

BK N 1436444

DECLARATION OF BY-LAWS, COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR BELLE VISTA PLANTATION

THIS DECLARATION, made on the date hereinafter set forth by Edward G. Harrison, III and James H. Smeds, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property known as Belle Vista Plantation, County of Charleston, State of South Carolina, more particularly shown on a plat entitled, "Plat of 3 Lots, Part I, Block A, Belle Vista Plantation" by H. Exo Hilton, dated July 1984 and recorded January 21, 1985, Plat Book BC, Page 145, in the R.M.C. Office of Charleston County.

See Exhibit "A"

NOW THEREFORE, Declarant hereby declares that all of the properties described above, including future lots in Part I, Block A, Belle Vista Plantation and any area owned by Belle Vista Homeowners Association shall be held, sold, conveyed, given, donated, leased, occupied and used and other property which may be declared to be subject hereto from time to time, subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of providing road, lake and Common Area Maintenance; security guards, if desired; and protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

Definitions

Section 1. "Association" shall mean and refer to Belle Vista Homeowners Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot as per recorded plat which is

a part of the Properties, including contract sellers, excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners, including but not limited to, the Private Street known as Lord Proprietor Road, the lake, boat ramp, dike and water control riser. Provided, however, Declarant reserves unto itself, its mortgagees, and their successors and assigns and their guests, invitees and permittees the right of ingress and egress across all streets for (1) construction vehicles and crews, (2) maintenance and service vehicles to Lots in Part I, Block A, as well as to all other lots within Belle Vista Plantation that may be developed including but not limited to fire, police, public works, refuse collections, South Carolina Electric and Gas Company, General Telephone Company (3) any and all delivery vehicles and necessary service companies needing access to the lots within Belle Vista Plantation and (4) for access to and from the properties.

Section 5. "Lot" shall mean and refer to any plot of subdivided land in Belle Vista Plantation, as shown with Lots on Flounder Lake shown upon any recorded subdivision map of the Properties, any Common Area or street. A Lot does not include any right to the strip of land to be reserved along the lake or to any marshlands.

Section 6. "Declarant" shall mean and refer to Edward G. Harrison, III and James H. Smeds, their heirs, successors and assigns.

## ARTICLE II

### Property Rights

Section 1. Owner's Easements of Enjoyment. Every owner shall take title subject to the following easements and assessments which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable assessments special or otherwise for security guards, repairs and maintenance of Common Areas and to establish reserves for major repairs or improvements and assessments for any other Common Area that may be granted to or purchased by the Association;

(b) the right of the Association to suspend the voting rights and assess fines or penalties against an Owner for any period during which an assessment against his Lot remains unpaid;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any person, public or private group, corporation, agency, authority, or utility for such purpose and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

### ARTICLE III

#### Membership and Voting Rights

Section 1. Every Owner of a Lot which is subject to assessment 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. The Association shall have two (2) classes of voting membership with voting rights as follows:

Class A. Class A members shall be all Owners with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. 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 among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

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Class B. Class B members shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The class B membership shall cease and be converted to Class A membership on the happening of either of the following events whichever occurs earlier: (a) when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership. (b) at such time as required by the rules and regulations of any governmental body having jurisdiction over Belle Vista Plantation.

#### ARTICLE IV

##### Board of Directors: Numbers, Powers, Meetings

Section 1. The affairs of the Association shall be governed by a Board of Directors. The initial board of Directors shall consist of 3 members appointed by the Declarant, which Directors shall hold office until the first election of Directors. All subsequent Boards shall consist of 5 members and shall be elected as hereinafter provided.

Section 2. The election of the Directors shall be conducted in the following manner:

(a) Election of Directors shall be held at the annual Members' meeting.

(b) Except as to vacancies provided by removal of Directors by Members, vacancies in the Board of Directors occurring between annual meetings of Members shall be filled by the remaining Directors.

(c) Any Director may be removed by concurrence of two-thirds of the vote of the entire membership at the special meeting of the Members called for that purpose. The vacancy of the Board of Directors so created shall be filled by the Members of the Association at the same meeting.

(d) Provided, however, that until the Declarant has sold seventy-five (75%) percent of the lots or until the Declarant elects to terminate its control of the Property, whichever shall first occur, the first Directors of the Association shall serve and in any event of vacancy, the remaining Directors shall fill the vacancies, and if there are no remaining Directors, the vacancies shall be filled by the Declarant.

Section 3. The term of each Director's service shall extend until the next annual meeting of the Members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

Section 4. The organizational meeting of a newly-elected Board of Directors shall be held within ten days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected and no further notice of the organizational meeting shall be necessary.

Section 5. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by the majority of the Directors. Notice of regular meetings shall be given to each Director personally or by mail, telephone, or telegraph at least five (5) days prior to the date named for such meeting.

Section 6. Special meetings of the Directors may be called by the President and must be called by the Secretary at the written request of one-third of the Directors. Not less than five (5) days' notice of the meeting shall be given personally or by mail, telephone, or telegraph, which notice shall state the time, place and purpose of the meeting.

Section 7. Any director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

Section 8. A quorum at Directors' meetings shall consist of a majority of the entire Board of Directors. The acts approved by a majority by those present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration of Covenants or by these By-Laws.

Section 9. If at any meeting of the Board of Directors there is less

than a quorum present, a majority of those present may adjourn the meeting from time-to-time until a quorum is present. At any adjourned meeting any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 10. The presiding officer of Directors' meetings shall be the Chairman of the Board if such an officer is elected; and if not, then the President shall preside. In the absence of such presiding officers, the Directors present shall designate one of their number to preside.

Section 11. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the power and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration or these By-Laws directed to be done and exercised exclusively by the members.

Section 12. The annual members' meeting shall be held at the office of the Association at 10:00 o'clock a.m. on April 30th of each year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the Members; provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next succeeding business day.

Section 13. Special Members' Meetings shall be held whenever called by the President or Vice-President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from Members entitled to cast one-third of the votes of the entire membership.

Section 14. Notice of all Members' meetings stating the time and place and the objects for which the meeting is called shall be given by the President, Vice-President or Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten days nor

more than fifty days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving notice. Notice of meeting may be waived before or after meetings.

Section 15. A quorum at Members' meeting shall consist of Members of the Association constituting fifty-one percent of the total membership of the Association. The acts approved by a majority of fifty-one percent, a quorum being present, shall constitute a decision of the Members and shall be binding upon the Members except where approval or greater percentages is required by the Covenants or by these By-Laws.

Section 16. The presiding officer at Members' meetings shall be the President or Chairman of the Board of Directors.

Section 17. Voting shall be in accordance with the provision set out in Article III herein.

Section 18. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be valid for such period as provided for by law, unless a shorter period is designated in the proxy, and must be filed with the Secretary before the point of time of the meeting or any adjournment thereof.

Section 19. If any meeting of Members cannot be organized because a quorum has not attended, a majority present, either in person or by proxy, may adjourn the meeting from time-to-time until a quorum is present.

Section 20. The executive officers of the Association shall be a President, who shall be a director, a Vice-President, who shall be a director, a Treasurer, a Secretary, an Assistant Secretary and an Assistant Treasurer, all of whom shall be elected annually by the Board of Directors and who may be preemptorily removed by vote of the Directors at any meeting. Any person may hold two or more offices except that the President shall not also be the Secretary or an Assistant Secretary. The Board of Directors shall from

time to time elect such other officers and designate their power and duties as the Board shall find to be required to manage the affairs of the Association.

## ARTICLE V

### Covenant for Maintenance Assessments

*Developers* Section 1. Creation of the Lien and Personal Obligation of Assessments.

The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed is deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (1) annual assessments or charges, 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, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time the assessment fell due. The personal obligation of delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to maintain the private roads, lake, tennis courts, or other improvements on Common Areas, if any, any easements, and to promote the recreation, health, safety, and welfare of the residents in the Properties and for the general improvement and maintenance of the Common Areas.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Two Hundred Fifty and 00/100 (\$250.00) Dollars per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased



each year not more than twice any increase in the Consumer Price Index-U.S. and Selected Areas for Urban Wage Earners and Clerical Workers—or such index as may be succeed the Consumer Price Index.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased or decreased as determined by a vote of two-thirds (2/3) of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessments year, a special assessment applicable to that year only for the purposes of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, Provided that any such assessment shall have the assent 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.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 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 sixty percent (60%) of all the votes of membership shall constitute a quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments may

be collected on a monthly basis and must be fixed at a uniform rate for all Lots.

Section 7. Date of Commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect Of Nonpayment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall be subject to a late charge of \$10.00 and thereafter shall bear interest from the due date at the highest lawful rate. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. Whether or not a suit is brought, if the Association has to hire an attorney to collect an assessment, the Owner shall be responsible for all costs and attorney's fees.

Section 9. 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 pursuant to mortgage foreclosure or any 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 VI

Architectural Control Committee

Section 1. Declarant's Rights. Declarant shall reserve the right to initially serve as the Architectural Control Committee and shall have the right to approve all docks, plans and specifications as provided in the Restrictions dated and recorded simultaneously herewith pertaining to Belle Vista Plantation. At such time as Declarant has sold more than seventy-five (75%) percent of the Lots in Belle Vista Plantation, the Declarant may assign his right for dock approval and Architectural right, but shall not be obligated to, assign his right for Architectural Control to the Association prior to the sale of seventy-five (75%) percent of the Lots or shall automatically lose such control at the time as required by any governmental body having jurisdiction over Belle Vista Plantation Subdivision.

Section 2. At such time as the Declarant has assigned his right for Architectural control to the Association the Architectural Control Committee shall consist of a Chairman who shall be appointed by the Board of Directors of the Association and who shall function as the Administrator of the Architectural Control Committee. Such Chairman may appoint such Members as he chooses to serve on the Architectural Control Committee.

ARTICLE VII

General Provisions

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other pro-

visions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time by an instrument signed by at least seventy-five (75%) percent of the Lot owners during the initial thirty (30) year period or thereafter by a vote of at least seventy percent (70%) of the lot owners, provided each lot owner shall have one (1) vote for each lot owned. Any amendment must be recorded. Declarant reserves the right to amend this instrument at any time in order to comply with any requirement of the Veterans Administration, Federal Housing Authority, Federal Home Loan Bank Board, Department of Housing and Urban Development, Federal National Mortgage Association, or any other governmental body having authority over such matters.

Section 4. Annexation. Declarant reserves the right to subject to this Declaration of Covenants, Conditions and Restrictions additional properties and to dedicate or deed additional Common Areas to this Association, provided at the time of such dedication or deeding, said properties shall be free and clear of all liens and encumbrances other than reasonable and normal restrictions or easements. In addition, additional residential property and Common Areas may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

NOTWITHSTANDING the foregoing, this instrument shall be applicable to Belle Vista Plantation as shown on plat by H. Exo Hilton, R.L.S., dated November, 1983, and recorded April 9, 1984 in the R.M.C. Office for Charleston County in Plat Book AZ, Page 157. Property not shown on this plat shall not at any future date become a portion of Belle Vista Plantation unless agreed to by 75% percent of the owners of lots in this subdivision.

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IN WITNESS WHEREOF, the parties hereto have hereunto set their Hands  
and Seals this 25 day of February, 1985.

WITNESSES:

Anna B. Sessio

Edward G. Harrison, III  
EDWARD G. HARRISON, III

Lydia Mutt Davidson

Anna B. Sessio

James H. Smeds  
JAMES H. SMEDS

Lydia Mutt Davidson

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STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

PERSONALLY APPEARED before me the Undersigned Witness and made oath that s/he saw the within-named Edward G. Harrison, III and James H. Smeds sign, seal and deliver the within-written Declaration of Restrictions and Easements, and that s/he with the other witness above subscribed, witnessed the execution thereof.

Anna B. Sessio

SWORN TO BEFORE ME THIS  
25 day of February, 1985.

Indira M. Dandi  
Notary Public for South Carolina

My Commission Expires: 6/16/93