

STATE OF SOUTH CAROLINA, COUNTY OF HORRY, S. DECLARATION ON PROTECTIVE COVENANTS  
RESTRICTIONS, EASEMENTS, CHARGES AND  
LIENS FOR CAT TAIL BAY SUBDIVISION  
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THIS DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS, EASEMENTS, CHARGES AND LIENS FOR CAT TAIL BAY SUBDIVISION (HEREINAFTER REFERRED TO AS "Declaration") made this 16 day of Oct. ,2002 by its owner , G. Marshall Godwin, with his principal place of business located in Conway, South Carolina (hereinafter referred to as the "Declarant"):

WITNESSETH:

WHEREAS, Declarant is the owner of real property locate in Horry County and being more particularly described in Exhibit "A" of the Declaration, which Exhibit "A" is made a part and parcel hereof by this reference and desires to develop thereon a residential subdivision to be known as "Cat Tail Bay Subdivision" and subject the property to this Declaration; and,

WHEREAS, the Declarant is desirous of establishing and maintaining type and design criteria, location and construction specifications, and other controls to assure the integrity of the subdivision; and,

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in the development and for the maintenance of common areas and facilities, if any, and to this end, desires to subject the aforesaid property to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each Owner thereof; and,

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in such community, to create a property owners association to which power and authority shall be assigned for: (1) maintaining and administering the Development, (2) promulgating rules and regulations for common areas in accordance with this Declaration, (3) administering and enforcing the covenants and restrictions, and (4) levying, collecting and disbursing the assessments and charges hereinafter created.

NOW THEREFORE, the Declarant declares that the real property described in Exhibit "A", annexed hereto and forming a part hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE 1  
Definitions

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:



- (a) "Annual Assessments" or "Assessments" shall mean an equal assessment established by the Declarant for common expenses as provided for herein or by a subsequent amendment which shall be used for the purpose of promoting the recreation, common benefit and enjoyment of the Owners and occupants of all Lots and the operation, maintenance and repair of the Common Areas.
- (b) "Association" shall mean and refer to Cat Tail Bay Subdivision Property Owners Association, Inc., its Successors and Assigns.
- (c) "Common Area" shall mean and refer to the entrance to the development, common lighting, common landscaping, ponds and lakes, and those area of land, including the facilities to be constructed thereon, if any, shown and specifically designated as such on any subdivision map of the Properties (as hereafter defined) filed by Declarant or by any other means so designated by Declarant.
- (d) "Declaration" shall mean and refer to **G. Marshall Godwin**, his Successors and Assigns in the development of the Properties, but shall not include an Owner of an individual Lot located within the Properties.
- (e) "Declaration" shall mean and refer to this Declaration of Protective Covenants, Restrictions, Easements, Charges and Liens for Cat Tail Bay Subdivision.
- (f) "Development", "Project" "Cat Tail Bay" and "Community" shall all mean and refer to the project known as Cat Tail Bay Subdivision as developed by the Declarant.
- (g) "Lot" shall mean and refer to any plot of land intended for residential use, with delineated boundary lines appearing on any recorded subdivision map of the Properties with the exception of any Common Area shown on a recorded map. In the event any Lot is increased or decreased in size by resubdivision, the same shall nevertheless be and remain a Lot for the purposes of this Declaration. This definition shall not imply, however, that a Lot may be subdivided if prohibited elsewhere in this Declaration.
- (h) "Member" shall mean and refer to all those owners who are members of the Association, as provided in Article V hereof.
- (i) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee-simple title to any Lot(s), but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceedings in lieu of foreclosure. Said term "Owner" shall also refer to the heirs, successors and assigns of any Owner.
- (j) "Phase I" shall mean the Properties described in Exhibit "A" hereto.



- (k) "Properties" shall mean and refer to all property including Lots and Common Areas which are described in Exhibit "A" together with any additional phases that may be developed and specifically submitted to the provisions of this Declaration pursuant hereto.
- (l) "Setback" shall mean an area along the boundary of a Lot where no building or other structures including, without limitation, swimming pools or docks shall be permitted.
- (m) "Subsequent Amendment" or "Supplemental Declaration" shall mean an amendment to this Declaration which adds property to this Declaration and makes it subject to the Declaration. Such Subsequent Amendment may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land submitted by that Subsequent Amendment to the provisions of the Declaration.

## ARTICLE II

### Property Rights

Section 1. Conformity and Approval of Structures. No structure, fence, sidewalk, wall, swimming pool or other improvement shall be placed or altered on any Lot except in accordance with the provisions of this Declaration. Additionally, no structure, once built, may be improved, remodeled, painted or enlarged except in accordance with the provisions of this Declaration, and specifically Article III herein.

Section 2. Subdivision of Lot. No Lot shall be subdivided except as hereinafter provided and no building or residence, including porches, swimming pools or projections of any kind, shall be erected so as to extend over or across any of the Setbacks as hereinafter established except as herein provided. Provided, however, two or more Lots may be combined to provide one building site in accordance with this Declaration. This provision shall not prohibit the Declarant from combining portions of Lots, relocating, or consenting to the relocation of Lot lines or to a readjustment or relocation of building lines in the development so long as the general type and character of the development are not affected thereby. In the event that an Owner desires to combine two (2) or more adjoining Lots for the purpose of constructing and maintaining a single residence thereon, the resulting combined Lots shall from that date forward be deemed one Lot for the purposes of this Declaration.

Section 3. Alteration of Setback Lines in the Best Interest of Development. Where because of size, natural terrain, or any other reason in the opinion of the Declarant, it should be in the best interest of the development of this subdivision that the Setback lines of any Lot should be altered or changed, then the Declarant reserves unto itself, its successors or assigns, and no other, the right to change said Setback lines to meet such conditions.

Section 4. Completion of Improvements. The exterior of all dwellings and other structures constructed upon any Lot must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner or builder due to strikes, fires, national emergencies or natural calamities. No



building under initial construction shall be occupied until construction is completed and all necessary approvals of any governmental authorities have been obtained.

Section 5. Residential Use of Lots. All Lots shall be used for residential purposes exclusively. All storage rooms or outbuildings must conform to the architectural scheme and appearance of the dwelling. In addition, no leasing or rental of any dwelling shall be permitted having a duration of less than 6 months nor shall less than the entirety of any dwelling be leased. Declarant or its assignee may, however, occupy a sales office, models and construction office (hereinafter referred to collectively as the "Offices") upon one or more Lots until all Lots to be located within the Properties have been sold.

Section 6. Maintenance of Lots. It shall be the responsibility of each Lot Owner to prevent the development of any unclean, unsightly, or unkept condition of buildings or grounds on such Lot which shall tend to decrease the beauty of the neighborhood as a whole or the specific area. Each owner shall maintain his Lot and shall keep his lawn in a good and healthy condition and mowed. In addition, all underbrush and weeds shall be removed.

Section 7. Nuisances. No noxious, unlawful or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or a nuisance to the neighborhood. No plants, poultry, animals (other than permitted household pets), devices, or things of any sort, the normal activities or existence of which are in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood shall be placed, kept or maintained on any Lot.

Section 8. Antennas and Utility Lines. No exterior radio or television transmission or receiving antenna shall be erected, placed or maintained on any part of a Lot, unless it is a small direct-to-home satellite dish measuring less than one meter (39.37") in diameter, in which case said satellite shall be installed in a location where it is not visible from the public street.

Section 9. Signs. No billboards, advertising signs or political signs of any character shall be erected, placed, permitted or maintained on any lot or improvement thereon except as herein expressly permitted. Declarant in its sole discretion as developer reserves the right to erect temporary or permanent signs on Lots and Common Areas identifying and/or advertising the Project.

Section 10. Prohibition Against Business Activity. No business signage of any kind whatsoever shall be placed on upon any Lot or Lots. Nothing herein shall be construed to prevent the Declarant or its permittees from erecting, placing or maintaining sign, structures and offices as it may deem necessary for its operation and sales in the subdivision.

Section 11. Garbage Disposal. Each Lot Owner shall provide garbage receptacles or similar facilities in accordance with reasonable standards established by the Declarant or the Association, or a roll-out garbage rack of the type approved by the Declarant or the Association, which shall be visible from the streets on garbage pickup days only. No garbage or trash incinerator shall be permitted upon the premises. No burning, burying or other disposal of garbage on any Lot or within the Project shall be permitted (except licensed contractors may burn construction debris only during the period of construction of improvements on any Lot).



Section 12. Temporary Structures. No structure of a non-permanent character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractors during construction of the main dwelling house, it being clearly understood that the latter temporary shelters may not, at any time, be used for a residence or permitted to remain on the Lot after completion of construction.

Section 13. Off-Street Parking. Adequate off-street parking shall be provided by the Lot owner herein for the parking of automobiles or other vehicles owned by said owner and said owner agrees not to park his automobile or other vehicles on the Streets or Common Areas in the subdivision. No automobiles or other vehicles may be placed on blocks or otherwise jacked above ground more than 24 hours for repair or any other reason.

Section 14. Sewer System. No surface toilets are permitted on the properties. The Grantee of any Lot assumes all responsibility for obtaining the necessary permits for attaching to public sanitary sewer and water system for the project, if available, or for permits for septic tank systems.

Section 15. Firearms and Fireworks. No firearms or fireworks of any variety shall be discharged upon the Lots or Common Areas. The term "firearms" shall include, without limitation, guns, "B-B" guns and pellet guns.

Section 16. Animal and Pets. No animals, wildlife, livestock, reptiles, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats, or other usual and common household pets not to exceed a total of three (3) cats and/or three (3) dogs may be permitted in a dwelling. All pets shall be leashed when outside of Owner's lot. Those pets which, in the sole discretion of the Declarant, endanger health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Properties shall be removed upon request of the Declarant. No pets shall be kept, bred, or maintained for, any commercial purpose.

Section 17. Driveways and Mailboxes. All driveways shall be paved from road to property line. Culverts installed therein shall be of a type and quality approved by Declarant or the Association and the grade of same shall be set by Declarant or the Association.

Section 18. Irrigation. No sprinkler or irrigation systems of any type that draw upon water from ponds, wetlands, or other ground or surface waters within the Properties shall be installed, constructed, or operated within the Properties by any person, unless prior written approval has been received from the Declarant. This Section shall not apply to the Declarant, and it may not be amended without Declarant's written consent so long as Declarant has the right to add property to this Declaration. No individual water supply system shall be permitted upon any Lot with the exception of a shallow well to be used for irrigation purposes only.

Section 19. Ponds and Lakes. No Pond area, if any, shown on any map of the Properties shall be used for fishing, swimming, boating or diving, nor shall the use of any personal



floatation devices, jet skis or other such items be permitted on any pond. No piers, docks or barriers shall be constructed on any portion of lakes, streams or ponds, nor attached to the shoreline or banks thereof. Neither the Declarant nor the Association shall be responsible for any loss, damage, or injury to any Person or property arising out of the authorized or unauthorized use of lakes, ponds, or streams within the Properties. Nothing shall be done which disturbs or potentially disturbs wetlands within the Properties in any manner.

Section 20. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure. Under no circumstances shall solar panels be installed that will be visible from any street in the Properties.

### ARTICLE III Construction and Design Guidelines

Section 1. General. All structures of every type and description shall be constructed, placed or erected within the Development in accordance with the provisions of this Article III, together with other applicable provisions of the Declaration. ALL HOMES SHALL BE STICK-BUILT. NO MOBILE OR MODULAR HOMES ARE PERMITTED.

Section 2. Size of Residences and Lot Coverage. All residences to be constructed upon any Lot shall have a minimum of One Thousand Three Hundred (1,200) square feet of enclosed heated dwelling areas for single level dwellings, exclusive of porches, decks and garages, and a minimum of One Thousand Six Hundred (1,600) square feet of enclosed heated dwelling areas in multilevel dwellings, exclusive of porches, decks and garages as herein defined.

Section 3. Setbacks. No building or structure, including porches, or projections of any kind, shall be erected so as to extend over or across any of the Setback lines shown on the recorded plat of the Properties so as to be nearer to the Lot boundary line than such Setback line.

Section 4. Fences and Walls. In no event shall a fence or wall be erected whose height shall exceed six (6) feet in rear of lot and 4' see thru design in front of lot. No chain link may be used in front yard.

Section 5. Elevation. Each house shall be constructed at a minimum elevation 16 inches above the street elevation.

Section 6. Roof. The main roof of each residence must have a minimum pitch of 6-12. Flat roofs will not be allowed. Roofs over breezeways, verandas and porches will be considered at a lower pitch as long as they are not over twenty (20%) percent of the total roof area. Overhang depths shall be a minimum of eighteen (12) inches from the face of the wall.

Section 7. Exterior House Finishes. The exterior finish of each residence constructed on a Lot shall be either brick, wood, stucco or vinyl siding. No aluminum siding or cinder block finishes shall be allowed. Windows are encouraged to be wood or vinyl clad.



Section 8.      Exterior Lighting.      Exterior lighting should consider glare and visibility of the light source.

Section 9.      Rights of Enforcement.      In the event an Owner constructs an unapproved structure, Declarant or Association may each request specific performance. In the event such Owner refuses to comply with the Declaration, the Declarant or the Association, shall have the right to bring an action for requirement of the same plus attorney's fees related thereto; and the Association, shall have the additional right to enforce collection thereof in the manner provided.

ARTICLE IV.  
Membership and Voting Rights in the Association.

Section 1.      Membership.      Every person or entity who is an Owner of any Lot which is subjected by the Declaration to assessment by the Association shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to Assessment.

Section 2.      Articles of Incorporation and Bylaws.      A copy of the Bylaws of the Association is attached hereto as Exhibit "B" and made a part and parcel hereof.

Section 3.      Voting Rights.      The Association shall have two (2) classes of voting membership.

Class A.      Class A Members shall be all Owners excepting the Declarant. Class A Member shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership by Section 1 above. When more than one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine, but in no event shall more than one (1) vote be cast with respect to any such Lot. When a purchaser of an individual Lot or Lots takes title thereto from the Declarant, such purchaser automatically becomes a Class A Member.

Class B.      The sole Class B Member shall be the Declarant, its Successors and Assigns. The Class B Member shall be entitled to total votes in an amount equal to four (4) times the number of the Class A votes. The Class B membership shall cease and become converted to Class A membership upon the happening of the earlier of the following:

- (a) conveyance by Declarant to Lot Owners of eighty (80%) percent of Lots subject to or, which may become subject to, this Declaration; or
- (b) December 31, 2010 or
- (c) when, in its discretion the Declarant so, determines.



From and after the happening of whichever of said events which occurs earlier, the Class "B" Member shall be deemed to be a Class "A" Member and entitled to one vote for each Lot owned in the manner provided above.

ARTICLE V.  
Property Rights in the Common Areas

Section 1. In General. The Common Areas are intended to be devoted to the common use and enjoyment of the Lot Owners as herein defined, and are not dedicated for use by the general public.

Section 2. Owner's Easements of Enjoyment. Subject to the provisions of Section 4 of this Article, every Owner shall have a right and easement of enjoyment in and to the Common Area, and such easement shall be appurtenant to and shall pass with the title to every Lot. In the event that Declarant incorporates additional land under the provisions of this Declaration pursuant to Article X of this Declaration, all Owners of Lots within such additional phases shall have the same rights and privileges with regard to use of the Common Areas as the Owners of Lots originally made subject to this Declaration.

Section 3. Extent of Owner's Easements. The rights and easements created hereby shall be subject to the following:

- (a) The right of the Declarant to dedicate, transfer or convey all or any part of the Common Areas, with or without consideration to the Association, or to any governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely limit the use of the Common Areas by the Declarant or Owners.
- (b) The right of the Declarant to grant and reserve easements and rights-of-way through, under, over and across any Common Areas for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage and other utilities and services, including, without limitation, a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Declarant to grant and reserve easements and rights-of-way through, over and upon and across the Common Areas for the completion of the Development regardless of whether or not the granting or reservation is made subject to this Declaration.

Section 4. Maintenance. The Declarant or the Association shall at all times maintain all Common Areas in good repair, and shall repair or replace as often as necessary, street lighting fixtures, landscaping, entrance signage, and other amenities (except utilities) situated on the Common Areas (and within dedicated streets and roads) and maintain and keep in a clean condition any ponds which may be Common Areas. All work pursuant to this Section and all expenses hereunder shall be paid for by such Declarant or the Association through assessments imposed in accordance with Article VII. Excluded herefrom shall be paving and maintenance of dedicated roads which shall be



maintained by Horry County and individual Lot driveways which shall be maintained by each Owner. Nothing herein shall be construed as preventing the Declarant or the Association from delegating or transferring its maintenance obligations to a governmental authority under such terms and conditions as the Declarant or the Association may deem in its best interest.

Section 5. Additional Structures. Neither the Association nor any Owner or any group of Owners shall, without the prior written approval of Declarant, erect, construct or otherwise locate any structure or other improvement in the Common Areas.

Section 6. Easement for Utilities.

- (a) Reservation of Easement. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and reasonable easement and right of ingress and egress, over, upon, across and under the Setback areas and easement areas on each Lot as shown on the recorded map of the Properties and/or as set forth herein and over, upon, across and under the Common Areas for the erection, maintenance, installation and use of electrical and telephone wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public convenience or utilities, and the Declarant may further cut drain ways for surface water when such action may appear to the Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by the licensee of the Declarant but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility service.
- (b) No Structures to be Located in Easement. No structures or other items, including walls, fences, paving or planting shall be erected upon any part of the properties which will interfere with the rights of ingress and egress provided for in this paragraph. Specifically, no Owner shall erect any structure, including, without limitation, walls, fences or paving or within the areas shown on the Plat of the Properties for the use of Drainage Easements, Utility Easements, or Sewer Easements, nor shall any Owner change the grade of any such easement area, provided however, that driveways may cross utility and drainage easements at the front the Lots subject to prior approval of Declarant and that any planting in easement areas shall not interfere with the applicable easement and shall be limited to grassing and small shrubbery.
- (c) Maintenance by the Owner. Each Owner shall keep drainage ditches and swales located on his/her Lot free and unobstructed and in good repair and shall allow for the installation of such culverts upon such Lot as may be reasonably required for proper drainage.
- (d) Conveyance to Governmental Entities. Declarant may, at its sole option, convey any such drainage easements to an appropriate governmental entity.
- (e) Drainage Easement. Declarant further reserves unto itself, its successors and assigns, a perpetual, alienable easement and right-of-way over, under and across those areas



shown as Drainage Easements on the plat of the Properties referred to in Exhibit "a" hereto for the purpose of providing drainage of the Properties and Lands now or hereafter adjacent to the Properties or in the vicinity thereof (whether or not a part of the Properties) and for the installation, repair and maintenance of pipes and other facilities necessary for such drainage.

- (f) Right to Enter Property. Declarant, its agents, contractors, servants, employees and assignees may enter upon any of the easement areas so designated on the recorded plat of the Properties for the purpose of maintaining, repairing, replacing and operating any of the drainage facilities, pipes, ditches, and drainage areas located thereon.
- (h) Ingress and Egress Easement. Declarant further reserves an easement of ingress and egress over and across all streets and roads of the Project which such easement are and shall be for the purpose of ingress and egress to any property now owned or hereafter acquired by Declarant, its successors and assigns whether or not such property is made a part of the Project and whether or not such property adjoins the Project.

## ARTICLE VI

### Assessments for the Maintenance and Operation Of Common Areas and Facilities

#### Section 1. Assessments, Liens and Personal Obligations Therefore and Operation Maintenance of Common Areas Solely by the Association.

- (a) Each and every Owner of any Lot or Lots within the properties, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association: (1) annual assessments or charges; and, (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided shall be a charge on the land and shall be a continuing lien upon the Lot or Lots against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall also be the personal obligation of the Owner of such Lot or Lots at the time when the assessment fell due. Notwithstanding anything in this Declaration to the contrary, it is hereby declared that through December 31, 2010 each Lot shall be exempt, at Declarant's option, from the assessments herein provided for (both annual and special) until such time as such Lot is conveyed by the Declarant to an Owner other than the Declarant. However, until such time as a Lot is conveyed by the Declarant to an Owner other than the Declarant, the Declarant shall be assessed and pay to the Association, in lieu of an assessment thereof, a sum equal to the actual amount of actual operating expenditures incurred by the Association for that portion of the calendar year less an amount equal to the total assessments made by the Association against Owners of Lots other than those owned



by the Declarant. In the event that additional phases are subjected to the provisions of this Declaration, then it is declared that until the later of: termination of Declarant's rights to add additional phases; or five years after the date the amendments submitting such additional phase(s) are filed for record in the public records of Horry County, South Carolina, each Lot in such additional phase shall be exempt from the assessment created herein until such time as the Lot is conveyed by the Declarant to an Owner other than the Declarant. Until such time as a Lot in such additional phase is so conveyed, the Declarant shall be assessed and pay to Association, in lieu of an assessment, a sum equal to the actual amount of actual operating expenditures for that portion of the calendar year less an amount equal to the total assessments made by Association against Owners of Lots other than those owned by Declarant. Declarant may, however, at its option, elect to pay assessments on the same basis as other Lot Owners at any time.

- (b) The Assessment levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the residents of the Development, and in particular for the improvement and maintenance of the Common Areas now or hereafter designated or existing, including, but not limited to, the payment of taxes and insurance thereon, and repair, replacement and additions thereof, the cost of labor, equipment, materials, management and supervision thereof, the employment of attorneys to represent the Association when necessary and such other needs as may arise. In the event that Declarant performs any of the foregoing services for Association, including, but not limited to, accounting and bookkeeping services, it shall have the right to receive a reasonable fee therefore and such shall not be deemed to be a conflict of interest.

Section 2. Amount and Payment of Annual Assessment. The Board of Directors of the Association shall at all times fix the amount of the annual Assessment at an amount sufficient to pay the costs of maintaining and operating the Common Areas. The Board shall also fix the date of commencement and the amount of the Assessment against each Lot for each Assessment period (which shall be based on a calendar year), and shall, at that time, prepare a roster of the Lots and Assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the Assessment shall thereupon be sent to every Owner subject thereto. In the event that any Lot is subject to an assessment for only part of a calendar year, then the amount of such assessment shall be prorated based on the portion of the assessment period for which such Lot is subject to an assessment

Each annual Assessment shall be fully payable in advance on the 1<sup>st</sup>. day of January each year, but the Board of Directors of the Association shall have the option to permit monthly or quarterly payments. The exact amount of each annual Assessment shall be fixed by the Board of Directors of the Association.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto. Provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of



each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. The due date of any specified assessment shall be fixed in the resolution authorizing such assessment.

Section 4. Paid Professional Manager. The Board of Directors of the Association may employ a professional manager or managerial firm to supervise all the work, labor, services and material required in the operation and maintenance of the Common Areas and in the discharge of the Association's duties throughout the Community.

Section 5. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner; The Lien, Remedies of Association. If any assessment is not paid on the date when due, then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot or Lots, such shall bind such Lot or Lots in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment or reimbursement, however, shall remain his personal obligation and will also pass on to his successor in title.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eighteen (18%) percent per annum or the then legal rate of interest, whichever is higher, and the Association may bring legal action against the then Owner personally obligated to pay the same or may enforce or foreclose the lien against the Lot or Lots in the same manner as mortgage is foreclosed; and in the event a judgment is obtained, such judgment shall include interest on the assessment or reimbursement as above provided and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. The Association may further file a notice of lien in the office of the ROD for Horry County, South Carolina. The Association shall have the authority to compromise and settle claims for assessments upon a majority vote upon good cause shown.

Section 6. Subordination of the Lien to Mortgages. The lien of the assessments (and reimbursement) provided for herein shall be subordinate to the lien of any bona fide mortgage or mortgages now or hereafter placed upon any Lot subject to assessment and reimbursement; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments or reimbursements thereafter becoming due, nor from the lien of any subsequent assessment or reimbursement.

Section 7. Exempt Property. All Common Areas subject to this Declaration shall be exempted from the assessments, charges and liens created herein.

## ARTICLE VII.

### Phased Development



Section 1. Phase I. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Horry County, South Carolina, and is more particularly described on Exhibit "A" attached hereto and made a part and parcel hereof.

Section 2> Additional Phases. The Declarant may, at its option, from time to time, bring other land under the provisions hereof by recording a Supplemental Declaration(s) stating its intention to so incorporate additional real estate. Declarant may incorporate such additional land under the provisions hereof in any number of additional phases as it may so desire. Such Supplemental Declaration(s) shall not require the vote or consent of any owner. Any such Supplemental Declaration(s) shall be effective upon the filing thereof in the public records of Horry County, South Carolina. Such Supplemental Declaration shall describe the real property to be brought under the provisions hereof. Declarant may bring such additional real estate under the terms hereof either in whole or in part and may do so in multiple phases. Upon the Declarant's election to incorporate additional real estate hereunder, all of such real estate so incorporated shall be as fully covered hereby as if a part of the original Development. All property so incorporated shall be subject to all the declarations, covenants, easements, liens, restrictions and duties as herein contained, together with such additional restrictions and obligations as Declarant may impose on the land being submitted to the provisions of this Declaration by such Supplemental Declarations(s). Declarant shall have the unilateral right to transfer to any other person or entity the said right to submit additional property to the provisions of this declaration. Declarant shall have no obligation to develop any land adjoining the Properties in accordance with this Declaration and may develop same in any manner it may desire and further, Declarant, in the event that it should decide to develop any additional land located adjacent to the Properties, in its sole discretion, shall have no obligation to make same a part of this Project or subject to this Declaration.

Section 3. Reservation of Additional Easements and Rights. Declarant reserves for itself and its successors and assigns as developer (and all conveyances by Declarant of Common Areas shall be deemed to automatically reserve) easements over, under and across all Common Areas for ingress and egress and for construction and completion of construction and development of future phases including, without limitation, easements for the installation, construction, reconstruction, repair, maintenance and operation of all utility services; said easements to be in addition to and not in lieu of any other rights or easements reserved by Declarant herein or in any supplement hereto or any other conveyance by or to Declarant or its predecessors in title.

Section 4. Extension of Roads. Declarant shall have the right, but shall have no obligation, to extend any street or road now or hereafter within the Properties, without seeking the approval any other party, for the purpose of serving additional phases of the Project and/or for serving other parcels of property not included within the Project.

Section 5. Voting Rights. As each phase, if any, is added to the Development, the Lots comprising such additional phase shall be counted for the purpose of voting rights with the Owner(s) being deemed a Class A member and the Declarant being deemed a Class B member.

#### ARTICLE VIII Insurance and Casualty Losses



Section 1. Insurance. The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, if reasonably available.

Premiums for all insurance required under this Section shall be common expenses of the Association. This policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be common expense of the Association. Cost of insurance coverage obtained by the Association for the Common Area Shall be included in the Assessment.

The Association may purchase officers and directors liability insurance, if reasonably available and the Board of Directors of the Association approves the purchase of same. However, every Director and every officer of the Property Owners Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a Director or Officer of the Association, whether or not he is a Director or Officer at the time such expenses are incurred, except in such cases wherein the Director or Officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided, that in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or Officer seeking such reimbursement or indemnification, the indemnification herein shall only apply if the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

Section 2. Disbursement of Proceeds. Proceeds of insurance policies shall be disbursed as follows:

- (a) If the damage or destruction for which the proceeds are paid is to be repaired or reconstructed, the proceeds, or such portion thereof as may be required for such purpose, shall be disbursed in payment of such repairs or reconstruction as hereinafter provided. Any proceeds remaining after defraying such costs of repairs or reconstruction to the Common Area or, in the event no repair or reconstruction is made, shall be retained by and for the benefit of the Association.
- (b) If it is determined, as provided for in Section 4 of this Article, that the damage or destruction to the Common Area for which the proceeds are paid shall not be repaired or reconstructed, such proceeds shall be disbursed in the manner provided for excess proceeds in Section A above. However, repair or replacement of the Affected Common Area must be made unless prevented by law or governmental rule or regulation.

Section 3. Damage and Destruction. Immediately after the damage or destruction by fire or other casualty to all or any part of the Properties covered by insurance written in the name of the Association, the Board of Directors, or its duly authorized agent, shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed Common Areas.



Section 4. Repair and Reconstruction. If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed, and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Members, levy a special assessment against all Owners in proportion to the number of Lots owned, provided, if the damage or destruction involves a Lot or Lots only, owner(s) of the affected Lot(s) shall be subject to such assessment. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction.

## ARTICLE X General Provisions

Section 1. Time of Essence. It is agreed that time is of the essence with regard to these restrictions, protective covenants, limitations and conditions.

Section 2. Enforcement. In the event of a violation or breach of any of these restrictions by any Owner, or agent, or agent of such Owner, the Owners of Lots in the subdivision, or any of them, jointly or severally, the Declarant or the Association shall have the right to proceed at law or in equity to compel compliance to the terms hereof or to prevent the violation or breach in any such event or to recover damages. In addition to the foregoing, the Declarant, the Association, or their successors and assigns, shall have the right, but shall be under no obligation whenever there shall have been built on any Lot in the subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the Owner, if, after fifteen (15) days written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any rights, reservation, restriction or condition contained in this Declaration, however long continued, shall not be deemed a waiver of the rights to do so hereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement. Should Declarant or the Association employ Counsel to enforce any of the foregoing covenants, conditions, reservations or restrictions, because of a breach of the same, all costs incurred in such enforcement, including a reasonable fee for Declarant's or the Association's Counsel shall be paid by the Owner of such Lot or Lots in breach thereof. Any amount assessed hereunder shall constitute a lien on such Lot and shall be enforceable as herein provided. Failure of Declarant or any Owner to enforce any covenant or restriction contained herein shall not be deemed a waiver of the right to do so thereafter.

Section 3. Responsibility of Declarant. The Declarant herein shall not in any way or manner be liable or responsible for any violation of these restrictions by any person other than itself. In addition, nothing contained in this Declaration shall be deemed to be a representation by Declarant with regard to the requirements of any governmental authority and it shall be the duty of each Owner to comply with any such requirements in addition to the provisions of this Declaration.

Section 4. Binding Effect. All covenants, conditions, limitations, restrictions, easements and affirmative obligations set forth in this Declaration shall be binding on the Owners of the Lots, and their respective heirs, successors and assigns, and run with the land. All rights, easements and agreements reserved by or granted to Declarant shall inure to the benefit of



Declarant, its successors and assigns including, without limitation, the right to develop and submit additional phases. Declarant reserves the right in addition to all other rights of Declarant, to assign its rights of consent and approval as set out in this Declaration and any amendment hereto or supplement hereof, to the Association or the ARB, or to any assignee of Declarant's development rights.

Section 5. The Project. The term "Cat Tail Bay" "Project" or any synonymous term, shall be deemed to mean the Lots designated as Lots 1 thru 88, on the recorded plat of the Project, together with the roads or streets shown thereon and the Common Areas shown on said plat. No areas lying outside of these designated Lots, Common Areas and streets shall be considered a part of the Project unless and until such area has been submitted to the terms and the provisions of this Declaration in accordance with the terms hereof. Declarant, without being under any obligation to do so, may extend any of the above named roads (in any direction) in the future if it so desires, whether or not such additional property served by such extension of the street is submitted to the provisions of this Declaration. Should either of said streets be so extended, those parties utilizing property to be served by such extensions shall have the right to use all streets and roads within the Project. In addition, Declarant reserves the right to use the name "Cat Tail Bay" to refer to additional developments which may be developed by Declarant in the vicinity of the Project, whether or not such additional developments are made subject to this Declaration.

Section 6. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Declarant, the Declarant, or the owner of any land subject to this Declaration, and their respective legal representatives, heirs, successors and assigns.

Section 7. Notice. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Declarant at the time of such mailing.

Section 8. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise effect any other provisions which shall remain in full force and effect.

Section 9. Amendment. Declarant or the Association reserves the right to amend this Declaration by a duly executed written amendment recorded in the office of the Register of Deeds for Horry County.

Section 10. Hold Harmless Agreement. The Owners hereby acknowledge that Declarant shall be constructing subsequent phases well into the 21<sup>st</sup>. century. The Owners further acknowledge that construction sites have the tendency to be dangerous and consent that no Owner, their agents, guest, invitees, or children, shall trespass onto a construction site. The Owners hereby agree to hold harmless Declarant for any damage and/or personal injury suffered by an Owner, their agents, guest, invitees, or children, who trespass onto a construction site.

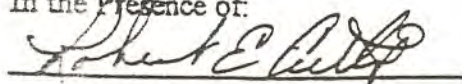
Section 11. Effective Date. This Declaration shall become effective upon its recordation in the Office of the Register of Deeds for Horry County, South Carolina.



Section 12. Plat. Reference to Exhibit "A", "plat", "map" other term synonymous therewith shall mean and include Exhibit "A" as recorded herewith and all subsequent revisions thereof as and when recorded in the Office of the Register of Deeds for Horry County, South Carolina.

IN WITNESS WHEREOF, G. Marshall Godwin, has caused this instrument to be executed by its proper officers hereto on the day and year first above written.

Signed, Sealed and Delivered  
In the Presence of:



DECLARANT:

G. Marshall Godwin



1<sup>st</sup>. witness signs

DeCar Bruton

Notary as 2<sup>nd</sup>. Witness signs

By: G. Marshall Godwin

Its: OWNER

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF HORRY

PERSONALLY appeared before me the undersigned witness who made oath that (s) he saw the within named G. Marshall Godwin sign, seal and as its act and deed deliver the within written Declaration and that (s)he with the other witness whose signature appears above witnessed the execution thereof.

Robert E. Calkins

1<sup>st</sup>. witness signs here

Sworn to before me this

23 day of OCTOBER, 2002

DeCar Bruton (L.S.)

Notary Public for South Carolina

My Commission Expires: 4-7-2005

Cat Tail Bay Subdivision Property Owners Association, Inc. executes this Declaration for the purposes of acknowledging and agreeing to the terms and conditions hereof.

**CAT TAIL BAY SUBDIVISION PROPERTY OWNERS ASSOCIATION**

By: G. Marshall Godwin

Its: President

**EXHIBIT "A"**

All and singular, all that certain piece, parcel or lot of land situate, lying and being in Conway Township, Horry County, South Carolina, and being further designated as eighty eight (88) lots of land as shown on a Bonded Final Plat of "Cat Tail Bay", prepared by Watson Surveying, Terry Watson, PLS., and recorded on Plat Book 186, pg. 34 in the office of the Register of Deeds for Horry County, South Carolina. Reference to said plat is craved as forming a part and parcel of these presents.