
**Master Declaration
of
Covenants, Conditions and Restrictions
for
St. James Plantation**

As Amended Through December 15, 2004

Table of Contents

Notes Regarding Amendments To Master Declaration.....	iv
ARTICLE I - DEFINITIONS	2
ARTICLE II - MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION	6
Section 1. Membership.	6
Section 2. Voting Rights.	6
Section 3. Governance.	7
ARTICLE III - PROPERTY RIGHTS IN THE COMMON PROPERTIES	8
Section 1. Conveyance of Common Properties by Declarant.	8
Section 2. Sewer Systems.	8
Section 3. Members' Easements of Enjoyment in Common Properties.	9
Section 4. Extent of Members' Easements.....	9
ARTICLE IV - COVENANTS FOR ASSESSMENTS	11
Section 1. Creation of the Lien and Personal Obligations of Assessments.	11
Section 2. Purposes of Assessments.	12
Section 3. Application of "Maximum" Annual Assessment.....	12
Section 4. Date of Commencement of Annual Assessments: Due Dates.	13
Section 5. Special Assessments for Improvements and Additions.....	14
Section 6. Segment Assessments.....	15
Section 6a. Wastewater System Assessments.....	16
Section 7. Reserve Funds.	18
Section 8. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association.	18
Section 9. Subordination of the Lien to Mortgage.	19
Section 10. Exempt Property.....	19
ARTICLE V - FUNCTIONS OF ASSOCIATION.....	20
Section 1. Ownership and Maintenance of Common Properties.....	20
Section 2. Services.....	20

Section 3. Insurance.....	22
Section 4. Maintenance Easement.....	24
Section 5. Obligation of the Association.....	25
Section 6. Mortgage and Pledge.....	25
ARTICLE VI - ARCHITECTURAL AND LANDSCAPING STANDARDS.....	25
Section 1. Purpose.....	25
Section 2. Architectural Control Committee.....	25
Section 3. Plan or Design Approval Required.....	26
Section 4. Architectural Review Process.....	26
Section 5. Design Guidelines.....	26
Section 6. Organization and Operation of Architectural Control Committee.....	27
Section 7. Expenses.....	27
Section 8. Limitation of Liability.....	27
Section 9. Maintenance of Property.....	28
Section 10. Removal of Non-Conforming Improvement.....	29
ARTICLE VII - DECLARANT’S RIGHTS AND RESERVATIONS.....	29
Section 1. Period of Declarant’s Rights and Reservations.....	29
Section 2. Declarant’s Rights to Common Properties in Promotion and Marketing of Development Area.....	29
Section 3. Declarant’s Rights to Complete Development.....	30
Section 4. Declarant’s Approval of Conveyances or Changes in Use of Common Properties.....	30
Section 5. Reservation for Expansion.....	30
Section 6. Reservation of Easements, Exceptions and Exclusions.....	30
Section 7. Drainage Easement.....	31
Section 8. Golf Course Easements.....	31
Section 9. Declarant’s Rights Incident to Construction.....	32
Section 10. Transfer of Declarant’s Rights.....	32
Section 11. Easement for Provision of Certain Services.....	32
ARTICLE VIII - ANNEXATION.....	33

Section 1. Annexation by Declarant.....	33
Section 2. Annexation by Members.....	33
 ARTICLE IX - GENERAL PROVISIONS.....	 33
Section 1. Enforcement.....	33
Section 2. Rights of Lenders and Insurers of First Mortgages.....	33
Section 3. Term.....	34
Section 4. Amendments.....	35
Section 5. Amendment to Achieve Tax-Exempt Status.....	35
Section 6. Certification and Recordation of Amendment.....	35
Section 7. Effect and Validity of Amendments.....	36
Section 8. Interpretation.....	36
Section 9. Severability.....	36
Section 10. Authorized Action.....	36
Section 11. Notices.....	36
Section 12. Other Agreements.....	37
Section 13. Limited Liability.....	37
Section 14. Manager.....	37
Section 15. Working Capital Funds.....	37
 ARTICLE X - DISSOLUTION OR INSOLVENCY OF THE ASSOCIATION.....	 38
 Exhibit “A” – Property Initially Included in the Development	
 Exhibit “B” – Additional Property Subject to Annexation	

Notes Regarding Amendments to Master Declaration

1. The original Master Declaration of Covenants, Conditions and Restrictions for St. James Plantation is dated November 26, 1990 and recorded in Book 839, Page 453, Brunswick County Registry.

2. Pursuant to an Amendment to Master Declaration dated July 1, 1992 and recorded in Book 896, Page 241, an Amendment dated September 10, 1997 and recorded in Book 1169, Page 808, and an Amendment dated December 15, 2004 and recorded in Book 2059, Page 1272, changes were made in the provisions regarding assessments, sewer systems, Declarant voting and board appointment rights, and the description of the Additional Property subject to annexation into the Development. These changes are reflected in this updated version of the Master Declaration, as amended.

3. First St. James, Inc. (formerly known as Homer E. Wright, Jr., Inc.) was the original Declarant under the Master Declaration and was the primary developer of most of Phases I and II. Pursuant to a Partial Assignment of Declarant's Rights dated June 7, 1996 and recorded in Book 1165, Page 527, certain Declarant's rights were assigned to St. James Plantation, LLC in connection with its development of Phase III. Pursuant to a Partial Assignment dated September 19, 1997 and recorded in Book 1178, Page 529, certain Declarant's rights were assigned to St. James Development Co., LLC in connection with its development of Phase IV, Players Club PUD, Regency Park and Reserve Phase One. Pursuant to a Partial Assignment recorded on July 27, 1999 in Book 1319, Page 402, certain Declarant's rights were assigned to Brunswick Harbor, Inc. in connection with its development of the Marina Village. Pursuant to a Partial Assignment dated April 26, 2000 and recorded in Book 1373, Page 241, certain Declarant's rights were assigned to Tri-Brunswick, LLC in connection with its development of the Phase II Extension. Pursuant to a Partial Assignment dated October 25, 2004 and recorded in Book 2032, Page 625, certain Declarant's rights were assigned to Reserve Development Co., LLC in connection with its development of Reserve Phase Two.

4. Various amendments to the Master Declaration have been recorded and additional amendments will be recorded in the future annexing portions of the Additional Property into the Development. The developers constituting Declarant may but are not obligated to annex all of the Additional Property into the Development.

5. IF YOU OWN OR ARE PURCHASING A LOT OR DWELLING IN THE DEVELOPMENT YOU SHOULD REVIEW THE MASTER DECLARATION, AS AMENDED, ALONG WITH THE AMENDMENT TO MASTER DECLARATION ANNEXING THE SUBJECT PROPERTY INTO THE DEVELOPMENT AND THE RESTRICTIVE COVENANTS APPLICABLE TO SUCH PROPERTY, AS RECORDED OR TO BE RECORDED IN THE BRUNSWICK COUNTY REGISTRY, AND THE BYLAWS, RULES AND REGULATIONS OF ST. JAMES PLANTATION PROPERTY OWNERS' ASSOCIATION, INC. IF THE DWELLING IS A CONDOMINIUM UNIT OR OTHERWISE PART OF A REGIME ASSOCIATION, YOU SHOULD ALSO REVIEW THE CONDOMINIUM OR REGIME DECLARATION, AS RECORDED OR TO BE RECORDED IN THE BRUNSWICK COUNTY REGISTRY, AND THE OTHER CONDOMINIUM OR REGIME ASSOCIATION DOCUMENTS.

**Master Declaration
of
Covenants, Conditions and Restrictions
for
St. James Plantation**

As Amended Through December 15, 2004

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR ST. JAMES PLANTATION is made as of this 26th day of November, 1990, by [FIRST ST. JAMES, INC. (formerly known as Homer E. Wright, Jr., Inc.)], a North Carolina corporation (hereinafter referred to as "Declarant").

WITNESSETH THAT:

WHEREAS, Declarant is the owner of certain real property located in Brunswick County, North Carolina, which property is described on Exhibit "A" attached hereto and incorporated herein by reference, and Declarant desires to subject such property to the provisions of this Declaration and to have constructed on the property St. James Plantation, a planned community accommodating a mix of residential, recreational, resort and commercial uses with related attendant facilities and amenities, and to provide a flexible and reasonable method for the administration, assessment and maintenance of such property; and

WHEREAS, as hereinafter provided in this Declaration, Declarant has retained and reserved the right, privilege and option to submit to the provisions of this Declaration at a later time and from time to time as a part of St. James Plantation, all or any portion of the real property described on Exhibit "B" attached hereto and incorporated herein by this reference.

NOW, THEREFORE, Declarant hereby declares that all of the property described on Exhibit "A" and any additional property shown on Exhibit "B" which Declarant, in its sole discretion, may see fit to develop or dedicate and, which by subsequent amendment hereto, shall be subjected to this Declaration, shall be held, transferred, sold, conveyed, leased, occupied and used subject to the following easements, restrictions, covenants, charges, liens and conditions which are hereby imposed for the purpose of protecting the value and desirability of these lands and which restrictions, easements, charges, liens, conditions and covenants shall touch and concern and run with the title to the real property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in these described properties or any portion of them. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns, and shall inure to the benefit of anyone who purchases or takes any interest in real property within the lands subject to this instrument.

ARTICLE I DEFINITIONS

Section 1. Definitions.

When used in this Declaration, unless the context shall prohibit or require otherwise, the following words shall have the following meanings, and all definitions shall be applicable to the singular and plural forms of any such term(s):

1.1 “Additional Property” shall mean and refer to the real property shown on Exhibit “B” and all improvements thereon.

1.2 “Architectural Control Committee” shall mean and refer to the committee which shall be appointed by the Association’s Board of Directors to approve exterior and structural improvements, landscaping, additions and changes within the Development as provided in Article VI hereof.

1.3 “Articles of Incorporation” shall mean and refer to the Articles of Incorporation of St. James Plantation Property Owners’ Association, Inc., as it may be constituted or amended from time to time.

1.4 “Assessment(s)” shall mean and refer to an Owner’s share of the Common Expenses or other charges from time to time assessed against an Owner by the Association in the manner herein provided. The term “Assessment(s)” may include Annual Assessments, Special Assessments, Segment Assessments and Wastewater System Assessments, as herein provided.

1.5 “Association” shall mean and refer to St. James Plantation Property Owners’ Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

1.6 “Board of Directors” or “Board” shall mean and refer to the Board of Directors of the Association.

1.7 “Bylaws” shall mean and refer to the Bylaws of the Association, as may be amended from time to time.

1.8 “Commercial Site” shall mean any unimproved parcel of land within the Development intended as a site for improvements designed to accommodate commercial or business enterprises to serve residents of the Development and/or the public, including but not limited to: business and professional offices; facilities for the retail sale of goods and services; social clubs, restaurants, buildings containing more than four (4) living units intended exclusively for rent; hotels; motels; inns; theaters; lounges; indoor recreational facilities; transportation terminals or stations; automobile parking facilities; and gasoline stations. For the purpose of this Declaration, a parcel of land shall not be deemed a “Commercial Site” until such time as its exact metes and bounds have been surveyed and a plat thereof is made of record and, further, shall be deemed to be

unimproved until a Certificate of Occupancy or Compliance for the improvements constructed thereon has been issued by the applicable Brunswick County authorities.

1.9 “Commercial Unit” shall mean and include any improved property within a Commercial Site which is intended to accommodate public, commercial or business enterprises to serve residents of the Development and/or the public, including but not limited to those enterprises enumerated in paragraph 1.8. A property shall not be deemed to be improved until the improvements being constructed on said property are complete to such an extent that a Certificate of Occupancy or Compliance has been issued by the applicable Brunswick County authorities.

1.10 “Common Expenses” shall mean and include the actual and estimated expenses incurred by the Association for the general benefit of all Owners, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the Bylaws, and the Articles of Incorporation.

1.11 “Common Properties” shall mean and refer to all real property, together with any improvements thereon, and to all personal property, now or hereafter owned by or leased to the Association or with respect to which the Association holds an easement for the use, care or maintenance thereof, held for the common use and enjoyment of some or all of the Owners as provided herein and/or for other purposes as may be provided herein and/or for other purposes as may be permitted by this Declaration. Provided, however, that any properties that are leased to the Association for the use as Common Properties shall lose their character as Common Properties upon the expiration of such lease. “Common Properties” shall include “Limited Common Properties” except where the context otherwise provides. “Common Properties” shall further include that property designed as “Common Area(s)” on plats, maps, drawings, or documents pertaining to the Development.

1.12 “Declarant” shall mean and refer, collectively, to: (a) [First St. James, Inc. (formerly known as Homer E. Wright, Jr., Inc.)], a North Carolina corporation; (b) successors of [First St. James, Inc.] or another Declarant by operation of law; and (c) any Persons who are (i) assignees of any or all of a Declarant’s rights, (ii) hold title to any portion of the Development or the Additional Property, and (iii) are designated as a Declarant in a written instrument executed by the assignor Declarant and recorded in the Brunswick County Registry.

1.13 “Declaration” shall mean and refer to this Master Declaration of Covenants, Conditions and Restrictions for St. James Plantation and all supplements or amendments to it as filed for record in the Office of the Register of Deeds of Brunswick County, North Carolina.

1.14 “Development” shall mean and refer to those tracts or parcels of land described on Exhibit “A,” together with all improvements constructed thereon, and, upon the submission to the provisions of this Declaration, the Additional Property or any portion thereof, together with all improvements constructed thereon.

1.15 “Dwelling” with an initial capital letter, shall mean and refer to any improved property located on a Residential Lot within the Development intended for use as a single family dwelling, including without limitation, a house, townhouse, condominium unit and patio or cluster home, whether detached or attached, but excluding a building containing four (4) or more living units intended exclusively for rent. A property shall not be deemed to be improved until the improvements being constructed on said property are complete to such an extent that a Certificate of Occupancy or Compliance has been issued by the applicable Brunswick County authorities. The term “Dwelling” shall encompass the improvements and the Residential Lot on which they are located.

1.16 “Intended for Use,” with or without initial capital letters, shall mean the use intended for various parcels within the Property as shown on the Master Development Plan of St. James Plantation, 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 Declarant has conveyed the property or in any Regime Declaration.

1.17 “Lease” shall mean and refer to any lease, sublease or rental contract, whether oral or written, and for a term of hours, days, months or years.

1.18 “Limited Common Properties” shall mean those portions of the Common Properties reserved for the use of a particular Owner or group of Owners to the exclusion of other Owners and which are designated “Limited Common Properties” on the recorded plat showing such property.

1.19 “Master Development Plan” shall mean and refer to the maps and drawings which represents the conceptual plan for the development of St. James Plantation on file with the applicable authorities of Brunswick County, North Carolina. Since the concept of the future development of St. James Plantation is subject to continuous revision and change by the Declarant, present and future references to the “Master Development Plan” shall be references only to the latest revision thereof.

1.20 “Member” shall mean and refer to all those Owners who are Members of the Association as defined in Section 1 Article II.

1.21 “Mortgage,” with an initial capital letter, shall mean and refer to a mortgage, deed of trust, installment land sales contract and security agreement or other similar security instrument granting, creating or conveying a lien upon, a security interest in, or a security encumbered title to any lot or parcel of land in the Development.

1.22 “Mortgagee,” with an initial capital letter, shall mean and refer to the holder of a Mortgage.

1.23 “Owner” shall mean and refer to the Owner as shown on the real estate records of Brunswick County, North Carolina, whether it be one or more Persons, firms, associations, corporations or other legal entities, of fee simple title to any lot or parcel of land in the Development, but shall not mean any Mortgagee, his or its successors or assigns, unless and until such Mortgagee 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. In the event that there is of record a deed granting one or more parties a life estate in any lot or parcel of land in the Development, the Owner of such lot or parcel of land in the Development shall be the holder or holders of the life interest, regardless of who holds the fee interest. In the event that there is of record a long-term contract of sale covering any lot or parcel of land in the Development, the Owner of such lot or parcel of land in the Development shall be the purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract and where the purchaser does not receive title to the property until such payments are made in full but the purchaser is given the use of said property in the interim.

1.24 "Person" shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust or any other legal entity or any combination thereof.

1.25 "Property," with an initial capital letter, shall mean and refer to the real property described in Exhibit "A" and the Additional Property together with all improvements thereon now or hereafter made.

1.26 "Regime Association" shall mean and refer to a non-profit corporation whose members are comprised entirely of Owners within any subordinate development in the Development including without limitation, multiple-family, residential, commercial or mixed, whether submitted to a horizontal property regime or made subject to further or additional restrictions/covenants of ownership and control.

1.27 "Regime Common Area" shall mean all real property or real property interests, together with any improvements thereon, owned or leased by a Regime Association for the common use and enjoyment of members of such Regime Association.

1.28 "Regime Declaration" shall mean and refer to any instrument or document, and any amendment thereto, which is recorded in the Office of the Register of Deeds of Brunswick County, North Carolina which (i) creates a townhouse, condominium or other planned unit development, or (ii) imposes covenants, conditions, easements and restrictions with respect to a Residential Site, Commercial Site, or group of two or more Residential Lots or Commercial Units.

1.29 "Residential Lot" shall mean any subdivided or resubdivided, unimproved parcel of land located within the Development which is intended for use as a site for a single-family dwelling, whether detached or attached as shown upon any recorded subdivision map of any part of the Development.

1.30 "Residential Site" shall mean any unimproved parcel of land within the Development intended for use as a site for one or more Residential Lots or Dwellings. A parcel of land shall not be deemed a "Residential Site" until such time as its exact metes and bounds have been surveyed and a plat thereof is made of record and shall no longer

be deemed a "Residential Site" after such property has been subdivided into two or more Residential Lots or Dwellings have been constructed thereon.

ARTICLE II MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership.

The Declarant, for so long as it shall be an Owner, and every other Owner shall be a Member of the Association. Ownership of a Residential Lot, Dwelling, Residential Site, Commercial Site or Commercial Unit shall be the sole qualification for membership, and no Owner shall have more than one membership, except as expressly provided hereinafter. Membership shall be appurtenant to and may not be separated from ownership of the property which is subject to assessment by the Association. The Association may promulgate reasonable rules relating to the proof of ownership.

Section 2. Voting Rights.

The Association shall have three types of regular voting memberships:

TYPE "A": Type "A" Members shall be all Owners (with the exception of the Declarant) of Dwellings or Residential Lots. A Type "A" Member shall be entitled to one (1) vote for each Dwelling or Residential Lot that he owns.

TYPE "B": Type "B" Members shall be all those Owners (with the exception of the Declarant) of Commercial Sites, Residential Sites, or Commercial Units. The voting rights of Type "B" Members shall be based upon the amount of Annual Assessments levied on the Commercial Site, Commercial Unit or Residential Site owned by such Member as follows: (i) \$0.00 to \$1,680.00 - one (1) vote and (ii) one (1) additional vote for each \$840.00 increment thereafter. 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 Ten Dollars (\$10.00).

Payment of Special or Segment Assessments shall not entitle Members to additional votes.

TYPE "C": Type "C" Members shall be the Declarant. A Type "C" Member shall be entitled to ten (10) votes for each Residential Lot and Dwelling it owns and ten (10) votes for each Eight Hundred Forty Dollars (\$840.00) in Annual Assessments levied on each Commercial Site, Commercial Unit and Residential Site it owns. The Type "C" membership shall cease and be converted to Type "A" or Type "B" membership, as applicable, upon the happening of any of the following events, whichever occurs first:

- (a) Declarant shall hold title to less than a combined total of fifty (50) Residential Lots and/or Dwellings; provided that the Type "C" membership shall be reinstated with all rights, privileges, responsibilities and voting power if, after conversion of the Type

“C” membership to Type “A” or “B” membership, as provided above, additional lands are annexed into the Development by Declarant as provided herein and, as a result of such annexation, Declarant then holds title to a combined total of at least fifty (50) Residential Lots and/or Dwellings;

- (b) On January 1, 2020; or
- (c) When, in its discretion, Declarant decides to terminate and convert the Type “C” membership; provided that Declarant shall give written notice to the Association at least six (6) months prior to the date of such discretionary termination.

The vote of the Owners of a lot or parcel of property owned by more than one person shall be cast by the one person named in a certificate signed by all of the Owners of such property and filed with the Secretary of the Association, and such certificate shall be valid until revoked by a subsequent certificate. If such a certificate is not on file, the vote of such Owners shall not be considered in determining the requirement for a quorum, or for any other purpose.

The voting rights of any Owner may be assigned by said Owner to his lessee by giving written notice to the Secretary of the Association; provided, however, that the Owner may not assign to such lessee any vote or votes not attributable to the property actually leased by such lessee.

The Type “A”, “B” and “C” Members are sometimes hereinafter collectively referred to as the “Members.”

Section 3. Governance.

Initially, the Association shall be governed by a Board of Directors consisting of five (5) members. In subsequent years the number of directors shall be determined as provided in the Bylaws. During such time as the Type “C” membership shall exist, Declarant shall have the absolute right in its sole discretion to appoint a sufficient number of the members of the Board of Directors to constitute a majority. When the Type “C” membership shall cease to exist, the then current directors appointed by Declarant shall continue to serve as directors until the next annual meeting of the Association. If the Type “C” membership shall cease to exist and subsequently be reinstated, Declarant’s right to appoint a majority of the members of the Board of Directors shall also be reinstated. In addition to the foregoing, when the Type “C” membership shall cease to exist, but for so long as Declarant owns a combined total of at least ten (10) Residential Lots, Dwellings and/or Commercial Units within the Development, Declarant shall have the absolute right in its sole discretion to appoint one (1) member of the Board of Directors. The procedures for nomination and election of directors shall be as provided in the Bylaws.

ARTICLE III
PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Conveyance of Common Properties by Declarant.

The Declarant covenants for itself, its successors and assigns, that it shall convey to the Association by fee simple deed or long-term lease, at no cost to the Association, those parcels of land and facilities described below after the Declarant has completed improvements thereon, if such be required, such that the facility is functionally complete. The Association shall accept the conveyance and immediately become responsible for all maintenance and operation of such properties. Any natural areas, trail areas, and similar parcels, to be conveyed may be conveyed in large or small parcels from time to time after the Declarant has completed the surveying and platting of subdivisions or sites which may abut such natural areas, trail areas, and similar parcels. The Declarant shall give written notification to the Association of its intent to convey such properties. Such notification will not normally give a metes and bounds description and, in any event, the metes and bounds as shown on the recorded plat and deed or lease to the Association shall govern. All said parcels of land may be conveyed to the Association subject to this Declaration, all easements, rights-of-way and restrictive covenants of record at the time of conveyance. Properties to be conveyed by Declarant shall include, but shall not be limited to:

(a) Any private road and rights-of-way within the Property or which connect Residential Lots, Dwellings, Residential Sites, Commercial Sites or Commercial Units to public roads or highways.

(b) Open space or Common Properties designated as such on the Master Development Plan or subdivision plats recorded in the Office of the Register of Deeds of Brunswick County, North Carolina.

(c) Beach facility consisting of an ocean front lot and any related improvements.

The date of said conveyance by the Declarant shall be at the Declarant's sole option; provided, however, said conveyances shall take place on or before January 1, 2020.

Section 2. Sewer Systems.

(a) All Dwellings and Commercial Units must have sewer grinder pumps as provided by the applicable permit(s). In most instances a grinder pump will be located on the lot served by the pump and in that situation the Owner of the lot is responsible for paying all costs of installation, operation, maintenance, repair and replacement. In some instances a grinder pump will be located within the common area or common elements of a Regime Association, in which event the Regime Association is responsible for paying all costs of installation, operation, maintenance, repair and replacement. The sewer service provider shall cause a grinder pump to be installed, maintained, and repaired or replaced, as requested by the Owner or Regime Association, upon payment of costs determined by such provider.

(b) Brunswick County currently provides sewer service to those sections of the Development located to the west of Beaver Dam Creek. Brunswick County shall have a nonexclusive easement of ingress, egress and regress over, under and across those sections of the Development for purposes of installation, operation, maintenance, repair and replacement of the sewer system and grinder pumps. Owners in those sections shall contact the Brunswick County utilities department to obtain sewer service.

(c) The Southeast Brunswick Sanitary District currently provides sewer service to those sections of the Development located to the east of Beaver Dam Creek. The Sanitary District shall have a nonexclusive easement of ingress, egress and regress over, under and across those sections of the Development for purposes of installation, operation, maintenance, repair and replacement of the sewer system and grinder pumps. Owners in those sections shall contact the Sanitary District to obtain sewer service.

(d) The sewer systems operated by Brunswick County and the Southeast Brunswick Sanitary District shall be operated as provided hereinabove. In the event that a sewage and/or wastewater facility is constructed by Declarant and covered or authorized by a separate operation permit, Declarant expressly reserves the right at its sole and absolute discretion, in accordance with applicable law and regulations, to operate such additional facilities, to convey such facilities to a person, firm or corporation, municipal or private, or to convey such facilities to the Association. In the event that Declarant chooses to convey such additional facilities to the Association, the Association shall be obligated to accept said conveyance and assume responsibility for such facilities.

Section 3. Members' Easements of Enjoyment in Common Properties.

Subject to the provisions of this Declaration, the Articles of Incorporation, Bylaws, rules and regulations of the Association, and any fees or charges established by the Association, every Member and every family member, guest, invitee, licensee, lessee, transient paying guest, and tenant of a Member ("Authorized User") shall have a right of 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 Site, Residential Lot, Dwelling, Commercial Site and Commercial Unit. In those instances where such property in the Development is owned or occupied as a tenant by two (2) or more persons (who do not have the relationship of spouse, parent or child, one to the other) or by a corporation or partnership, such joint owners or tenants, the principal officers of such a corporation, and the partners of such a partnership shall be an Authorized User.

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 Declarant or any lender and in aid thereof to mortgage the Common Properties for the purpose of (i) acquiring additional Common Properties, (ii) improving and/or maintaining the Common Properties, and (iii) providing services authorized

herein. Notwithstanding the above, any streets, roads or access easements that are a part of the Common Properties shall not be mortgaged.

(b) The right of the Association to take such steps as are reasonably necessary to protect the Common Properties against foreclosures.

(c) The right of the Association to make and enforce reasonable rules and regulations for the use and enjoyment of the Common Properties. Sanctions may include monetary fines (in an amount not to exceed those allowed by law), and suspension of the voting rights and easements of enjoyment of any Member or tenant or Authorized User for any period during which the payment of any Assessment against 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 the Assessment, and provided that the Association shall not suspend the right to use any roads belonging to the Association, subject to the rules and regulations, if any, established by the Association for such use.

(d) The right of the Association to charge reasonable admission and other fees for the use of the Common Properties, and any facilities included therein, provided, however, that such rights of the Association shall not be construed to impair or qualify an Owner's rights of ingress and egress to his property.

(e) The right of the Association to place any reasonable restrictions upon the use of the Association's roadways, subject to an Owner'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 road, any 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 the roads shall be more restrictive than the laws of the State of North Carolina or the local government having jurisdiction over the Development shall not make such restriction unreasonable.

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

(g) The right of the Association to dedicate, give or sell all or any part of the Common Properties, including leasehold interests, to any public agency, municipal authority, public service district, utility or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift or sale or determination as to the purposes or conditions thereof shall be effective unless such dedication, transfer and determination shall be authorized by the affirmative vote of three-fourths (3/4) of the votes cast at a duly called 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 prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership.

(h) The rights of reversion of the lessor of any Common Properties leased by the Association upon expiration of the lease.

(i) The right of the Association to exchange with the Declarant, as well as any other Owner, for fair value any portion of the Common Properties theretofore conveyed to the Association for additional property to be added to the Common Properties. Upon such exchange and conveyance, the area conveyed shall cease to be Common Properties and shall cease to be subject to the provisions of this Declaration relating to the Common Properties. Any area acquired by the Association pursuant to the foregoing language shall become Common Properties and shall be subject to the provisions of these covenants relating to the Common Properties.

(j) Those non-exclusive rights of way and easements described in items Two, Three and Four of that certain deed from Homer E. Wright, Jr., Inc, to Longview Golf Corporation recorded October 9, 1990 in Book 821, Page 908, Brunswick County Registry.

(k) The Declarant's rights and reservations as described in Article VII herein.

ARTICLE IV COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligations of Assessments.

The Declarant covenants, and each Owner, whether or not it shall be so expressed in the deed or other conveyance to such Owner, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association (i) Annual Assessments or charges, (ii) Special Assessments, (iii) Segment Assessments, and (iv) Wastewater System Assessments, for the purposes set forth in this Article (collectively the "Assessments"), such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Assessments, together with interest, late fees thereon and costs of collection therefor, (including reasonable attorneys' fees) 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 interest, late fees and costs shall also be the personal obligation of the person who was the Owner of such real property at the time the Assessment first became due and payable. In the case of co-ownership of a Residential Site, Residential Lot, Dwelling, Commercial Site or Commercial Unit, all co-owners shall be jointly and severally liable for the entire amount of the Assessment.

Section 2. Purposes of Assessments.

The Annual Assessments levied by the Association shall be used for the improvement, maintenance, enhancement, enlargement and operation of the Common Properties, the payment of Common Expenses and the provision of services which the Association is authorized to provide, except the operation, maintenance, repair, expansion, reconstruction and/or replacement of the sanitary sewage system and wastewater treatment facility. Special Assessments, Segment Assessments and Wastewater System Assessments shall be used for the purposes provided herein.

Section 3. Application of "Maximum" Annual Assessment.

The Maximum Annual Assessment, as set forth in the schedule below, and as may be increased pursuant to the provisions of subparagraph (c) below, shall be levied by the Association. If, however, the Board of Directors, by majority vote, determines that the important and essential functions of the Association may be properly funded by an Annual Assessment less than the maximum set out below, it may levy such lesser Annual Assessment. Provided, however, so long as the Declarant 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 Section 3(a) below without the written consent of the Declarant. The levy of an Annual Assessment less than the Maximum Annual Assessment in any one year shall not affect the Board's right to levy the Maximum Annual Assessment in subsequent years. If the Board of Directors shall levy less than the Maximum Annual Assessment for any assessment year and thereafter, during such assessment year, determine that the important and essential functions of the Association cannot be funded by such lesser assessment, the Board may, by majority vote, levy a Supplemental Annual Assessment. In no event shall the sum of the initial Annual Assessment and Supplemental Annual Assessment for that year exceed the applicable Maximum Annual Assessment.

(a) The Maximum Annual Assessment shall be the sum calculated in accordance with the following schedule as may be increased in each instance as set forth in this Article IV, Section 3(c) hereinbelow.

<u>Property Type</u>	<u>Maximum Annual Assessment [as of 2005]</u>
Residential Lot or Dwelling	\$694.00
Commercial Unit	\$0.601 per heated square ft.
Residential Site or Commercial Site	\$82.66 per acre

(b) For the purpose of calculating the Annual Assessment for Commercial Units, the area to be included in the determination of the total number of heated square feet shall be all interior areas within the roof line of a building excluding open porches, terraces and like areas.

(c) From and after January 1, 1992, the Maximum Annual Assessment may be increased each year by the Board of Directors by up to fifteen percent (15%) per year over the previous year. From and after January 1, 1992, the Maximum Annual

Assessment may be increased above fifteen percent (15%) by a vote of two-thirds (2/3) of each Type of Members who are voting in person or by proxy at a meeting duly called for this purpose.

(d) Any increase in the fixed amount of the Maximum Annual Assessment shall be made in such a manner that the proportionate increase in such Assessment is the same for Owners of Residential Lots, Dwellings, Residential Sites, Commercial Sites and Commercial Units.

(e) Any time the actual Annual Assessment levied by the Board of Directors is less than the Maximum Annual Assessment, such decrease shall be proportionate among the Owners of Residential Lots, Dwellings, Residential Sites, Commercial Sites and Commercial Units. The decrease or increase received by each class of Owners of the various classes of property may be made disproportionately only by the favorable vote of seventy-five percent (75%) of the votes cast at a duly called meeting of the Association, and by the Members of the classes whose proportionate share is being raised or decreased disproportionately than that of Members of other classes.

(f) Declarant shall be obligated to pay Assessments on all property annexed into the Development and owned by Declarant in the same amount as the applicable Assessment paid by any other Owner for property of the same type. In addition, for each fiscal year or portion thereof in which the Type "C" membership exists (as provided in Article II, Section 2 above), Declarant shall pay the difference (or proportionate amount if less than a full fiscal year) between: (i) the sum of all Assessments (including Working Capital Funds as described in Article IX, Section 15) other than Wastewater System Assessments (as defined in Section 6a of this Article IV) collected by the Association; and (ii) the actual cost of the operation of the Association, excluding the cost of operation, maintenance, repair and replacement of the System (as defined in Section 6a of this Article IV). The provisions of this subparagraph shall not be amended or altered without the written consent of Declarant.

Section 4. Date of Commencement of Annual Assessments: Due Dates.

Persons becoming Members subsequent to January 1 of each year shall pay Assessments prorated as of the date of initial membership.

(a) Property shall not be classified for purposes of these covenants and no Annual Assessments shall be due until the first day of the month following recording of a plat showing such property.

(b) The Board of Directors shall fix the amount of the Annual Assessment against each Residential Lot, Dwelling, Residential Site, Commercial Site and Commercial Unit as provided hereinabove, and shall at that time direct the preparation of an index of the properties and Annual Assessments applicable thereto which shall be open to inspection by any Member. Written notice of Annual Assessments shall thereupon be sent to every Member subject thereto.

(c) The Annual Assessment shall be billed monthly, quarterly, semiannually or annually, as determined by the Board of Directors in its discretion. All assessment bills shall be due and payable fifteen (15) day from the date of mailing. The Board of Directors may provide for annual or monthly payments if the Board, in its discretion, determines that such is best for the Association.

(d) The Board of Directors may set a late fee which shall be charged to Owners who have not paid their Assessment within ten (10) days of the date due. Such late fee shall be charged on each subsequent due date until the Annual Assessments are current.

(e) The Owner of any assessable property which changes from one category to another during an assessment year shall be billed an additional amount for the remainder of such year to reflect the category change.

(f) For purposes of these Annual Assessments and voting rights hereunder, a property will be classified as unimproved land, until such time as construction of the improvements thereon are complete to such an extent that a Certificate of Occupancy or Compliance has been issued by the applicable Brunswick County authorities.

(g) All Annual Assessments charged by the Association shall be rounded up to the nearest dollar.

(h) The Association shall, upon demand at any time, furnish to any Owner liable for Assessments a certificate in writing signed by an officer of the Association, setting forth whether said Assessments have been paid. As to all but the Owner, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 5. Special Assessments for Improvements and Additions.

In addition to the Annual Assessments authorized by Section 3 hereof, the Association may levy Special Assessments for the following purposes:

(a) To construct or reconstruct, repair or replace capital improvements upon the Common Properties, including any fixtures and personal property related thereto;

(b) To make additions to the Common Properties;

(c) To provide for the necessary facilities and equipment to offer the services authorized herein;

(d) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein; and

(e) For any other purpose deemed necessary or desirable by the Board.

Such Special Assessment, before being charged, must have received the assent of two thirds (2/3) of the votes of each Type of Members at a duly called meeting of the Association, present in person or by proxy or responding to a mail referendum within thirty (30) days of mailing. The mail referendum shall include one statement from the Directors favoring the Special Assessments and one statement from the Directors opposing the Special Assessment, if any, containing the reasons for those Directors' support or opposition for the Special Assessment. Neither statement shall exceed five (5) pages in length.

This provision shall be interpreted to mean that the Association may make, in any one year, one or more Special Assessments. Such Special Assessments in any one year may not exceed a cumulative sum equal to the amount of the Maximum 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 Annual Assessment shall not affect its right to make Special Assessments during the year.

The proportion of each Special Assessment to be paid by the Owners of the various types of assessable property shall be in proportion to the payment of Annual Assessments.

Special Assessments shall be due and payable thirty (30) days from the date written notice thereof is sent to an Owner. The Board of Directors may allow installment payments of Special Assessments.

Section 6. Segment Assessments.

In addition to the Annual Assessments and Special Assessment authorized in this Article, the Association is hereby empowered to levy assessments to be used for the benefit and/or operation of particular portion or segment of the Development, the payment of which assessment shall be borne by the Owners within such segment only; such assessment being herein referred to as a "Segment Assessment." A Segment Assessment can only be levied after a determination that the affected segment of the Development 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. Such Segment Assessment, before being charged, must have received the assent of a majority of the votes of each Type of Members at a duly called meeting of the Association, present in person or by proxy or responding to a mail referendum within thirty (30) days of mailing. The mail referendum shall include one statement from the Directors favoring the Segment Assessment and one statement from the Director(s) opposing the Segment Assessment, if any, containing the reasons for those Directors' support or opposition for the Segment Assessment. Neither statement shall exceed five (5) pages in length. The proportion of each Segment Assessment to be paid by the affected Owners of the various types of assessable property shall be in proportion to the payment of Annual Assessments.

If a Segment Assessment is made for an improvement or addition which requires a continuing Segment Assessment for maintenance and/or operational costs, then those Members subject to the levy of the Segment Assessment may discontinue and abolish such Segment Assessment if a majority of such Members so vote in a referendum held during the second or any

subsequent year of such a continuing Segment Assessment. Should any costs result from the removal of any addition or improvement where a particular Segment Assessment is discontinued, such costs shall be funded by the Segment Assessment before its discontinuance.

Section 6a. Wastewater System Assessments.

Note: This Section currently is not applicable because the Association does not operate a wastewater system. Brunswick County and the Southeast Brunswick Sanitary District provide sewer service. See Article III, Section 2 above.

(i) In addition to the Annual Assessments, Special Assessments and Segment Assessments authorized in this Article, the Association is hereby empowered to levy assessments to be used for the operation, maintenance, repair and replacement of the sanitary sewage system and wastewater treatment facility operated by the Association (such system and facility, together with all replacements thereof and additions thereto, are hereinafter referred to collectively as the “System”), the payment of which assessments shall be borne by the Owners of properties served by the System, as more particularly described below; any such assessment being herein referred to as a “Wastewater System Assessment.” For purposes of this Section 6a, a property shall be deemed to be served by the System if such property is located within the Development and either (A) such property is actually connected to the System, or (B) a connection to the System is available to such property and Declarant has designated such property to be served by the System. Wastewater System Assessments shall include “Wastewater System Operating Assessments” and “Wastewater System Capital Assessments.”

(ii) All expenses related to the routine operation and maintenance of the System shall be funded through Wastewater System Operating Assessments (except as provided in subsection (ix) below relating to Declarant funding of operating deficits during certain periods of time), which shall be borne by Dwellings and Commercial Units connected to the System. The minimum annual Wastewater System Operating Assessments for each Dwelling and Commercial Unit shall be the sum calculated in accordance with the following schedule as may be increased in each instance as set forth in this Article IV, Sections 6a(iv) and (v) hereinbelow.

<u>Property Type</u>	<u>Minimum Annual Wastewater System Operating Assessment</u>
Dwelling	currently not applicable
Commercial Unit	currently not applicable

(iii) For the purpose of calculating Wastewater System Assessments for Commercial Units, the area to be included in the determination of the total number of heated square feet shall be all interior areas within the roof line of a building excluding open porches, terraces and like areas.

(iv) From and after January 1, 1998, the minimum annual Wastewater System Operating Assessments may be increased each year by the Board of Directors by such amounts as deemed necessary by the Board of Directors to cover all anticipated costs and expenses related to the operation and maintenance of the System during such year, plus any additions to reserves deemed appropriate. In addition, the Association shall have the power to levy special Wastewater System Operating Assessments at any time in such amounts as shall be deemed necessary by the Board of Directors to operate and maintain the System. The Association shall also have the power to levy Wastewater System Capital Assessments at any time in such amounts as shall be deemed necessary by the Board of Directors to repair, expand, reconstruct and/or replace the System beyond the routine operation and maintenance expenses. Approval of the Members shall not be required for increases in the minimum annual Wastewater System Operating Assessments or for any special Wastewater System Operating Assessments or Wastewater System Capital Assessments deemed necessary by the Board of Directors.

(v) The annual Wastewater System Operating Assessments and any special Wastewater System Operating Assessments applicable to Dwellings shall be uniform for all Dwellings served by the System. Any increase in the amount of the minimum annual Wastewater System Operating Assessments applicable to Dwellings and Commercial Units shall be made in such a manner that the proportionate increase in such Assessments is the same for Dwellings and Commercial Units. Any special Wastewater System Operating Assessments shall be made in such a manner that the proportionate amount of such Assessments for Dwellings and Commercial Units are in the same ratio as the annual Wastewater System Operating Assessments.

(vi) All Wastewater System Assessments collected by the Association and expenses related to the System shall be accounted for separately from the other collections and expenses of the Association. Wastewater System Assessments shall be used solely for the operation, maintenance, repair, expansion, reconstruction and/or replacement of the System and for administrative expenses related thereto. Assessments other than Wastewater System Assessments shall not be used for expenses related to the System.

(vii) In order to assure that there shall be funds readily available to repair, expand, reconstruct and/or replace the System (hereinafter referred to as a "capital expenditure") beyond the routine operation and maintenance expenses, the Association shall maintain a separate capital reserve fund, which shall be funded as part of the annual budget. In the event that any necessary capital expenditure shall exceed the amount of the capital reserve fund, the Board of Directors shall levy a Wastewater System Capital Assessment, the payment of which shall be borne by the Owners of all Dwellings, Commercial Units, Residential Lots, Residential Sites and Commercial Sites served by the System. Any Wastewater System Capital Assessments shall be made in such a manner that the proportionate amount of such Assessments for Residential Lots, Dwellings, Commercial Units, Residential Sites and Commercial Sites are in the same ratio as the Annual Assessments levied pursuant to Article IV, Section 3 of this Declaration.

(viii) If the Association shall cease to operate the System, adequate provisions shall have been made for all costs associated with the System (including all costs associated with the cessation of operation), and all Dwellings and Commercial Units in the Development are served by a wastewater system other than the System, then all Wastewater System Assessments shall be suspended and the Board of Directors of the Association, in its discretion, shall have the right to transfer any funds held by the Association for purposes related to the System to the general fund of the Association.

(ix) Declarant shall be obligated to pay Wastewater System Assessments on all property annexed into the Development, owned by Declarant and served by the System, in the same amount as the applicable Wastewater System Assessment paid by any other Owner for property of the same type. In addition, for each fiscal year or portion thereof in which Declarant owns at least fifty (50) Residential Lots and/or Dwellings in Phases I-III, Declarant shall pay the difference (or proportionate amount if less than a full fiscal year) between: (A) the sum of all Wastewater System Operating Assessments collected by the Association; and (B) the actual cost of the operation of the System. For purposes of this Section 6a(ix), "Phases I-III" shall mean the original Additional Property described in the Master Declaration of Covenants, Conditions and Restrictions for St. James Plantation dated November 26, 1990 and recorded in Book 839, Page 453, Brunswick County Registry, prior to any amendments thereto. The provisions of this subparagraph shall not be amended or altered without the written consent of Declarant.

Section 7. Reserve Funds.

The Association may establish reserve funds from its Annual Assessments to be held in 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) replacement of, and capital improvements to, the Common Properties, and (e) initial costs of any new service to be performed by the Association.

Section 8. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Association.

Any Assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum rate allowed by law. The Association may bring an action at law against the Owner personally obligated to pay the same and there shall be added to the amount of such Assessment late fees, interest and the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall also include reasonable attorneys' fees together with the costs of the action.

In addition, the lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the public records of Brunswick County, North Carolina, which claim shall state the description of the property encumbered thereby, the name of the record owner, the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claim of lien shall include only

Assessments which are due and payable when the claim of lien is recorded, plus interest, late fees, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claim of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed in the State of North Carolina, including but not limited to, by power of sale pursuant to Article 2A of Chapter 45 of the North Carolina General Statutes. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall be entitled to interest at the highest rate allowed by law on any such advances made for such purpose.

All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any property subject to Assessment, or who may be given or acquire a Mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest expressly subject to such lien rights.

Institution of a suit at law to attempt to effect collection of the payment of any delinquent Assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action or power of sale, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure or power of sale to attempt such collection be deemed an election precluding the institution of a suit at law to collect any sum then remaining owing to Association.

Section 9. Subordination of the Lien to Mortgage.

The lien provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Dwelling, Commercial Site, Residential Lot, Commercial Unit or Residential Site shall not affect the lien; provided, however, that sale or transfer by virtue of any foreclosure of a first Mortgage, deed in lieu of foreclosure of a first Mortgage or judicial sale relating to a first Mortgage, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such property from liability or liens arising from Assessments thereafter becoming due.

Section 10. Exempt Property.

The following property, individuals, partnerships or corporations, subject to this Declaration shall not be subject to any Assessment, charge or lien created herein, solely by virtue of the interests described in this Section 10:

- (a) The grantee in conveyances made for the purpose of granting utility easements;
- (b) The grantee in any conveyance made to a utility corporation;

(c) Any portion of the Development dedicated to and accepted by a local public authority; and

(d) All Common Properties;

provided no land or improvements devoted to use as a Dwelling shall be exempt.

No Owner of any property subject to Assessments may exempt himself from liability for any Assessment levied against him or his property by waiver of the use or enjoyment of any of the Common Properties, or by abandonment of his property, or in any other way.

ARTICLE V FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Common Properties.

The Association shall be authorized, but not required, to lease, own and/or maintain Common Properties, equipment, furnishings and improvements for providing any of the services which the Association is authorized to provide under Section 2 of this Article.

Section 2. Services.

The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the management and control of the Common Properties and all improvements thereon (including furnishings and equipment related thereto), and shall maintain them in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof.

These responsibilities shall include, but not be limited to, operation, maintenance, repair, and replacement, subject to any insurance then in effect, of (i) all landscaping and other flora, structures, and improvements situated upon the Common Properties; (ii) the sanitary sewage system and wastewater treatment facility(ies) described in Article III, Section 2 hereof; and (iii) the private streets within the Development.

The Association shall be authorized but not required to provide the following services:

(a) Cleanup and maintenance of public properties which are located within or in such reasonable proximity to the Development that their deterioration would unfavorably affect the appearance of the Development;

(b) Provision and/or operation of transportation facilities other than privately owned automobiles, e.g. buses, electric vehicles, etc.;

(c) Provision and/or operation of lakes, beach clubs, playgrounds, sports fields, and facilities for tennis, golf, fishing, community meetings or other facilities of any nature serving the Members;

- (d) Lighting of entrances, roads, boardwalks, sidewalks, and walking paths;
- (e) Security and traffic control, including but not limited to maintenance of restricted entries and/or security gates, employment of police and security guards, and maintenance of electronic and other security devices for the protection of property within the Development and assistance in the apprehension and prosecution of persons who violate the laws of North Carolina within the Development;
- (f) Fire protection and prevention;
- (g) Garbage and trash collection and disposal;
- (h) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors to supplement any service provided by the state and local governments;
- (i) Maintenance of any lakes and lagoons located on the Common Properties, including the stocking of such lakes and lagoons;
- (j) Operation of the Architectural Control Committee;
- (k) Provision of recreational, sport, craft and cultural programs of interest to Members, their families and guests;
- (l) Construction or replacement of improvements on Common Properties for use for any of the purposes provided herein or as may be required to provide the services authorized in this Article;
- (m) Provision of administrative services including, but not limited to, legal, accounting and financial, and communication services informing Members of activities, notice of meetings and referenda, incident to the above listed services;
- (n) Provision of water, sewage and any necessary utility services not provided by a public body, private utility or the Declarant;
- (o) Provision of common television antenna or cable service;
- (p) Provision of any of the services listed above to a Regime Association by contract with such Association;
- (q) Exercise of any rights reserved by the Declarant and transferred by the Declarant to the Association; and

(r) Such other services as may be necessary or desirable in the judgment of the Board of Directors to carry out the Association's obligations and business under the terms of this Declaration.

Any of the services listed above may be provided by the Association or by another person or entity with whom the Association contracts for such purpose.

Section 3. Insurance.

The Board of Directors shall procure and maintain insurance covering the Association, its directors, officers, agents and employees and procure and maintain adequate hazard insurance on the real and personal property owned by the Association as follows:

(a) A policy of property insurance in an amount equal to the full replacement value (i.e., 100% of current "replacement cost" excluding land, foundations, excavations, streets and parking facilities) of the Common Properties (including all building service and related equipment) with an Agreed Amount Endorsement or its equivalent, if available, or an Inflation Guard Endorsement. Such insurance policy must protect against loss or damage by fire and other hazards covered by the standard extended coverage endorsement, and by sprinkler leakage, debris removal, cost of demolition, vandalism, malicious mischief and windstorm. If coverage is available, the policy may include coverage for water damage.

(b) A comprehensive policy of public liability insurance insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against liability for nonowned and hired automobiles and liability for property of others, and, if available, may include coverage for water damage and such other risks as shall customarily be covered with respect to projects similar in construction, location and use to the Development.

(c) The Board of Directors shall maintain fidelity coverage against dishonest acts by the Association's officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. If the Association employs a professional property management person or firm to manage the Association and to receive and disburse the monies of the Association, then such professional management person or firm shall have adequate fidelity coverage against dishonest acts and the existence of such coverage shall satisfy the requirement of this paragraph. If the Association elects to manage its own affairs and directly receive and disburse its own funds (or, if in addition to professional management, the officers or Directors of the Association can and do directly receive or disburse the monies of the Association), then the Board of Directors shall provide the coverage set forth in this paragraph.

Any such fidelity bonds shall name the Association as an obligee; shall be written in an amount equal to at least 150% of the estimated annual operating expenses of the Association, including reserves; shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee"

or similar expression; and shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to the Association.

(d) If any portion of the Common Properties is located in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazards and for which flood insurance has been made available by the National Flood Insurance Program, a “blanket” policy of flood insurance must be maintained by the Association in the amount of one-hundred (100%) percent of the current replacement cost of all buildings and other insurable property on the Common Properties or the maximum limit of coverage available for such property under the National Flood Insurance Act of 1968, as amended, whichever is less.

(e) Any insurance coverage obtained by the Association under the provisions of this Article shall be subject to the following provisions and limitations:

(i) The named insured under any such policies shall be the Association, as attorney-in-fact for the Owners, or its authorized representative, including any trustee with which the Association may enter into any Insurance Trust Agreement, or any successor trustee (each of which is sometimes referred to in this Section as the “Insurance Trustee”) who shall have exclusive authority to negotiate losses under such policies.

(ii) In no event shall the insurance coverage obtained and maintained pursuant to such sections be brought into contribution with insurance purchased by the Owners, occupants, or their Mortgagees.

(iii) The policies shall provide that coverage shall not be prejudiced by (a) any act or neglect of the Owners when such act or neglect is not within the control of the Association, or (b) by failure of the Association to comply with any warranty or condition with regard to any portion of the Development over which the Association has no control.

(iv) The policies shall provide that coverage may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 30 days prior written notice to any and all Mortgagees and insureds named therein provided said Mortgagees and insureds have requested the same in writing.

(v) The policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association and any Owner and their respective agents, employees, or tenants, and of any defenses based upon co-insurance or upon invalidity arising from the acts of the insured.

(vi) All policies of property insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to

restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Association (or any Insurance Trustee) or when in conflict with the provisions of any Insurance Trust Agreement to which the Association may be a party or any requirement of law.

(vii) All policies shall be written with a company licensed to do business in North Carolina and holding a rating of B/VI or better in the financial category as established by A. M. Best Company, Inc., if reasonably available, or, if not available, the most nearly equivalent rating.

(viii) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Brunswick County, North Carolina area.

(ix) No policy may be cancelled, invalidated, or suspended on account of the conduct of any member of the Board of Directors, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee.

(f) To the extent obtainable at reasonable cost, appropriate officers' and directors' personal liability insurance shall be obtained by the Association to protect the officers and directors from personal liability in relation to their duties and responsibilities in acting as such officers and directors on behalf of the Association.

(g) The Association shall obtain worker's compensation or similar insurance with respect to its employees, if any, in the amounts and forms as may now or hereafter be required by law.

(h) The Association may obtain insurance against such other risks, of a similar or dissimilar nature, as it shall deem appropriate with respect to the Association's responsibilities and duties.

Section 4. Maintenance Easement.

The Association, any director or manager, and their respective officers, agents, employees, and assigns shall have an easement upon, across, over, in, and under any Residential Lot, Residential Site, Dwelling, Commercial Site or Commercial Unit as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to this Declaration. The Association shall not unreasonably interfere with the rights of the Owners in the exercise of this right.

Section 5. Obligation of the Association.

The Association shall not be obligated to carry out or offer any of the functions and services except as specified by the provisions 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 taking into consideration the funds available to the Association and the needs of the Members. The functions and services which the Association is authorized to carry out or to provide may be added or reduced at any time upon the affirmative vote of a majority of the votes of the Members at a duly called meeting present in person or by proxy or responding to a referendum conducted by the Board of Directors under the same procedures as for a Special Assessment.

Section 6. Mortgage and Pledge.

The Board of Directors shall have the power and authority to mortgage the Common Properties of the Association as security for loans made to the Association, which loans shall be used by the Association in performing its authorized functions. Provided, however, that during such time as Declarant is a Type "C" Member the Common Properties shall not be mortgaged without the approval of two-thirds (2/3) of each Type of Member, voting in person or by proxy at a duly called meeting. The Declarant may make loans to the Association, upon terms and conditions approved by Declarant in its sole discretion. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the Annual Assessment below that provided as the Maximum Annual Assessment in Article IV, Section 3(a), at any time there are outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

**ARTICLE VI
ARCHITECTURAL AND LANDSCAPING STANDARDS**

Section 1. Purpose.

In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design and to protect and promote the value of the Property, each lot or parcel of property in the Development and all improvements located thereon, including landscaping, shall be subject to the restrictions set forth in this Article. Each and every grantee of any interest to any property within the Development, by acceptance of a deed or other conveyance of such interest, agrees and shall be bound by the provisions of this Article.

Section 2. Architectural Control Committee.

The Board of Directors, at its first meeting, shall establish an Architectural Control Committee. The Architectural Control Committee shall consist of not less than three (3), no more than five (5) members, all of whom shall serve at the pleasure of the Board of Directors. The Architectural Control Committee is hereby authorized to retain the services of consulting architects, engineers, inspectors, landscape architects, attorneys and any other professionals it deems appropriate in order to advise and assist it in performing its functions under this Article.

The members of the Architectural Control Committee may be paid a stipend or honorarium as established from time to time by the Board of Directors.

Section 3. Plan or Design Approval Required.

No site preparation, excavation, changes in grade, landscaping or initial construction, erection, alteration or installation of any improvements, including, but not limited to, Dwellings, Commercial Units, outbuildings, driveways, fences, walls, signs, television antennas, clotheslines, mailboxes, post lamps and other structures, shall be undertaken upon any Residential Lot, Residential Site, Commercial Site or any other lot or parcel of property in the Development unless the plans, elevations and specifications therefor, showing the nature, kind, shape, height, materials, color scheme and location of the proposed improvements and/or landscaping shall have been submitted to the Architectural Control Committee and expressly approved in writing. Plans submitted for construction of initial improvements upon the lot or parcel must contain details of any driveway(s) serving the lot or parcel to be improved including such driveway(s) intersection with the roads in the Development.

No subsequent alteration, modification, installation of additional improvements or landscaping may be undertaken or allowed to remain without the review and express written approval of the Architectural Control Committee.

Section 4. Architectural Review Process.

As more particularly provided in the Design Guidelines, there shall be submitted to the Architectural Control Committee for review at least two (2) complete sets of the final plans and specifications for any and all proposed improvements and landscaping. The Architectural Control Committee shall approve or disapprove of such plans, specifications, and details within twenty-one (21) days from the receipt thereof. One copy thereof shall be retained by the Architectural Control Committee for its permanent files and the other set(s) of said plans and specifications and details with the approval or disapproval endorsed thereon, shall be returned to the person submitting them. In the event that the Architectural Control Committee fails to approve or disapprove any of the foregoing within twenty-one (21) days after plans and specifications therefor have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully satisfied; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Architectural Control Committee if they contain erroneous data or fail to present full and adequate information upon which the Architectural Control Committee can arrive at a decision.

Section 5. Design Guidelines.

The Committee shall adopt, establish and publish, from time to time, Design Guidelines. Said Guidelines shall not be inconsistent with the Declaration but shall more specifically define and describe the design standards for the Development and the various uses within the Development. The Design Guidelines may be modified or amended from time to time by the Architectural Control Committee. All prospective Owners and builders are advised to contact the Architectural Control Committee to obtain the most current copy of the Guidelines.

The Architectural Control committee shall have the right to disapprove any plans, specifications or details submitted to it in the event the same are not in accordance with any of the provisions of the Master Declaration or the Design Guidelines or if the design or color schemes of the proposed improvements or landscaping is not in harmony with the general surroundings of the subject property, or in the event the Architectural Control Committee deems the plans, specifications or details, or any part thereof, to be contrary to the interest, welfare or rights of all or any part of the Development or the Owners.

Prior to commencement of construction, the plan approval must be obtained from the Architectural Control Committee and prior to occupancy, a certificate of final approval must be obtained from the Architectural Control Committee. The Architectural Control Committee or its agents shall have the right to inspect all construction to insure that the same is in accordance with the approved plans, specifications and details. These required approvals are in addition to those required by the county, or state authorities.

Section 6. Organization and Operation of Architectural Control Committee.

(a) Chairperson. So long as the Declarant has the right to appoint a majority of the Board of Directors, the Declarant shall appoint the Chairperson. Upon termination of such right, the Chairperson shall be appointed annually by the Board of Directors.

(b) Operations. The Chairperson shall take charge of and conduct all meetings and shall provide for reasonable notice to each member of the Architectural Control Committee prior to any meeting. Such notice shall set forth the time and place of said meeting, which notice may be waived by any member. In the absence of a Chairperson, the parties appointing or electing the Chairperson may appoint or elect a successor, or if the absence is temporary, a temporary successor.

(c) Voting. The affirmative vote of a majority of the members of the Architectural Control Committee present at a duly called meeting shall govern its actions and be the act of the Architectural Control Committee. A quorum shall consist of a majority of the members.

Section 7. Expenses.

Except as hereinafter provided, all expenses of the Architectural Control Committee shall be paid by the Association. The Architectural Control Committee shall have the right to charge Owners filing fees for each application submitted to it for review, in amounts which may be established by the Board of Directors from time to time, and such filing fees shall be collected by the Architectural Control Committee at the time the application is submitted and remitted to the Association to help defray the expenses of the Committee's operation. Filing fees may vary depending on the classification of the property.

Section 8. Limitation of Liability.

The Architectural Control Committee shall use reasonable judgment in approving or disapproving all plans and specifications submitted to it. Neither the Architectural Control

Committee, nor any individual member thereof, shall be liable to any person for any official act of the Architectural Control Committee in connection with submitted plans and specifications, except to the extent the Architectural Control Committee or any individual member thereof acted with malice or wrongful intent. Approval by the Architectural Control Committee does not necessarily assure approval by the appropriate governmental board or commission for Brunswick County, North Carolina. Notwithstanding that the Architectural Control Committee has approved plans and specifications, neither the Architectural Control Committee nor any of its members shall be responsible or liable to any Owner, developer or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval or the construction of the improvements. Neither the Board, the Architectural Control Committee or any agent thereof, nor Declarant or any of its shareholders, officers, directors, partners, employees, agents, or consultants shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the provisions hereof, nor for any structural or other defects in any work done according to such plans and specifications. In all events the Architectural Control Committee shall be defended and indemnified by the Association in any such suit or proceeding. The Association, however, shall not be obligated to indemnify each member of the Architectural Control Committee to the extent any such member of the Architectural Control Committee shall be adjudged to be liable for gross negligence or misconduct in the performance of his duty as a member of the Architectural Control Committee unless and only to the extent that the court in which such action or suit may be brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expense as such court shall deem proper.

Section 9. Maintenance of Property.

(a) Each Owner, to the extent not provided by a Regime Association of which Owner is a member, shall be responsible for the repair, maintenance and upkeep of such Owner's property, whether improved or unimproved, including but not limited to, any and all dwellings, vegetation, landscaping, fences, driveways and walks (excluding sidewalks constructed by Declarant), glass surfaces, window and door screens, patios, wooden decks or any part thereof including railings, supports and steps, basement and crawl space areas, and any exterior alterations approved by the Architectural Control Committee pursuant to the provisions of this Article; provided, however, the external appearance of such repairs, maintenance and upkeep shall be subject to the regulation and control of the Board of Directors and Architectural Control Committee.

(b) Should an Owner or Regime Association fail to discharge its repair, maintenance or upkeep responsibilities in a reasonable and prudent manner harmonious with that of other property within the Development (as determined by the Board of Directors in its sole and absolute discretion), the Association shall provide such Owner or Regime Association written notice of such deficiency. If the problem has not been remedied within a reasonable time, the Association shall have the right to cause such repair, maintenance and upkeep to be performed and to charge the cost thereof as a part of and in addition to the Assessments attributable to such property and provided for in this Declaration. Should an Owner or Regime Association fail to pay any charge billed in accordance with this subparagraph (b) within fifteen (15) days of such billing, then the

Association shall have the right to claim a lien against the property on which the repair or maintenance was performed and to foreclose such lien, all as provided for in Article IV of this Declaration.

Section 10. Removal of Non-Conforming Improvement.

The Association, upon request of the Architectural Control Committee and after reasonable notice to the offender and to the Owner, may remove any improvements or landscaping constructed, reconstructed, refinished, altered, or maintained in violation of the provisions of this Article, and the Owner thereof shall forthwith reimburse the Association for all expenses incurred in connection therewith. Should an Owner fail to pay any charge billed in accordance with this subparagraph (b) within fifteen (15) days of such billing, then the Association shall have the right to claim a lien against the property on which the violation occurred and to foreclose such lien, all as provided for in Article IV of this Declaration.

**ARTICLE VII
DECLARANT'S RIGHTS AND RESERVATIONS**

Section 1. Period of Declarant's Rights and Reservations.

Declarant shall have, and hereby retains and reserves, certain rights as set forth in this Declaration with respect to the Association and the Common Properties. The rights and reservations of Declarant set forth in this Declaration shall be deemed excepted and reserved in each conveyance of property by Declarant to the Association and in each deed or other instrument by which any property within the Development is conveyed by Declarant, whether or not specifically stated therein. The rights, reservations and easements of Declarant set forth in this Declaration shall be prior and superior to any other provisions of this Declaration and may not, without Declarant's prior written consent, be modified, amended, rescinded or affected by any amendment of this Declaration, including any amendment of this Section; provided, however, the rights contained in this Article shall terminate upon the earlier of (a) thirty (30) years from the date this Declaration is recorded, or (b) upon recording by Declarant of a written termination of its rights.

Section 2. Declarant's Rights to Common Properties in Promotion and Marketing of Development Area.

Declarant shall have and hereby reserves the right to reasonable use of Common Properties and of services offered by the Association in connection with the development, construction, promotion, marketing, sale and leasing of properties within the boundaries of the Property. Without limiting the generality of the foregoing, Declarant may: (a) erect and maintain on any part of the Common Properties such signs, temporary buildings and other structures as Declarant may reasonably deem necessary or proper in connection with the development, construction, promotion, marketing, sale and leasing of real properties within such boundaries; (b) use vehicles and equipment on Common Properties for developmental, construction and promotional purposes; (c) permit prospective purchasers of properties within such boundaries, who are not Owners, to use or enter Common Properties at reasonable times and in reasonable numbers; and (d) refer to the Association and to the Common Properties and services offered by

the Association in connection with the development, construction, promotion, marketing, sale and leasing of properties within such boundaries.

Section 3. Declarant's Rights to Complete Development.

No provision of this Declaration shall be construed to prevent or limit Declarant's rights to complete the development, construction, promotion, marketing, sale and leasing of the Property; to construct or alter improvements on any property owned by Declarant within the Development; to maintain model homes, offices for construction, sales or leasing purposes or similar facilities on any property owned by Declarant or owned by the Association within the Development; or to post signs incidental to the development, construction, promotion, marketing, sale and leasing of property within the Property. Nothing contained in this Declaration shall require Declarant to obtain approval of the Architectural Control Committee or Association to: (a) excavate, cut, fill or grade any property owned by Declarant or to construct, alter, remodel, demolish or replace any improvements on any property owned by Declarant; or (b) use any structure on any property owned by Declarant as a construction, model home or real estate sales or leasing office in connection with the sale of any property within the Property. Nothing in this Section shall limit or impair the reserved rights of Declarant as elsewhere provided in this Declaration.

Section 4. Declarant's Approval of Conveyances or Changes in Use of Common Properties.

The Association shall not, without first obtaining the prior written consent of Declarant, convey, change or alter the use of Common Properties, mortgage the Common Properties or use Common Properties other than solely for the benefit of Owners.

Section 5. Reservation for Expansion.

Declarant hereby reserves to itself and for Owners of property within future phases of the Development a perpetual easement and right-of-way of access over, upon, and across the Development for construction, utilities, drainage, ingress and egress, and for use of the Common Properties. The location of said easements and rights-of-way may be made certain by the Declarant or the Association by recorded documents.

Section 6. Reservation of Easements, Exceptions and Exclusions.

Declarant reserves to itself, its successors and assigns, the right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Properties, for purposes including but not limited to the establishment of streets, paths, walkways, drainage, recreation areas, parking areas, ducts, shafts, flues, conduit installation areas, and to create other reservations, exceptions, and exclusions consistent with the ownership of the Property in the best interest of the Owners and the Association, in order to serve the Owners within the Development as initially built and expanded. Declarant, its successors and assigns, further reserve the right to establish from time to time, by dedication or otherwise, utility and other easements, and to create other reservations, exceptions, and exclusions convenient or necessary for the use and operation of any other property of the Declarant, as long as it does not

have a material detrimental effect on the enjoyment of the Development, as built or expanded, by the Owners. Declarant reserves to itself and its successors and assigns the right of ingress and egress through streets, paths and walkways for the purpose of construction, maintenance and operation of residential or commercial areas located outside the Development including, but not limited to, residential developments, offices, shopping centers, resort complexes and for the purpose of installation and maintenance of utilities to serve those projects which are located on property not governed by this Declaration.

Section 7. Drainage Easement.

A non-exclusive easement is hereby reserved to the Declarant, its successors and assigns, to enter upon, across, over, in, and under any portion of the Common Properties for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Common Properties so as to improve the drainage of water on the Common Properties and/or any other property within the Development. Reasonable efforts shall be made to use this easement so as to disturb as little as possible the uses of the Owners and the Association, to prosecute such drainage work promptly and expeditiously, and to restore any areas affected by such work to a slightly and usable condition as soon as reasonably possible following such work. Declarant, or its officers, agents, employees, successors and assigns must inform and obtain the approval of the Board of Directors prior to undertaking such drainage work, which approval shall not be unreasonably withheld.

Section 8. Golf Course Easements.

The Declarant hereby reserves for itself and for the benefit of any Person developing or owning any golf course or other recreational amenities, including, but not limited to, tennis courts, clubhouses, and swimming pools, which serve the Development, whether located within or without the Development, the following described easements upon, across, over, in and under the Development:

(a) Golf Cart Path Easements. Golf Cart Path Easements, designated as such on a recorded plat or plats or described in a deed, shall be used for golf cart paths, pedestrian walkways, maintenance and vehicle access, and unhindered access between said paths and a golf course. Nothing shall be placed or maintained in any Golf Cart Path Easement which shall interfere with utilization thereof.

(b) Golf Course Easements. Golf Course Easements designated as such on a recorded plat or plats or described in a deed, may be developed as part of a golf course for purposes of maintenance, landscaping or the placement of improvements. No Owner shall place an improvement in a Golf Course Easement without the prior written consent of the holder of the Golf Course Easement.

(c) Access Easement. Non-exclusive rights and easements, of access and use of all streets, roadways, paths and walkways located within the Development reasonably necessary for the construction, maintenance, operation, access and use of any golf course or other recreational amenities.

(d) Entry by Golfers. A temporary, non-exclusive easement over each parcel or tract of land adjacent to a golf course, tee, fairway or green in favor of registered golf course players to enter upon such property in a reasonable time and manner to remove an errant golf ball. This easement is for pedestrian access only and does not include golf cart or other vehicular access.

Declarant reserves the right to grant or deed such easement rights to any Person or entity developing a golf course or other recreational amenities and to impose such additional restrictions on such easements at that time and from time to time as may be reasonably required to effectuate the purposes of such easements. The reservation of these easements is made for the benefit of Declarant, the developer of a golf course, the members and invited guests of any golf club associated with such golf course, and for the associated maintenance and service personnel.

Nothing herein shall be construed as a requirement or representation that a golf course or any other recreational amenities will be constructed by Declarant or any other Person.

Section 9. Declarant's Rights Incident to Construction.

Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Development and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the initial improvements on real property owned by Declarant; provided, however, that no such rights shall be exercised by Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment, or access to its property by any Owner or such Owner's family, tenants, employees, guests, or invitees.

Section 10. Transfer of Declarant's Rights.

Any or all of the rights, and obligations of the Declarant may be transferred to another Person(s), provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein and provided further, no such transfer shall be effective unless in a written instrument signed by Declarant and duly recorded in the public records of Brunswick County, North Carolina.

Section 11. Easement for Provision of Certain Services.

An easement is hereby established for municipal, state, public utilities or private entities or organizations serving the Development, their agents and employees, over all Common Properties hereby or hereafter established, for setting, removing, and reading utility meters, maintaining and replacing utility or drainage connections, providing trash collection services and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection and animal control.

**ARTICLE VIII
ANNEXATION**

Section 1. Annexation by Declarant.

Declarant reserves the right, but shall not be obligated, to expand the Development by annexation, to include all or part of the Additional Property and/or other property owned by Declarant abutting the Atlantic Ocean which is to be used as a beach club facility. Declarant shall have the unilateral right to transfer to any other person the right to expand which is herein reserved, by an instrument duly recorded.

Such expansion may be accomplished by recording an amendment to this Declaration in the records of Brunswick County, North Carolina, before January 1, 2020, describing the real property to be annexed and submitting it to the covenants, conditions, and restrictions contained herein. Such amendment shall not require the consent of Owners. Any such annexation shall be effective upon the filing for record of such amendment except as provided therein. The annexation may be accomplished in stages by successive amendments or in one amendment. Upon the recordation of any such amendment, the definitions used in this Declaration shall be expanded automatically to encompass and refer to the Development as expanded. Such amendment may add, delete, or modify provisions of this Declaration as it applies to the property being annexed, provided, however, that this Declaration may not be modified with respect to the property already subject to the Declaration except as provided herein for amendment.

Section 2. Annexation by Members.

Additional Property may be incorporated into the Development at any time, upon the vote of two-thirds (2/3) of each type of Members at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days in advance.

**ARTICLE IX
GENERAL PROVISIONS**

Section 1. Enforcement.

The Association, Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, Declarant, or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Rights of Lenders and Insurers of First Mortgages.

“Institutional Lender” as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies, other firms or entities customarily affording loans secured by first liens on real property, and eligible insurers and governmental guarantors.

So long as any Institutional Lender shall hold any first lien upon any property within the Development, or shall be an Owner, such Institutional Lender shall have, upon written request therefor, the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration, the Articles of Incorporation or Bylaws or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.

(c) To receive notice of any condemnation loss or casualty loss which affects a material portion of the Common Properties.

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Properties, other than those specific rights vested in the Association under Article III hereof.

(f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning property encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such Institutional Lender, or to the place which it may designate in writing.

The Association shall keep a separate register of all Institutional Lenders who have made written request pursuant to this Section 2.

Section 3. Term.

The covenants, conditions and restrictions of this Declaration shall run with the land and bind the property, and shall inure to the benefit of and be enforceable by the Association, Declarant, or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by two-thirds (2/3) of the then Owners, has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to terminate the same, in which case this Declaration shall be terminated as specified therein.

Section 4. Amendments.

Prior to the conveyance of the first lot or parcel of property in the Development to an Owner, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant may unilaterally amend this Declaration so long as it still owns any portion of the Development or Additional Property, and so long as the amendment has no material adverse effect upon any substantive right of any Owner. No amendment (i) required by any state or federal agency, or (ii) to correct obvious typographical or drafting errors or inconsistencies, will be deemed material. Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of members representing seventy-five (75%) percent of the total votes of each Type of Membership. However, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of Brunswick County, North Carolina.

If an Owner consents to any amendment to this Declaration or the Bylaws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke or modify any right or privilege of Declarant or the assignee of such right or privilege. No amendment may impair the validity or priority of the lien of any Mortgage held by a Mortgagee or impair the rights granted to Mortgagees herein without the prior written consent of such Mortgagees.

Section 5. Amendment to Achieve Tax-Exempt Status.

The Declarant, for so long as it shall retain control of the Board of Directors of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion and without the consent of any Owner, in order to qualify the Association for tax-exempt status. Such amendment shall become effective upon the date of its recordation in the Brunswick County Registry.

Section 6. Certification and Recordation of Amendment.

Any instrument amending this Declaration shall be delivered, following approval by the Owners (to the extent that Owner's approval is required by the provisions of this Declaration), to the Board of Directors. Thereupon, the Board of Directors shall, within thirty (30) days after delivery, do the following:

(a) Reasonably assure itself that the amendment has been duly approved by the Owners (to the extent required) as provided in Section 4 of this Article.

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association and notarized in the manner required for corporate real property conveyances.

(c) Within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Brunswick County Registry.

Section 7. Effect and Validity of Amendments.

All amendments shall be effective from the date of proper recordation in the Brunswick County Registry. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors and recorded as provided in this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment.

Section 8. Interpretation.

The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration and to construe and interpret its provisions, and the Board's determination, construction or interpretation shall be final and binding. In all cases, the provisions of this Declaration shall be given that interpretation or construction that will best result in the consummation of the Master Development Plan.

Section 9. 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 wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 10. 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 in a manner provided for in the Bylaws of the Association, unless the terms of this instrument provide otherwise.

Section 11. 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 first class postage affixed, to the address appearing on the Association's membership list. Notice to one of two or more co-owners or co-tenants 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 12. 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) any zoning, Subdivision or other Ordinance of Brunswick County, North Carolina, and the rules and regulations promulgated thereunder, as may from time to time hereafter be amended or modified;

(b) the Master Development Plan as may from time to time hereafter be amended or modified;

(c) all conditions imposed on the Development by authorities of Brunswick County; and

(d) any state or federal regulations pertaining to the Development.

Section 13. Limited Liability.

In connection with all review, acceptances, inspections, permissions, consents or required approvals by or from the Declarant contemplated under this Declaration, the Declarant 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 reacting to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted or withheld.

Section 14. Manager.

The Association may employ or contract for the services of a manager, provided that no such employment shall be by a contract having a term of more than three years, and each such contract shall be subject to cancellation by the Association on 90 days or less prior notice without cause and without payment of a termination fee. The Board shall not be liable for any omission or improper exercise by a manager of any duty, power, or function delegated by written instrument executed by or on behalf of the Board.

Section 15. Working Capital Funds.

In order to provide the Association with adequate working capital, upon the initial sale of each Residential Lot, Residential Site, Dwelling, Commercial Site or Commercial Unit from Declarant to an Owner, such Owner shall pay to the Association a contribution equal to one quarter of the estimated Annual Assessment at the time of the sale. The payments of this fund will be maintained in an Association account for the use and benefit of the Association.

ARTICLE X
DISSOLUTION OR INSOLVENCY OF THE ASSOCIATION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each Type of Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

IN WITNESS WHEREOF, [First St. James, Inc.] has caused these presents to be executed by its duly authorized officers as of the day and year first above written.

(Corporate Seal)

By: _____ /s/_____
President

ATTEST:

_____/s/_____
Secretary

Exhibit "A"

Property Initially Included in the Development

The Development initially included those tracts or parcels of land described on Exhibit "A" to the original Master Declaration of Covenants, Conditions and Restrictions for St. James Plantation dated November 26, 1990 and recorded in Book 839, Page 453, Brunswick County Registry.

[Portions of the Additional Property described on Exhibit "B" have been annexed into the Development pursuant to amendments to the Master Declaration recorded in the Brunswick County Registry as provided herein.]

Exhibit "B"

Additional Property Subject to Annexation

1. All of those tracts or parcels of land included within the description of the Additional Property in the original Master Declaration of Covenants, Conditions and Restrictions for St. James Plantation dated November 26, 1990 and recorded in Book 839, Page 453, Brunswick County Registry. [These tracts include Phases I, II and III, Marina Village, the Founders Club and the Members Club.]
2. All of that tract or parcel of land consisting of approximately 1,485 acres as shown on a plat of survey for St. James Development Co., LLC prepared by McHenry Surveying, dated November 11, 1996 and recorded in Map Cabinet 18, Page 88, Brunswick County Registry. [This tract includes Phase IV, the Players Club PUD, Regency Park and Reserve Phase One.]
3. All of those tracts or parcels of land shown on that plat of survey for Tri-Brunswick, LLC prepared by McHenry Surveying and recorded on June 10, 1999 in Map Cabinet 21, Page 267, Brunswick County Registry. [These tracts include the Phase II Extension.]
4. All of that tract or parcel of land owned by Reserve Development Co., LLC consisting of approximately 2,271 acres as shown on that plat prepared by McHenry Surveying and recorded on August 23, 2004 in Map Cabinet 30, Page 521, Brunswick County Registry. [This tract includes Reserve Phase Two.]

Note: The tracts referred to in items 3 and 4 together formed the large western tract described in Exhibit B-1 to that Amendment to Master Declaration dated September 10, 1997 and recorded in Book 1169, Page 808, Brunswick County Registry.