearby lots, and blend harmoniously with the natural landscape;

(e) Ensuring that any development, structure, building or landscaping complies with the provisions of these Covenants; and

(f) Promoting building design and construction techniques that respond to energy consumption and environmental quality consideration such as heat loss, air omissions and run-off water quality.

Section 3. Architectural Review Board. The Joint Venture shall establish an Architectural Review Board (such Board hereinafter referred to as the "Review Board") which shall be composed of at least three (3) but not more than seven (7) persons. The initial Board shall be composed of three (3) members appointed by the Joint Venture until such time of the sale by the Joint Venture of ninety (90%) percent of the maximum number of Residential Lots, Dwelling Units and Public or Commercial Units authorized at Willbrook Plantation by the Georgetown County Zoning Authorities or the date it otherwise elects. The regular term of office for each member of the Review Board shall be one (1) year. Any member appointed by the Joint Venture may be removed with or without cause by the Joint Venture at any time by written notice to such appointee. At such time as control of the Review Board functions are transferred to the Association, members of the Review Board shall be appointed by the Board of Directors of the Association.

The Review Board shall select its own Chairman and he, or in his absence the Vice Chairman, shall be the presiding officer of the meetings. All meetings shall be held at least once in each calendar month or upon call of the Chairman; all meetings shall be held at the offices of the Joint Venture in Willbrook Plantation, South Carolina or at such other places as may be designated by the Chairman.

The Review Board is hereby authorized to retain the services of one or more consulting architects, landscape architects, urban designers, and/or attorneys, who need not be licensed to practice in the State of South Carolina, to advise and assist the Review Board in performing the design review functions herein prescribed.

Section 4. Review and Approval of Plans for Additions, Alterations or Changes to Structures in Landscaping. No building, wall, fence, sign, swimming pool, tennis court, roof, color and composition of roof, siding and other exterior materials and finishes, exterior light or other structure or improvement of any kind shall be commenced or erected upon any Residential Lot or upon the exterior of any Dwelling Unit, or upon any Multi-Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel or upon the Common Properties or Restricted Common Properties, nor shall any landscaping be done, nor shall any addition to any existing building or alteration or change therein be made until the proposed building plans, specifications (including height, color and composition of roof, siding or other exterior materials and finish), spot plan (showing the location of such building or structure, driveways and parking area), landscape plan, and construction schedule shall have been submitted to and approved by the Review Board.

Section 5. Submission, Approval and Refusal of Architecture, Siting, Landscaping and Other Building Plans. Two (2) copies of all plans and related data shall be furnished to the Review Board. One copy shall be retained in the records of the Review Board. The other copy shall be returned to the Property Owner marked "Approved" or "Disapproved". The Review Board shall establish a fee sufficient to cover the expense of reviewing plans and related data at the time they are submitted for review and to compensate any consulting architect's, landscape architect's,

urban designer's or attorney's retainer in accordance with Section 3 above. Approval shall be dated and shall not be effective for construction commenced more than twelve (12) months after such approval unless a different expiration time is specified in the approval. Disapproved plans and related data shall be accompanied by a reasonable statement of items found unacceptable. In the event approval of such plans is neither granted nor denied within forty-five (45) days following receipt by the Review Board of written request for approval, the provisions of this Section shall be thereby waived. Refusal of approval of plans, location or specification may be based by the Review Board upon any ground which is consistent with the objectives of these Covenants, including purely aesthetic considerations, so long as such ground is not arbitrary and capricious.

Section 6. Approval Not a Guarantee or Representation of Proper Design or Good Worksmanship. No approval of plans, location or specifications and no publication or architectural standards bulletins shall ever be construed as representing or implying that such plans, specifications or standards will, if followed, result in a properly designed residence. Such approvals and standards shall in no event be construed as representing or guaranteeing that any residence or improvement thereto will be built in a good and workmanlike manner. Neither the Joint Venture nor the Review Board shall be responsible or liable for any defects in any plans or specifications submitted, revised or approved under these Covenants nor for any defects in construction pursuant to such plans and specifications. The Owner shall have sole responsibility for compliance with approved plans and does hereby, by acceptance of title to property subject to these Covenants, agree to hold the Review Board and the Joint Venture harmless for any failure thereof caused by the Owner's architect or builder. The Joint Venture reserves the right to prohibit the Owner's builder and/or general contractor from going to or upon the site in the event it is determined that failure to comply with approved plans is intentional or due to gross negligence under the above mentioned circumstances. The Owner hereby agrees that the exercise of these rights shall not constitute a denial of the Owner's property rights and shall not give rise to a cause of action for damages by the Owner.

Section 7. Siting. To assure that buildings and other structures will be located so that the maximum view, privacy and breeze will be available to each building or structure, and that structures will be located with regard to the topography of each property taking into consideration the location of large trees, structures previously built or approved pursuant to this Article for adjacent parcels of land, and other aesthetics and environmental considerations, the Review Board and the Joint Venture reserves unto itself, its successors and assigns, the right to control and decide solely (so long as (a) its decisions are not arbitrary and capricious; and (b) subject to the provisions of the pertinent land use regulations of public authorities having jurisdiction) the precise site and location of any building or structures on any property in Willbrook Plantation, notwithstanding any setbacks or other matters shown on any recorded plats.

The location shall be determined only after reasonable opportunity is afforded the Owner to recommend a specific site. Provided, however, that in the event an agreed location is stipulated in writing in the Contract of Purchase and approved by the Joint Venture, and such location complies with the Georgetown County Subdivisions regulations, the Joint Venture shall automatically approve such location for a residence or group of residential units.

## ARTICLE VIII – GENERAL PROVISIONS

Section 1. Duration. This Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Joint Venture, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically renewed and extended for successive ten (10) year periods. The number of ten (10) year renewal periods hereunder shall be unlimited and this Declaration shall be automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period; provided, however, that there shall be no renewal or extension of this Declaration if during the last year of the initial thirty (30) year period or during the last year of any subsequent ten (10) year renewal period, three-fourths (3/4) of the votes cast at a duly held special meeting of the Association are cast in favor of terminating this Declaration at the end of its then current term. In the event that the Members of the Association vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that notice of such meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the number of votes necessary to adopt a resolution terminating this Declaration, the total number of votes cast in favor of such resolution, and the total number of votes cast against such resolution. Said certificate shall be made Of Record and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendments. The Joint Venture specifically reserves the right to amend this Declaration, or any portion hereof, on its own motion, from the date hereof until January 1, 2015. Thereafter, the procedure for amendment shall be as follows:

All proposed amendments shall be submitted to a vote of the Members at a duly called meeting of the Association and any such proposed amendments shall be deemed approved if three-fourths (3/4) of the votes cast at such meeting vote in favor of such proposed amendment. Notice shall be given to each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. 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 (which in no event shall be less than sixty (60) days after 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 of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes necessary to adopt the amendment, the total number of votes cast in favor of such amendment, and the total number of votes cast against the amendment. Such Addendum shall be placed Of Record.

So long as the Joint Venture, as the Type E Member, is entitled to elect a majority of the members of the Board of Directors of the Association, no amendment of this Declaration shall be made without the consent of the Joint Venture.

Section 3. Enforcement. This Declaration shall be enforceable by the Association, the Joint Venture, the Architectural Review Board, or any Member of the Association by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain violation or to recover damages, and to enforce any lien created by this Declaration; and failure by the Association or any Member or the Joint Venture to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right of any of the foregoing to enforce same thereafter.

Section 4. Interpretation. The Board of Directors of the Association shall have the right to determine all questions arising in connection with the Declaration of Covenants and Restrictions and to construe and interpret its provisions, and its determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration of Covenants and Restrictions shall be given that interpretation or construction that will best tend toward the consummation of the general plan of improvement.

Section 5. Severability. Should any covenant or restriction herein contained, or any article, section, subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the 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 and which shall remain in full force and effect.

Section 6. Authorized Action. All actions 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 Bylaws of the Association, unless the terms of this instrument provide otherwise.

Section 7. Notices. Any notice required to be sent to any Member under the provisions of the Declaration shall be deemed to have been properly sent, and notice thereby given, when mailed, with the proper postage affixed, to the address appearing on the Association's membership list. Notice to one or two or more co-owners or co-tenants of a Residential Lot, Dwelling Unit, Multi-Family Tract, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel or Unsubdivided Land shall constitute notice to all co-owners. 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 a 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.

Section 8. Other Agreements. Notwithstanding anything contained herein to the contrary, all the provisions of these covenants shall be subject to and conform with the provisions of:

(a) the master plan for the development of Willbrook Plantation as such master plan may from time to time hereafter be amended or modified; and

(b) The Zoning Ordinance of the County of Georgetown, South Carolina and the rules and regulations promulgated thereunder, as may from time to time hereafter be amended or modified.

Section 9. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents, or required approvals by or from the Joint Venture contemplated under this Declaration, the Joint Venture shall not be liable to an Owner or to any other person on account of any claim, liability, damage or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld.

Section 10. Termination of Association. In the event that this Declaration should be declared void, invalid, illegal or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, and such adjudication occurs within ten (10) years of the date of recording of this Declaration, all Common Properties and Restricted Common Properties belonging to the Association at the time of such adjudication shall revert to the Joint Venture, and the Joint Venture shall own and operate said Common Properties and Restricted Common Properties as trustees for use and benefit of Owners within the Properties as set forth below. If said adjudication shall occur on a date more than ten (10) years after the date of recording of this Declaration, or if the Members of the Association should vote not to renew and extend this Declaration as provided in Article VIII, Section 1, all Common Properties and Restricted Common Properties owned by the Association at such time shall be transferred to a properly appointed trustee, which trustee shall own and operate said Common Properties and Restricted Common Properties for the use and benefit of Owners within the Properties as set forth below:

(a) Each lot or parcel of land located within the Properties shall be subject to an annual assessment which shall be paid by the Owner of each such lot or parcel to the Joint Venture or trustee, whichever becomes the successor in title to the Association. The amount of such annual assessment and its due date shall be determined solely by the Joint Venture or the trustee, as the case may be, but the amount of such annual assessment on any particular lot or parcel shall not exceed that amount actually assessed against that lot or parcel in the last year that assessments were levied by the Association, subject to the adjustment set forth in subparagraph (b) immediately below;

(b) The rate of the maximum annual assessment which may be charged by the Joint Venture or trustee hereunder on any particular lot or parcel may be automatically increased each year by either five (5%) percent of the percentage increase between the first month and the last month of the annual assessment period in the Consumer Price Index, U.S. City Average, All Items (1967-100) (hereafter "C.P.I.") issued by the U.S. Bureau of Labor Statistics in its monthly report entitled "The Consumer Price Index, U.S. City Average and Selected Areas", whichever of these two percentage figures is larger. The actual amount of such increase in the regular maximum annual assessment on a lot or parcel shall equal the regular maximum annual assessment on such lot or parcel for the previous year multiplied by the larger of the two percentage factors set forth above. If the C.P.I. is discontinued, then there shall be used the most similar index published by the United States Government that may be procured indicating changes in the cost of living;

(c) Any past due Annual Assessment, together with interest thereon of the maximum annual rate permitted by law from the due date, and all costs of collection, including reasonable attorney's fees, shall be a personal obligation of the Owner at the time that annual assessment became past due, and it shall also constitute and become a charge and continuing lien on the lot or parcel of land and all improvements thereon, against which the assessment has been made in the hands of the then Owner, his heirs, devisees, personal representatives and assigns;

(d) The Joint Venture, or trustee, as the case may be, shall be required to use the funds collected as Annual Assessments for the Common Properties and Restricted Common Properties as provided in this Declaration. The Joint Venture or Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. Neither the Joint Venture nor the Trustee shall have the obligations to provide for operation, maintenance, repair and upkeep of the Common Properties and Restricted Common Properties once the funds provided by the annual assessment have been exhausted.

(e) The Joint Venture shall have the right to convey title to the Common Properties and Restricted Common Properties, and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The trustee shall have the power to dispose of the Common Properties and Restricted Common Properties, free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by fifty-one (51%) percent of the Owners of property within the Properties or in the alternative shall be found to be in the best interest of the Owners of property within the Properties Of Record. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties or Restricted Common Properties, then for the payment of any obligations incurred by the trustee in the operation, maintenance, repair and upkeep of such Properties, then for the payment of any obligations distributed among the Owners of property within the Properties, exclusive of the trustees, in a proportion equal to the portion that the maximum annual assessment on property owned by a particular Owner bears to the total maximum annual assessment for all property located within the Properties.