



mortgaged, transferred, sold, conveyed, leased, occupied and used subordinate and 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 the Property and which restrictions, easements, charges, liens, conditions, and covenants shall touch and concern and run with title to the Property subjected to this Declaration and which shall be binding on all parties having any right, title or interest in the Property or any portion of it. This instrument also binds the respective heirs, devisees, fiduciary representatives, successors, successors in title and/or assigns of the Property to the terms of this Declaration and this Declaration shall inure to the benefit of anyone or anything who/which purchases or takes any interest in the Property or any portions thereof.

#### ARTICLE I 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 or plural forms of any such term(s):

Section 1.1. Assessment 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.

Section 1.2. Association means the Bears Bluff Reserve Property Owners' Association, Inc. (a South Carolina nonprofit corporation), its successors and assigns. The Association shall serve as the property owners' association for the ownership, control, and maintenance of the Common Areas (as defined below).

Section 1.3. Board of Directors shall mean and refer to the Board of Directors of the Association, which is the governing body of the Association.

Section 1.4. By-Laws of the Association shall mean and refer to those By-Laws of the Association which govern the administration and operation of the Association. The initial By-laws are attached hereto as Exhibit "B" and made a part hereof by reference. The By-Laws may be amended from time to time as provided therein.

Section 1.5. Common Areas shall mean and refer to the easement ("Easement") as defined below and all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Owners or designated by the Owners as Common Areas. Such areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined, and are not dedicated for use by the general public and the general public shall thereby have no easement of use and enjoyment therein except for the Easement. Specifically included as part of the Common Areas are any utility easements, medians, green areas, landscaped entrances (either to the Subdivision as a whole or various portions thereof), walkways, sidewalks, signage, lagoons, streams, ponds, marshes, easement areas as are now or subsequently designated as Common Areas, and/or improvements as, by subsequent amendment of or supplement to this Declaration, may be subjected to this Declaration and designated as

Common Areas by the Owners.

Section 1.6. Common Expenses shall mean and refer to all expenditures lawfully made or incurred by or on behalf of the Association, together with all funds lawfully assessed for the creation or maintenance of financial, equipment, or material reserves, consistent with the provisions and intent of this Declaration.

Section 1.7. Declaration shall mean this Declaration, together with all supplements and amendments to this Declaration.

Section 1.8. Declarants mean TFM Properties, LLC (a South Carolina limited liability company) and CYD Properties, LLC, (a South Carolina limited liability company) and their successors and assigns.

Section 1.9. Easement shall mean the 50' Private Ingress-Egress Existing Easement (the "Easement") which provides ingress and egress to the Subdivision from Bears Bluff Road and that the Easement is depicted on that certain plat recorded in the Office of the Charleston County RMC at Plat Book EG, Page 577.

Section 1.10. Foreclosure shall mean and refer to, without limitation, the judicial foreclosure of a Mortgage or the conveyance of secured property by a deed in lieu of judicial foreclosure.

Section 1.11. Institutional Mortgage shall mean a Mortgage held by a bank, trust company, insurance company or other recognized lending institution, or by an institutional or governmental purchaser or mortgage loans in the secondary market, such as, but not limited to, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

Section 1.12. 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.

Section 1.13. Living Space or Minimum Square Footage shall consist of not less than 2,400 square feet of finished heated and cooled space above ground with a minimum ceiling height of eight feet (8'), and shall be measured from the exterior walls of said space.

Section 1.14. Lot shall mean and refer to any parcel of land within the Subdivision intended for use as a single family Lot.

Section 1.15. Mortgage, with an initial capital letter, shall mean and refer to a mortgage, security deed, 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 a Lot.

Section 1.16. Mortgagee, with an initial capital letter, shall mean and refer to the holder of a Mortgage.

Section 1.17. Occupant shall mean and refer to any person, including, without limitation, any Owner or any guest, invitee, licensee, lessee, tenant, transient paying guest, or family member of an Owner lawfully occupying or otherwise using a Lot within the Subdivision.

Section 1.18. Owner, with an initial capital letter, shall mean and refer to one or more persons or entities, including Owners, who or which own(s) fee simple title to any Lot.

Section 1.19. Person shall mean and refer to a natural person, corporation, partnership, association, proprietorship, trust, or any other legal entity or any combination thereof.

Section 1.20. Property or Properties shall mean and refer to the property described in Exhibit "A" which is attached and incorporated into this Declaration.

Section 1.21. Subdivision shall mean and refer to the Property as subdivided pursuant to the Plat referenced in Exhibit "A". From time to time, the Subdivision may be referred to as the *Bear's Bluff Reserve Subdivision*.

ARTICLE II  
PLAN OF DEVELOPMENT

Section 2.1. Plan of Development. By means of the above referenced Plat, the Property was subdivided to create the Subdivision. The Property shall be subject to the covenants, easements and restrictions set forth in this Declaration and shall be used, developed, and enjoyed as a residential Subdivision.

ARTICLE III  
THE ASSOCIATION; MEMBERSHIP AND VOTING RIGHTS

Section 3.1. The Association. The Declarants have established or will establish the Association for the purpose of exercising powers (as applicable) of owning, maintaining and administering the Common Areas, administering and enforcing covenants, conditions and restrictions contained herein, and levying, collecting and disbursing assessments and charges herein created. Further, the Declarants reserve the right to convey to the Association their rights in the Easement as a Common Area and the Association agrees to accept any or all of its rights and obligations set forth herein with regard to the Easement as a Common Area. The Association shall be authorized but not required to provide the following services:

- (a) Clean-up, maintenance, landscaping of all Common Areas within the Subdivision or in a reasonable proximity to the Subdivision such that their deterioration would affect the appearance of the Subdivision as a whole;
- (b) Construction, maintenance, landscaping and reconstruction of the Easement;
- (c) Set up and operate the Architectural Review Board as provided herein;
- (d) Provide administrative services including, but not limited to, legal, accounting,

financial and communication services informing members of activities, notice of meetings, referendums, etc., incident to the above listed services;

Section 3.2. Rules and Regulations. The Association may adopt from time to time additional reasonable rules and regulations governing the use of Common Areas and Lots.

Section 3.3. Membership. Every person or entity who is an Owner of any Lot which is subjected to this Declaration 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 assessments.

Section 3.4. Voting Rights. There shall be one class of voting rights. All Owners shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 3.3. 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 vote be cast with respect to any such Lot. Further, in the event a Lot has joint Owners and those Owners cannot agree as to how a vote is to be cast, then the Owners of that Lot shall be deemed to have abstained from voting on the matter. It is provided, however, if an instrument or order is filed with Charleston County RMC or the Association's Secretary showing that any such tenancy is held in unequal interest, an owner or owners holding at least a 50.1% majority interest in the Lot shall constitute a majority interest in the Lot to which the vote(s) are attributable and shall be allowed to cast a vote for the Lot as they so desire. Provided, however, the Association is not required to poll the individual Owners of the Lot to determine whether they agree as to how to vote on any given matter and the Association may rely on the representations of any one of the Owners as to how the vote relative to that Lot is being cast.

ARTICLE IV  
PROPERTY RIGHTS IN THE COMMON AREAS

Section 4.1. Title to Common Areas. The Declarants hereby acknowledge that, as of this date, the Common Area consists primarily or exclusively of the Easement. The Declarants further acknowledge that the Easement is a private, unpaved sand and shell road which the Declarants (and/or the Owners of the Lots as successors in interest to Declarants) are obligated to maintain at their own cost and expense. Declarants' use and enjoyment of the Easement is not exclusive and use and enjoyment of the Easement may be shared with the adjacent subdivision commonly known as Bears Bluff and others. Declarants understand and agree that their maintenance of the Easement is to be coordinated through the Association by means of assessments, either solely from the Association members or in conjunction with any neighboring subdivision or others. The Declarants hereby covenant for themselves, their successors and assigns, that they will convey fee simple title to the Common Areas by means of a quit claim deed to the Association or other body assuming Easement maintenance responsibilities if such a conveyance is approved by the Association.

Section 4.2. Extent of Declarants' Easements. The rights and easements created hereby shall be subject to the following:



(a) The right of the Association to dedicate, transfer or convey all or any part of the Common Areas, with or without consideration, to any successor association, governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Areas by the Declarants;

(b) The right of the Association, to grant, reserve and accept easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, fuel oil and other utilities and services, including a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Declarants to grant and reserve easements and rights-of-way through, over, and upon and across the Common Areas for the completion of the Subdivision, and for the operation and maintenance of the Common Areas;

(c) The right of visitors, invitees, etc., to ingress and egress in and over those portions of the Common Areas that lie within the private roadways, parking lots and/or driveways (and over any other necessary portion of the Common Areas in the case of landlocked adjacent Owners) to the nearest public highway;

(d) The right of the Association as provided in its Bylaws to suspend the enjoyment rights of any Owner for so long as any assessment for an infraction of this Declaration and/or its Bylaws, published rules, and regulations remains unpaid and the infraction remains uncured

(e) The right of the Association to establish rules and regulations for the Subdivision and to prescribe fees and charges from time to time, including but not limited to fees, charges, and assessments for the maintenance of the Association's roads, easements, utilities, landscaping, and any other Common Areas.

Section 4.4. Delegation of Owner's Rights. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Areas and facilities to his tenants, invitees or licensees.

Section 4.5. Access. All Owners, by accepting title to Lots conveyed subject to this Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such Lot and acknowledge and agree that such access, ingress and egress shall be limited to roads, and any sidewalks, walkways, or trails located within the Subdivision from time to time, provided that pedestrian and vehicular access to and from all Lots shall be provided at all times.

Section 4.6. Maintenance Easement. Subject to the other terms of this Declaration, there is hereby reserved for the benefit of the Declarants, the Association and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and easement to enter upon any unimproved portions of any Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds, stumps or other unsightly growth and removing trash, so as to maintain reasonable standards of health, fire safety and appearance within the Subdivision; provided that such easements shall not impose any duty or obligation upon the Declarants or the

Association to perform any such actions and the Association may charge for such maintenance.

Section 4.7. South Carolina Coastal Council Jurisdiction. NOTICE IS HEREBY GIVEN OF THE RESTRICTION THAT AS TO ANY PORTION OF ANY LOT WITHIN THE SUBDIVISION WHICH MAY CONTAIN SUBMERGED LAND OR OTHER CRITICAL AREAS, ALL ACTIVITIES ON OR OVER AND ALL USES OF SUCH LAND OR OTHER CRITICAL AREAS ARE SUBJECT TO THE JURISDICTION OF THE SOUTH CAROLINA COASTAL COUNCIL. ANY OWNER IS LIABLE TO THE EXTENT OF SUCH OWNERS' OWNERSHIP FOR ANY DAMAGES TO, ANY INAPPROPRIATE OR UNPERMITTED USES OF, AND ANY DUTIES OR RESPONSIBILITIES CONCERNING ANY SUBMERGED LAND, COASTAL WATERS OR OTHER CRITICAL AREAS.

ARTICLE V

RIGHT OF ASSOCIATION TO ALTER, IMPROVE, MAINTAIN AND REPAIR  
COMMON AREAS AND PORTIONS OF LOTS

Section 5.1. The Association shall have the right to make or cause to be made such alterations, modifications, improvements, repairs, maintenance and replacements to the Common Areas and the cost thereof shall be assessed as Common Expenses and collected from the Owners on an equal basis.

Section 5.2. Responsibilities of Owners. Unless specifically identified herein as being the responsibility of the Association, all maintenance and repair of Lots, together with all other improvements thereon or therein and all lawns, on site septic systems, site drainage or retention basins, on site water systems, landscaping and grounds on and within a Lot shall be the responsibility of the Owner(s) of such Lot.

Section 5.3. Association's Responsibility.

(a) Except as may be herein otherwise specifically provided, the Association shall maintain and keep in good repair all portions of the Common Areas, which responsibility shall include the maintenance, repair and replacement of: all Common Areas, walks, roads, landscaped areas/natural areas and other improvements situated within the Common Areas or within easements encumbering Lots.

(b) In the event that the Declarants or the Board of Directors determines that any Owner has failed or refused to discharge properly his, her or its obligations with regard to the maintenance, cleaning, repair or replacement of items for which he or it is responsible hereunder then, the Declarants or the Association, except in the event of an emergency situation, may give such Owner written notice of the Declarants' or the Association's intent to provide such necessary maintenance, cleaning, repair or replacement, at the sole cost and expense of such Owner.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 6.1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association: (1) annual assessments or charges for the maintenance of the Common Areas, including such reasonable reserves as the Association may deem necessary, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs of collection, and reasonable attorney's fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Property against which, each such assessment is made.

Section 6.2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the Owners in the Subdivision (and their respective families, guest, tenants and invitees) and for the improvement, protection, replacement, operation, and maintenance of the Common Areas and for the provision of various forms of insurance for the Association, its property and Easements, members, directors, officers, employees and agents, and for the provision of necessary and reasonable services for and other expenses of the Association.

Section 6.3. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or for any other purpose set forth in the By-Laws of the Association.

Section 6.4. Notice and Quorum. Written notice of any meeting called for the purpose of taking any membership action shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast a majority of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (%) of the required quorum at the preceding meeting.

Section 6.5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at the same rate for all Lots (whether improved or unimproved and without respect to a Lot's size) and may be collected on a monthly, quarterly or annual basis.

Section 6.6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot on the date set by the Association.

Section 6.7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate equal to eighteen (18%) percent per annum.

Section 6.8. Subordination of the Lien to Mortgages. The lien of the assessments



provided for herein shall be subordinate to the lien of any first Mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any deed or other proceeding in lieu thereof, 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 Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE VII  
ARCHITECTURAL REVIEW

7.1 No mobile, modular, or manufactured homes will be permitted within the Subdivision.

7.2 Objectives of the Architectural Review Board. Architectural and design review shall be directed towards attaining the following objectives for the Property:

- (1) Preventing excessive or unsightly grading, indiscriminate earth moving or clearing of property, removal of trees and vegetation which could cause disruption of natural water courses or scar natural land forms.
- (2) Ensuring that the location and configuration of structures are visually harmonious with the Subdivision's terrain, with the vegetation of the Lot being developed, and with surrounding Lots and their structures.
- (3) Ensuring that the architectural design of structures and their materials and colors are visually harmonious with the Subdivision's overall appearance, history and cultural heritage, with surrounding development, with natural land forms and native vegetation.
- (4) Ensuring the plans for landscaping provide visually pleasing settings for structures on the same Lot and on adjoining or nearby Lots and blend harmoniously with the natural landscape.
- (5) Ensuring that any development structure, building or landscaping complies with the provisions of this Declaration.
- (6) Promoting building design and construction techniques that respond to energy consumption and environmental quality considerations such as heat loss, air emissions and runoff water quality.
- (7) Minimum Square Footage. No house shall be constructed on any Lot unless the house is at least 1,000 square feet on the first level with a total minimum square footage of 2,400 sq. ft. for the entire house. The square footage for calculation of the minimum square shall consist of finished heated and cooled space above ground with a minimum ceiling height of eight feet (8'), and shall be measured from the exterior walls of said space.
- (8) Landscaping Plan. A landscaping plan is required for each Lot and shall

provide for sod installed in the front yard.

Section 7.5. Residential Use of Lots. All Lots shall be used exclusively for single-family residential purposes.

Section 7.6. Prohibition Against Business Activity and "Time Sharing" Use. No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, professional office or beauty/barber shop or the like or any trade of any kind whatsoever shall be carried on upon or in any Lot. Provided, however, that nothing contained herein shall be construed so as to prohibit home occupations (i.e., any occupation on a Lot and clearly incidental thereto, carried on by a member of the family resident on the Lot, so long as no stock in trade is kept or commodities sold, no mechanical equipment is used except such that is normally used for family, domestic, or household purposes, and there is no exterior indication that the Lot and its structure are being used for any purpose other than a dwelling), or the construction of houses to be sold on said Lots or the showing of said Lot for the purpose of selling or leasing Lot in the Subdivision. No Lot or structure shall be "time shared", nor shall any Lot or structure be owned, used or operated in violation of the statutory provisions regulating Vacation Time Sharing Plans, S.C. Code Ann. Sections 27-32-10 et se g., as the same may be amended from time to time, nor shall any Lot or structure be owned, used or operated so as to constitute such Lot or structure as a "time sharing unit" within the meaning of such statutory provisions.

Section 7.7. Association Office. Nothing in this Declaration shall be construed to prohibit the Association from constructing, operating and maintaining a facility for use as its office and headquarters, for the benefit of the Association and its members.

Section 7.8. Temporary Structures. No structure of a temporary character (such as but not limited to trailers, tool sheds, and tents) shall be placed upon any Lot at any time without the prior written approval of the Association; provided, however, that this prohibition shall not apply to shelters used by the contractor during construction of a house, it being clearly understood that the latter temporary shelters may not, at any time, be used for residence or permitted to remain on the Lot after completion of construction.

Section 7.9 Vehicles. No abandoned, salvaged, unregistered or uninsured vehicles (including but not limited to cars, trucks, motorcycles, buggies, golf carts, lawn mowers, scooters) shall be placed or allowed on a Lot so that the vehicle is repeatedly visible to other Owners as viewed from the Easement or from a home within the Subdivision. For purposes of enforcing this provision, the term "repeatedly visible" means that the vehicle can be viewed more than three (3) days in any given thirty (30) days period by other Owners as viewed from the Easement or from a home within the Subdivision or from any navigable body of water adjacent to the Subdivision.

Section 7.10. Elevation and Drainage Changes. No changes in drainage characteristics of the Subdivision shall be made on the premises without the prior written approval of the Owners nor shall any fill be used to extend any property beyond any boundary line of any waterfront property.

Section 7.11. Tree Removal. No trees or bushes of any kind having a diameter of six (6") inches or more (measured from a point two (2') feet above the ground level) shall be removed from any Lot without the express written authorization of the Association. The Association shall further have the authority to require any Owner removing a tree in violation of this clause to replace same at such Owner's cost.

Section 7.12. Sign Controls. No signs of any character shall be erected on any Lot or displayed to the public on any Lot except "For Sale" signs or signs indicating the name of one contractor only (not subcontractors) during the period of sale or construction only, provided said signs (a) shall not exceed six square feet in size, (b) shall only refer to the premises on which displayed, (c) shall be located within fifteen (15') feet of the main structure but no less than twenty five (25') feet from the front street right-of-way, and (d) shall not exceed more than one per Lot. This restriction shall not apply to signs used to identify and advertise the Subdivision as a whole, nor to signs for selling houses and/or lots during the development and construction period.

#### ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Enforcement. The Association or any Owner of a Lot shall have the right to enforce, by any proceedings at law or in equity, all of the restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed as a waiver of right to do so thereafter. The Association shall have the right to establish, assess and collect reasonable fines and penalties for violations of this Declaration, which fines and penalties shall constitute liens against the Lot of the infringing Owner. Each Owner is responsible for compliance by the Owner's Lot, regardless of whether the Owner is actually occupying the Lot or has tenants, invitees, or other occupants at the Lot. Such fines shall be Fifty (\$50.00) Dollars per violation per day unless or until the Association amends this Declaration to provide otherwise. To secure payment of the fines so imposed by the Association, the fines shall constitute a lien against the Owner's Lot until such fines are paid in full. The Association is hereby empowered to record a Notice of Lien in the Office of the Charleston County RMC to provide public notice of the lien. The Notice of Lien shall be applicable to all fines accruing for the particular violation or violations creating the fine. Further, the Association may avail itself of all legal and equitable remedies as are allowed under South Carolina law for the collection of the fines and enforcement of the lien, including but not limited to foreclosure of the lien with a resulting sale of the Owner's Lot to satisfy the lien. In any such action, the Association shall be entitled to recover its reasonable attorney fees and costs incurred in the preparation, recording, and enforcement of the lien against the Owner.

Section 8.2. Severability. Invalidation of any covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way effect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 8.3. Duration. The Covenants and Restrictions of this Declaration shall run with

the land constituting the Property and shall inure to the benefit of and be enforceable by the Declarants, the Association, or any Owner for a period of twenty (20) years from the date hereof and thereafter shall continue automatically in effect for, additional periods of twenty (20) years, unless otherwise agreed to in writing by the then Owners of at least seventy-five (75%) percent of the Lots.

Section 8.5. Amendment. Amendments to this Declaration shall be proposed and adopted in the following manner:

(1) Notice of the subject matter of the proposed amendment shall be included in the notice of the meeting of the Association at which such proposed amendment is to be considered and shall be delivered to each member of the Association.

(2) At such meeting, a resolution adopting a proposed amendment may be proposed by either the Board of Directors or by members of the Association. Such amendment must be approved by the Owners holding at least a majority of the total votes in the Association; provided, however, that during any period in which a Declarant owns a Lot primarily for the purpose of re-sale, such amendment must also be approved by the Declarant.

(3) The agreement of the required percentage of the Owners, and any Mortgagee, to any amendment of this Declaration shall be evidenced by their execution of such amendment; or, in the alternative, the sworn statement of the President of the Association attached to or incorporated in the amendment executed by the Association, which sworn statement shall state unequivocally that the agreement of the required parties was lawfully obtained. Any such amendment of this Declaration shall become effective only when recorded or at such later date as may be specified in the amendment itself.

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[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE FOR CYD PROPERTIES, LLC]

WITNESS their Hand(s) and Seal(s) this 21 day of March, 2007.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Belinda Latham  
First Witness

CYD PROPERTIES, LLC  
Christine Y Duc  
By: Christine Duc, Its Authorized Member

[Signature]  
Second Witness

STATE OF SOUTH CAROLINA     )  
COUNTY OF CHARLESTON     )

PERSONALLY APPEARED before me the First Witness, and made oath that (s)he saw the within named Christine Duc, presenting herself as the authorized Member of CYD Properties, LLC, sign, seal and as her/its act and deed, deliver the within Deed, and that (s)he/it with the other witness witnessed the execution thereof.

Belinda Latham  
First Witness Signs Here

SWORN to before me this  
21 day of March, 2007

[Signature] (seal)  
Notary Public for South Carolina  
My Commission Expires: October 5, 2015



[SIGNATURE PAGE FOR TFM PROPERTIES, LLC]

WITNESS their Hand(s) and Seal(s) this 21 day of March, 2007.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

Belinda Latham  
First Witness

TFM PROPERTIES, LLC  
Tanzy Moore  
By: Tanzy Moore, Its Authorized Member

[Signature]  
Second Witness

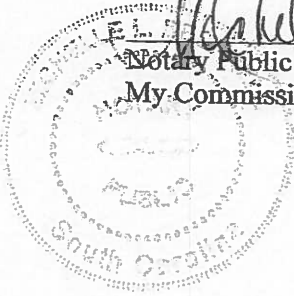
STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

PERSONALLY APPEARED before me the First Witness, and made oath that (s)he saw the within named Tanzy Moore, presenting herself as the authorized Member of TFM Properties, LLC, sign, seal and as her/its act and deed, deliver the within Deed, and that (s)he/it with the other witness witnessed the execution thereof.

Belinda Latham  
First Witness Signs Here

SWORN to before me this  
21 day of March, 2007

[Signature] (seal)  
Notary Public for South Carolina  
My Commission Expires: October 5, 2015



BK B 621 PG 500

**EXHIBIT "A"**  
**(Legal Description of the Property)**

ALL those certain pieces, parcels or lots of land situate, lying and being on Wadmalaw Island, Charleston County, South Carolina and shown and described as Lots 11B-1, 11B-2, 11B-3, 11B-4, and 11B-5 on that certain plat titled PLAT SHOWING EXIST. LOT 11-C BEING ABANDONED AND COMBINED WITH EXIST. LOT 11-B AND ALSO SHOWING THE COMBINED TRACT BEING SUBDIVDED INTO NEW LOTS 11B-1 THRU 11B-5, made by W. Mason Lindsey, Jr. S.C.R.L.S., dated November 19, 2004, and recorded in Plat Book EH, Page 532 in the RMC Office for Charleston County, South Carolina; said lot having such size, location, dimensions, buttings and boundings as will be reference to said plat more fully and at large appear.

SUBJECT to all covenants, restrictions, easements, and conditions of record.

These are the same properties conveyed to TFM Properties, LLC and CYD Properties, LLC by deed of Grady's Properties, Inc., Kilauea Properties, LLC, and Developments Unlimited, LLC dated January 13, 2005, and recorded January 14, 2005, in the Office of the Charleston County RMC at Book N522, Page 262; and to TFM Properties, LLC by deed of Grady's Properties, Inc., Kilauea Properties, LLC, and Developments Unlimited, LLC dated January 13, 2005, and recorded January 14, 2005, in the Office of the Charleston County RMC at Book N522, Page 256, and to CYD Properties, LLC by deed of Grady's Properties, Inc., Kilauea Properties, LLC, and Developments Unlimited, LLC dated January 13, 2005, and recorded January 14, 2005, in the Office of the Charleston County RMC at Book N522, Page 251

**EXHIBIT A**

**BY-LAWS OF  
THE BEARS' BLUFF RESERVE  
PROPERTY OWNERS' ASSOCIATION, INC.**

**ARTICLE 1  
MEMBERS**

**1.1 Membership in the Association.** The Members of Bears' Bluff Reserve Property Owners' Association, Inc. (the "Association") shall be the Owners, as a matter of public record, of every parcel ("Lot") within the property ("Property") as those terms are defined in the Declaration of Covenants, Conditions, and Restrictions for the Bears' Bluff Reserve Subdivision (the "Declaration"). At the time of creation and organization of this Association, the Property and any Lots within it are owned by TFM Properties, LLC (a South Carolina limited liability company) and CYD Properties, LLC (a South Carolina limited liability company) hereinafter collectively referred to as the Declarant ("Declarant"). These By-Laws and the Declaration were created by the Declarant.

The Board of Directors (the "Board") of the Association may, after notice and hearing as provided in the Rules and Regulations, suspend any person from membership in the Association during any period of time when such person is in default of any of his obligations under the By-Laws (including, without limitation, the failure to pay any assessment), provided that such default has continued uncured for a period of ten (10) days after written notice thereof to such Member.

**1.2 Membership Classes.** The Association shall have one class of voting Members, those being the owners of the Lots within the Subdivision. A Lot may be jointly owned by two or more persons or entities and in such case each of the owners shall be deemed a Member; subject, however, to the voting limitations set forth in these By-Laws.

**1.3 Inspection Rights.** The books, records, and papers of the Association shall at all times be subject to inspection by any Member during reasonable business hours. The Declaration, the Articles of Incorporation, and the By-Laws of the Association shall be available for inspection and purchase by any Member at the principal office of the Association. The Association may make a reasonable charge for copies of documents made for Members.

**1.4 Voting Rights in the Association.** When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot. If the owners cannot agree on how the vote is to be cast, then the owners of the Lot must abstain from voting on the particular matter; provided, however, if an instrument or order is filed with the Association's Secretary showing that any such tenancy is held in unequal interest, an owner or owners holding at least a 50.1% majority interest in the Lot shall constitute a majority interest in the Lot to which the vote(s) are attributable and shall be allowed to cast a vote for the Lot as they so desire.

A Member may assign his voting rights to his lessee; provided, however, that the Member may not assign to such lessee any vote or votes not attributable to the Lot actually leased by such lessee.

The Members shall have the right to vote for the election and removal of directors and upon such other matters with respect to which a vote of Members is required under the Declaration. Each Member shall be entitled to one (1) vote for each Lot owned.

**ARTICLE II  
MEETING OF MEMBERS**

**2.1 Annual Meeting.** The annual meeting of the Members shall be held during the month of November on a date set by the Board, or such other time as the Board may determine. Such annual meetings shall be held for the purpose of electing directors and for the transaction of such other business as may come before the meeting.

**2.2 Special Meeting.** Special meetings of the Members may be called by the President, the Board, or by any two (2) Members representing at least two (2) Lots within the Subdivision. The request for the special meeting shall be signed, dated and delivered to a corporate officer and shall describe the purpose for which the meeting is to be held.

**2.3 Place of Meeting.** The Board may designate any location within Charleston County, South Carolina as the place for any annual meeting or special meeting called by the Board, and the President may designate any location in Charleston County, South Carolina as the place for any special meeting called by him. If no designation is made or if the Members of the Association call a special meeting, the place of meeting shall be the principal office of the Association within Charleston County, South Carolina.

**2.4 Notice of Meeting.** Written notice stating the place, day, and hour of the meeting, and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be mailed or delivered not less than fifteen (15) days nor more than sixty (60) days before the date of the meeting. Notices shall be delivered by or at the direction of the President or the Secretary or the person calling the meeting, to each Member of the Association at his/her address as shown on the records of the Association and shall be delivered either personally or by first class mail with postage prepaid. A Member may waive notice of any meeting before or after the date of the meeting stated herein; provided such waiver is in writing and signed and dated by the Member.

**2.5 Action by Members.**

(a) **Formal Action.** Provided a quorum is present at a duly called meeting of the Members, any action by the Members as permitted by law, the Declaration, or these By-Laws, may be taken or sanctioned at a meeting upon the affirmative vote of fifty-one percent (51%) of the Members entitled to vote at, and in attendance at (whether in person or by proxy), at such meeting.

(b) **Informal Action.** Any action required or permitted by law to be taken at a meeting of the Members of the Association may be taken without a meeting if a written consent setting forth the action so taken shall be signed and dated by those Members representing eighty percent (80%) of the voting power of each class of membership, which consent shall be filed with the Secretary of the Association as part of the corporate records.

**2.6 Quorum Required for any Action Authorized at Meetings.** The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association shall be twenty percent (20%) of the total votes entitled to be cast within each class of membership, whether such percentage appears in person or by proxy.

**2.7 Conduct of Meetings.** The directors may make such regulations as they deem advisable for any meeting of the Members, including proof of membership in the Association, evidence of the right to vote, and the appointment and duties of inspectors of votes. Such regulation shall be binding upon the Association and its Members.

**EXHIBIT "B" TO DECLARATION OF COVENANTS AND RESTRICTIONS**

**2.8 Ballots by Mail.** When required by the Board, the notices of regular or special meetings shall be accompanied by a statement of certain motions to be introduced for vote of the Members and a ballot on which each Member may vote for or against the motion. Each ballot, which is represented at such meetings, shall be counted in calculating the quorum requirements set out in Section 6 of this Article II. Provided, however, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

**2.9 Proxies.** Each Member entitled to vote may vote in person or by proxy at all meetings of the Association. All proxies shall be executed in writing by the Member or by his duly authorized attorney-in-fact and filed with the Secretary-Treasurer. No proxy shall extend beyond the date of the meeting for which it is given unless such meeting is adjourned to a subsequent date and no proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Any proxy automatically ceases upon a Member's sale of his Lot.

**ARTICLE III  
DIRECTORS**

**3.1 General Powers.** Its Board shall manage the affairs of the Association. The director or directors comprising the Board need not be Members.

**3.2 Number and Tenure.** The initial number of directors shall be two (2). At the first annual meeting, the Members shall elect one (1) director for a term of two (2) years and one (1) director for a term of one (1) year. At each annual meeting thereafter, the Members shall elect director(s) for a term of two (2) years. Any vacancy occurring in the initial or any subsequent Board may be filled at any meeting of the Board by the affirmative vote of a majority of the remaining directors, even if less than a quorum of the Board, or by a sole remaining director. If vacancies on the Board are not previously filled in this manner, then such vacancies shall be filled at the next succeeding meeting of the Members. Any director elected to fill a vacancy shall serve as such until the expiration of the term of the director(s) whose position he was elected to fill. Election of directors may be conducted by mail ballot if the Board so determines.

**3.3 Annual Meeting.** Annual meetings of the Board shall be held immediately following the annual meeting of the Members. The Board may provide by resolution the time and place for the holding of additional regular meetings of the Board without notice.

**3.4 Special Meetings.** Special meetings of the Board may be called by or at the request of the President or any director by giving notice thereof as provided in Section 5 of Article III. Such persons calling a special meeting of the Board may fix any location within Charleston County, South Carolina as the place for holding such special meeting.

**3.5 Notice.** When notice of any meeting of the Board is required, such notice shall be given at least seven (7) days prior to such meeting by written notice delivered personally or sent by mail to each director at his address as shown on the records of the Association. If the notice is mailed, when it is deposited with postage prepaid in the United States Mail in a properly addressed sealed envelope it will be deemed delivered. Any director may waive notice of any meeting before or after the time of the meeting stated therein and attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law, the Articles of Incorporation, these By-Laws, or the Declaration.



**EXHIBIT "B" TO DECLARATION OF COVENANTS AND RESTRICTIONS**

**3.6 Quorum.** A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board; but if less than a majority of the directors are present at said meeting, no business may be transacted and the directors present may adjourn the meeting without further notice. If a quorum of the Board cannot be attained within sixty (60) days after any such adjournment, then any one of the directors may issue notice of a special meeting of the Members for the purpose of deliberating and transacting any business of the Association, including business which would have come before the Board but for the Board's failure to attain a quorum.

**3.7 Action by Directors.**

(a) **Formal Action.** The act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the Board.

(b) **Informal Action.** Any action required or permitted by law to be taken at a meeting of directors may be taken without a meeting if a consent, in a writing signed by all Directors, setting forth the action so taken shall be filed with the Secretary of the Association as part of the corporate records.

**3.8 Compensation.** Directors as such shall not receive any stated salaries for their services, but by resolution of the Board, any director may be reimbursed for his actual expenses incurred in the performance of his duties as director. Nothing herein contained shall be construed to preclude a director from serving the Association in any other capacity and receiving compensation therefore.

**3.9 Removal of Directors.** Any director may be removed from the Board, with or without cause, by a majority vote of the Members. The vacancy thus created by such removal shall be filled as provided in Section 2 of this Article III.

**ARTICLE IV**  
**POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

**4.1 Powers.** The Board shall have the power to:

(a) Adopt and publish Rules and Regulations governing the use of the Common Area, and the personal conduct of the Members and their employees, clients, visitors, tenants, and invitees thereon, and to establish penalties for the infraction thereof.

(b) Administer, manage, repair, and maintain the Common Area; provided, however, if the Board of Directors does not repair or maintain the Common Area, the Declarant shall have the right (but not the obligation) to do so at the expense of the Association;

(c) Exercise for the Association all powers provided in the Association's Charter Documents, as amended from time to time, including without limitation the power to suspend the voting rights and the rights to use of the Common Area of the Member during any period in which such Members shall be in default in the payment of any assessment levied by the Association. Prior to any suspension or assessment and fine, the Member will be entitled to a hearing procedure to be adopted by the Board which provides (i) not less than fifteen (15) days prior written notice of the expulsion, suspension, or termination and the reasons therefore; (ii) an opportunity for the Member to be heard, orally or in writing, not less than five (5) days before the effective date of the expulsion, suspension, or termination by a person or persons authorized to decide that the proposed expulsion, termination, or suspension not take place; (iii) such lesser notice or greater notice depending on the nature of the infraction so long as such notice and hearing process is fair and reasonable, taking into consideration all of the relevant facts and circumstances; (iv) written notice must be given by first class or certified mail sent to the last address of the Member shown on the Association's records; (v) any proceeding challenging an expulsion, suspension, or termination, including a proceeding in which defective notice is alleged, must be commenced within one (1)

year after the effective date of the expulsion, suspension, or termination; and (vi) that any Member who has been expelled or suspended shall remain liable to the Association for dues, assessments, or fees as a result of obligations incurred or commitments made before expulsion or suspension or arising thereafter so long as the Member is the Owner of a Lot at the Bears' Bluff Reserve Subdivision. Such voting rights or rights to use Common Area may also be suspended, after notice and hearing, for a period not to exceed ninety (90) days for infraction of published rules and regulations. Unless, however, such infraction is ongoing, in which case the rights may be suspended during the period of the infraction and for up to ninety (90) days thereafter.

(d) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of the Association's Charter Documents;

(e) Grant permits, licenses, and easements over the Common Area for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property; and

(f) To the extent allowed by law, the Board shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association, which loans shall be used by the Association in performing its authorized functions. Notwithstanding anything in the Declaration to the contrary, the Association shall not be allowed to reduce the amount of the annual assessment at any time there are any such loans with an outstanding balance due.

(g) Employ a manager, an independent contractor, an accountant, attorney, or such other employees as they deem necessary, and to prescribe their duties;

(h) Acquire additional areas for the Common Area, mortgage the Common Area and sign notes and mortgages and other loan closing documents in order to make improvements to the Bears' Bluff Reserve Subdivision, so long as such acquisition or mortgage and loan shall have the approval of two thirds (2/3) of the votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

(i) Exercise for the Association all powers, duties, and authority as set forth in the South Carolina Non-Profit Corporation Act of 1994.

(j) Publish a notice and hearing process to be used before a Member can be fined or suspended.

(k) The Board may provide for the issuance of certificates evidencing membership in the Association, which shall be in such form as may be determined by the Board and the Board shall authorize the Association's President, or Secretary-Treasurer, or an Assistant Secretary to sign such certificates. Any such certificates authorized by the Board shall be consecutively numbered and the name and address of each Member and the date of issuance of the certificate shall be entered on the records of the Association. Further, the Board may determine the terms and conditions for issuance of a new certificate if any certificate shall become lost, mutilated, or destroyed.

#### 4.2 Duties. It shall be the duty of the Board to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by a twenty percent (20%) of the Members who are entitled to vote on Membership matters as of the date of such request;

(b) Supervise all officers, agents, and employees of the Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration, to:

[1] fix the amounts of all assessments;

[2] send written notice of all assessments to every owner subject thereto;

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[3] foreclose the lien against any Lot for which assessments are not paid within thirty (30) days after the due date or to bring an action at law against the owner personally obligated to pay the same; and

[4] provide for an Architectural Review Board, including such guidelines as the Board may determine.

(d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. The Board may assess a reasonable charge for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(e) Procure and maintain adequate liability and hazard insurance on property owned or leased by the Association.

(f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.

(g) Cause the Bears' Bluff Reserve Subdivision's Common Areas, and the other authorized areas to be maintained or improved.

**ARTICLE V  
OFFICERS**

5.1 Officers. The officers of the Association shall be a President, Vice President, and Secretary-Treasurer. The Board may elect such other officers, including one or more Assistant Secretaries and one or more Assistant Treasurers, as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary. The President shall be a director of the Association. Other officers may be, but need not be, directors of the Association.

5.2 Election, Term of Office, and Vacancies. The officers of the Association shall be elected annually by the Board at its annual meeting following each annual meeting of the Members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board for the unexpired portion of the term.

5.3 Removal. Any officer may be removed by the Board whenever, in its judgment, the best interest of the Association will be served thereby.

5.4 Powers and Duties. The officers of the Association shall each have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as may from time to time be specifically conferred or imposed by the Board, except as otherwise determined by the Board. The President shall be chief executive officer of the Association.

5.5 Resignation. Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**ARTICLE VI  
COMMITTEES**

6.1 Committees of Directors. The Board may designate one or more committees to have and exercise the authority of the Board in the management of the affairs of the Association; provided, however, each such committee must consist of one (1) or more directors and the Board's resolution enabling the committee sets forth the extent to which the committee may

exercise the Board's authority. It is specifically provided, however, that no such committee shall have the authority of the Board as to the following matters:

- (a) the dissolution, merger or consolidation of the Association;
- (b) the amendment of the Articles of Incorporation or the sale, lease or exchange of all or substantially all of the property of the Association;
- (c) the designation of any such committee or the filling of the vacancies in the Board or in any such committee;
- (d) the amendment or repeal of these By-Laws or the adoption of new By-Laws; and
- (e) the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable.

**6.2 Other Committees.** Other committees not having and exercising the authority of the Board in the management of the affairs of the Association may also be designated by a Board resolution. Such committees shall perform such duties and have such powers as may be provided in the resolution.

**6.3 Rules.** Each committee may adopt rules for its own government not inconsistent with the terms of the resolution of the Board designating the committee or with rules adopted by the Board.

#### ARTICLE VII MERGER OR CONSOLIDATION

To the extent and in the manner provided by law, the Association may participate in mergers and consolidation with other non-profit associations organized for the same purpose, provided, however, that any such merger or consolidation shall require approval by the vote of two-thirds (2/3) of the Members at a meeting duly called for such purpose.

Upon merger or consolidation of the Association with another association or associations, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving Association pursuant to merger. The surviving or consolidated association may administer the existing property, together with the covenants, including without limitation, the maximum limits on assessments and dues of the Association, or any other matter subsequently affecting the interest of Members of the Association.

#### ARTICLE VIII MISCELLANEOUS PROVISIONS

**8.1 Construction.** In the event of a conflict between the Declaration and the Articles of Incorporation or the By-Laws, the Declaration shall control. In any conflict between the Articles of Incorporation and the By-Laws that the Declaration does not resolve, the Articles of Incorporation shall control. Definitions set forth in the Declaration shall have the same meaning in these By-Laws. The Association, its Directors, and its Officers shall have all powers as set forth in the South Carolina Nonprofit Corporation Act of 1994 (the "Act"). In the event of a conflict between the Act and the By-Laws, the By-Laws shall prevail if such conflicted action is not prohibited by terms of the Act. If there is a conflict in the By-Laws which is not permitted by the Act, then the terms of the Act shall prevail.

**8.2 Amendment.** These By-Laws may be amended, changed, added to, derogated, or

deleted at any time and from time to time upon the execution and recordation of any instrument executed by Members holding at least fifty-one (51%) percent of the Lots in the Subdivision; provided, however, that so long as the Declarant is the Owner of any Lot affected by this Declaration, the Declarant's consent must be obtained. Upon approval of any such amendment in the manner stated above, the Association's President and Secretary prepare a recordable instrument which sets forth the duly approved amendment and shall record such instrument with the Office of the Charleston County R.M.C.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2007, by the Bears' Bluff Reserve Property Owners' Association, Inc. by:

**TFM Properties, LLC**  
(a South Carolina limited liability company)

**CYD Properties, LLC**  
(a South Carolina limited liability company)

By: \_\_\_\_\_  
Tanzy F. Moore, Its Authorized Member

By: \_\_\_\_\_  
Christine Duc, Its Authorized Member



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# RECORDER'S PAGE

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**Filed By:**

Smith, Cox & Associates, LLP
P.O. Box 20458
Charleston SC 29413

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